

Resolution 2010-39
**Resolution of the City of Lemoore Establishing Employer-Employee Relations Between
Public Employer and Their Employees**

At a Regular Meeting of the City Council of the City of Lemoore, held on the 21st day of December, 2010, on a motion by Council Member _____, seconded by Council Member _____, and duly carried, the following resolution was adopted.

WHEREAS, Chapter 10, Division 4, Title 1 of the government Code of the State of California, covering employer-employee relations between public employer and their employees, has been amended from time to time in recent years; and

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

WHEREAS, the City of Lemoore desire to adopt such reasonable rules and regulations as authorized by law;

NOW, THEREFORE, the City Council of the City of Lemoore Does Hereby Resolve as follows:

Article I – General Provisions

Sec. 1. Statement of Purpose:

This Resolution implements Chapter 10, Division 4, Title 1 of the government code of the State of California (Section 2500 *et seq.*) captioned “Local Public Employee Organizations,” (the Meyers-Miliias-Brown Act) by providing orderly procedures for the administration of employer-employee relations between the City and its employee organizations. However, nothing contained herein shall be deemed to supersede the provisions of state law, the City Charter, ordinances, resolutions, Personnel System Guidelines, and rules which establish and regulate the civil service system, or which provide for other methods of administering employer-employee relations. This Resolution is intended, instead, to strengthen civil service and other methods of administering employer-employee relations through the establishment of uniform and orderly methods of communications between employees, employee organizations and the City.

It is the purpose of this Resolution to provide procedures for meeting and conferring in good faith with Recognized Employee Organizations regarding matters that directly and significantly affect and primarily involve the wages, hours, and other terms and conditions of employment of employees in appropriate units and that are not preempted by federal or state law or the City Charter. However, nothing herein shall be construed to restrict any legal or inherent exclusive City rights with respect to matter of general legislative or managerial policy, which include among other. The exclusive right to determine the mission of its constituent departments, commission, and boards; set standards or service; determine the procedures and standards of selection for employment; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or for other lawful reason; determine the content of job classifications; subcontract work; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.

Sec. 2 Definitions

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

- a.** “Appropriate Unit” means a unit of employee classes or positions, established pursuant to Article II hereof.
- b.** “City” means the City of Lemoore, and, where appropriate herein, refers to the City Council or any duly authorized City representative as herein defined.
- c.** “Confidential Employee” means an employee who, in the course of his or her duties, has access to confidential information relating to the City’s administration of employer-employee relations.
- d.** “Consult/Consultation in Good Faith” means to communicate orally or in writing with all effected recognized employee organizations for the purpose of presenting and obtaining views or advising of proposed actions in a good faith effort to reach a consensus; and, as distinguished from meeting and conferring in good faith regarding matters within the required scope of the meet and confer process, does not involve an exchange of proposals and counterproposals in an endeavor to reach agreement in the form of a Memorandum of Understanding, nor is it subject to Article IV hereof.
- e.** “Day” means calendar day unless expressly stated otherwise.
- f.** “Employee Relations Officer” means the City Manager or his/her duly authorized representative.
- g.** “Exclusively Recognized Employee Organization” means an employee organization which has been formally acknowledged by the City as the sole employee organization representing the employees in an appropriate representation unit pursuant to Article II hereof, having the exclusive right to meet and confer in good faith, concerning statutorily required subjects pertaining to unit employees, and thereby assuming the corresponding obligation of fairly representing such employees.

Such recognition status may not be challenged by another employee organization within twelve (12) months of initial recognition. If successfully challenged, such recognition shall not take effect until the expiration of the current MOU.

- h.** “Impasse” means that the representatives of the City and a Recognized Employee Organization have reached a point in their meeting and conferring in good faith where their differences on matters to be included in a Memorandum of Understanding, and concerning which they are required to meet and confer, remain so substantial and prolonged that further meeting and conferring would be futile.
- i.** “Management Employee” means an employee having responsibility for formulating, administering or managing the implementation of City policies and programs.
- j.** “Proof of Employee Support” means (1) an authorization card recently signed and personally dated by an employee, provided that the card has not been subsequently revoked in writing by the employee (2) a verified authorization petition or petitions recently signed and personally dated by an employee, or (3) employee dues deduction authorizations, 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 ninety (90) days prior to the filing of such proof of support.
- k.** “Supervisory Employee” means any employee to have authority or the ability to recommend such action, in the interest of the City, to hire, transfer, suspend, lay off, recall,

promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, 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.

I. Terms not defined herein shall have the meanings as set forth in the MMBA.

Article II – Management Rights

The Unions recognizes that the rights of the City derive from the Constitution of the State of California and the Government Code and not from the Memorandum of Understanding.

The Unions recognize and agree that the exercise of the express and implied powers, rights, duties and responsibilities by the City, such as, the adoption of policies, rules regulations and practices, and the use of judgment and discretion in connection therewith shall be limited only by the specific and express terms of the Memorandum of Understanding.

The Unions recognize that the City has and will continue to retain, whether exercised or not, the unilateral and exclusive right to operate, administer and manage its Municipal services and work force performing these services limited only by the specific and express terms of the Memorandum of Understanding. The exclusive rights of the City shall include but not be limited to, the right to determine the organization of City Government and the mission of its constituent Agencies; to determine the nature, quantity and quality of services to be offered to the Public and to determine the means of operations, the materials and personnel to be used, and the right to introduce new or improved methods or facilities and to change or alter personnel, methods, means, materials, and facilities; to exercise control and discretion over its organization and operation through its managerial employees; to establish and effect Rules and Regulations consistent with the applicable law and the specific and express provisions of the Memorandum of Understanding; to establish and implement standards of selecting City personnel and standards for continued employment with the City; to direct the work force by determining the work to be performed, the personnel who shall perform the work, assigning over-time and scheduling the work; to take disciplinary action; to relieve its employees from duty because of lack of work, funds or for other reasons; to determine whether goods or services shall be made, purchased or contracted for; and to otherwise act in the interest of efficient service to the Community. The Unions recognize and agree that the City retains its rights to take whatever action it deems appropriate during an emergency, including suspension of the terms of the Memorandum of Understanding. The determination of whether an emergency is to be declared is solely within the discretion of the City and is expressly excluded from the provisions of any grievance procedure. When an emergency is declared, the City shall immediately notify the Unions. The Unions agree it will abide such emergency decisions of the City during the time of the declared emergency.

The City and the Union agree to meet and confer on related matters at the call of either party as soon thereafter as practicable.

Every incidental duty connected with operations enumerated in job descriptions is not always specifically described; nevertheless, it is intended that all such duties shall be performed by the employee.

The City has the right, without prior meeting and conferring, to contract for matters relating to municipal operations, including contracting our bargaining unit work. The right of contracting or subcontracting is vested exclusively in the City.

The inherent and express rights of the City, including those herein specifically referred to that are not expressly modified or restricted by a specific provision hereof, are not in any way directly or indirectly, subject to meeting and conferring or the Grievance Procedure herein.

Article III – Representation Proceedings

Sec. 3. Filing of Recognition Petition by Employee Organization:

An employee organization which seeks to be formally acknowledged as an Exclusively Recognized Employee Organization representing the employees in an appropriate unit shall file a petition packet 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, the responsibility of 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.
- f. Certified copies of the employee organization's constitution and bylaws.
- g. 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.
- h. A statement that the employee organization has no restriction on membership based on race, color, religion, creed, sex, national origin, age, sexual orientation, gender identity, mental or physical disability or medical condition.
- i. The job classifications or position titles of employees in the unit claimed to be appropriate and the approximate number of member employees therein.
- j. A statement that the employee organization has in its possession proof of employee support as herein defined to establish that a majority of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the City. Such written proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party.
- k. A request that the Employee Relations 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.

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.

Sec. 4 City Response to Recognition Petition:

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

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

b. The proposed representation unit is an appropriate unit in accordance with Sec. 9 of this Article II.

If an affirmative determination is made by the Employee Relations Officer on the foregoing two matters, he/she shall so inform the petitioning employee organization, shall give written notice of such request for recognition to the employees in the unit and shall take no action on said request for thirty (30) days thereafter. If either of the foregoing matters are not affirmatively determined, the Employee Relations Officer shall offer to consult thereon with such petitioning employee organization and , if such determination thereafter remains unchanged, shall inform that organization of the reasons therefore in writing.

The petitioning employee organization may appeal such determination in accordance with Sec. 12 of this Resolution.

Sec. 5 Open Period for Filing Challenging Petition:

Within thirty (30) days of the date written notices was given to affected employees 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 or positions set forth in the recognition petition being challenged), by filing a petition evidencing proof of employee support in the unit claimed to be appropriate of at least thirty (30) percent and otherwise in the same form and manner as set forth in Sec. 3 of this Article II. If such challenging petition seeks establishment of an overlapping unit, the Employee Relations Officer shall call for a hearing on such overlapping petitions for the purpose of ascertaining the more appropriate unit, at which time the petitioning employee organizations shall be heard. Thereafter, the Employee Relations Officer shall determine the appropriate unit or units in accordance with the Standards in Sec. 9 of this Article III. The petitioning employee organizations shall have fifteen (15) days from the date notice of such unit determination is communicated to them by the Employee Relations Officer to amend their petitions to conform to such determination or to appeal such determination pursuant to Sec. 12 of this Article III.

Sec. 6 Granting Recognition Without an Election

If the Petition is in order, and the proof of support shows that a majority of the employees in the appropriate unit have designated the petitioning employee organization to represent them, and if no other employee organization filed a challenging petition, the petitioning employee organization and the Employee Relations Officer shall request the California State Mediation and Conciliation Service, or another agreed upon neutral third party to review the count, form, accuracy and propriety of the proof of support. If the neutral third party makes an affirmative determination, the Employee Relations Officer shall formally acknowledge the petitioning employee organization as the Exclusive Recognized Employee Organization for the designated unit.

Sec. 7 Election Procedure:

Where recognition is not granted pursuant to Sec. 6, the Employee Relations Officer shall arrange for a secret ballot election to be conducted by a party agreed to by the Employee Relations Officer and the concerned employee organization(s), in accordance with such party's rules and procedures subject to the provisions of this Resolution. All employee organizations who have duly submitted petitions which have been determined to be in conformance with this Article II shall be included on the ballot. The ballot shall also reserve to employees the choice of representing themselves individually in their employment relations with the City. Employee entitled to vote in such election shall be those persons employed in regular permanent positions within the designated appropriate unit who were employed during the pay period immediately prior to the date which ended at least fifteen (15) days before the date the election commences,

including those who did not work during such period because of illness, vacation or other authorized leaves of absence, and who are employed by the City in the same unit on the date of the election. An employee organization shall be formally acknowledged as the Exclusively Recognized Employee Organization for the designed appropriate unit following an election or run-off election if it received a numerical majority of all valid votes cast in the elections. In an election involving three or more choices, where none of the choices receives a majority of the valid votes cast, a run-off election shall be conducted between the two choices receiving the largest number of valid votes cast; the rules governing an initial election being applicable to a run-off election.

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

In the event that the Employee Relations Officer and the concerned employee organization(s) are unable to agree on a third party to conduct an election, the election shall be conducted by the California State Mediation and Conciliation Service.

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

Sec. 8 Procedure for Decertification of Exclusively Recognized Employee Organization:

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 Employee Relations Officer 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 filled 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:

- a.** The name, address and telephone number of the petitioner and a designated representative authorized to receive notices or request for further information.
- b.** 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.
- 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 Relations Officer or to a mutually agreed upon disinterested third party within the time limits specified in the first paragraph of this Section.

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 (30) percent, that includes the allegation and information required unit his Section 8, and otherwise conforms to the requirements of Section 3 of this Article.

The Employee Relations Officer shall initially determine whether the Petition has been filed in compliance with the applicable provisions of this Article III. If his/her determination is in the negative, he/she shall offer to conduct thereon with the representative(s) of such petitioning

employee 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 Sec. 12 of this Article II. If the determination of the Employee Relations Officer is in the affirmative, or if his 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.

The Employee Relations Office 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 questions of representation. Such election shall be conducted in conformance with Sec. 7 of this Article III.

During the "open period" specified in the first paragraph of this Sec. 8, the Employee Relations officer 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 Sec. 8, which the Employee Relations Officer shall act on in accordance with his Sec. 8.

If, pursuant to this Sec. 8, 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.

Sec. 9 Policy and Standard for Determination of Appropriate Units:

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

- a. Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions.
- b. History of representation in the City and similar employment; except however, that no unit shall be deemed to be an appropriate unit solely on the basis of the extent to which employees in the proposed unit have organized.
- c. Consistency with the organizational patterns of the City.
- d. Effect of differing legally mandated impasse resolution procedures.
- e. Number of employees and classifications, and the effect on the administration of employer-employee relations created by the fragmentation of classifications and proliferation of units.
- f. Effect on the classification structure and impact of the stability of the employer-employee relationship of dividing a single or related classifications among two or more units.

Notwithstanding the foregoing provision of this Section, managerial, supervisory and confidential responsibilities, as defined in Sec. 2 of this Resolution, are determining factors in establishing

appropriate units hereunder, and therefore managerial, supervisory and confidential employees may only be included in a unit consisting solely of managerial, supervisory or confidential employees respectively. Managerial, supervisory and confidential employees may not represent any employee organization which represents other employees.

Peace Officers may be required, and have the right, to be represented in separate units composed solely of such peace officers. These units shall not be represented by an organization that, directly or indirectly, is subordinate to any other employee organization which included non-peace officers.

Also under the MMBA, professional employees have the right to be represented separately from non-professional employees.

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

Sec. 10 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. 8 of this Article III. Such requests shall be submitted in the form of a 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. 9 hereof. The Employee Relations Officer shall process such petitions as other Recognition Petitions under this Article III.

The Employee Relations Officer may by his own motion propose 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. 9 of this Article III, and shall give written notice of such determination to the affected employee organizations. The Employee Relations Officer's determination may be appealed as provided in Section 12 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.

Sec. 11 Procedure for Processing Severance Requests:

An employee organization may file a request to become the recognized employee organization of a unit alleged to be appropriate that consists of a group of employees who are already a part of a large established unit represented by another recognized employee organization. The timing, form and process of such request shall be as specified in Sec. 10 for modification requests.

Sec. 12 Appeals

An employee organization aggrieved by an appropriate unit determination of the Employee Relations Officer; or an employee organization aggrieved by a determination of the Employee Relations Officer that a Recognition Petition (Sec. 3), challenging Petition (Sec. 5), Decertification Petition (Sec. 8), Unit Modification Petition (Sec. 10)—or employees aggrieved by a determination of the Employee Relations Officer that a Decertification Petition (Sec. 8) or Severance Request (Sec. 11) – has not been filed in compliance with the applicable provisions of this Article, may,

within ten (10) days of notice of the Employee Relations Officer's final decision, request to submit the matter to mediation by the State Mediation and conciliation Service, or may, in lieu thereof or thereafter, appeal such determination to the City council for final decision within fifteen (15) days notice of the Employee Relations Officer's determination or the termination of meditation proceedings, whichever is later.

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 non-binding third party hearing process, such as the California Department of Industrial Relations State Mediation and Conciliation Services. 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.

Article IV – Administration

Sec. 13 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.

Exclusively Recognized Employee Organizations that are party to an agency shop provision shall provide annually to the Employee Relations officer and to unit members within 60 days after the end of its fiscal year the financial report required under Government Code Section 3502.5(f) of the Meyer-Milias Brown Act.

Sec. 14 Payroll Deduction on Behalf of Employee Organization:

Only those employee organizations recognized by the City under the provisions of these provisions may be provided payroll deductions of membership dues and them upon written authorization of the employees represented in that unit.

Sec. 15 Employee Organization Activities – Use of City Resources:

Access to City work locations and the use of City paid time, facilities, equipment and other resources by employee organizations and those representing them shall be authorized only to the extent provided for in Memoranda of Understanding and/or administrative procedures, shall be limited to lawful activities consistent with the provisions of this Resolutions 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 City operations.

Sec. 16 Administrative Rules and Procedures:

The City Manager is hereby authorized to establish rules and procedures as appropriate to implement and administer the provisions of this Resolution.

Article V – Meet and Confer

Sec. 17 Provision of Meet and Confer Sessions:

The parties may establish meet and confer ground rules to address procedural matters. Only the parties set forth, the City and an officially Recognized Employee Organization, shall participate in meet and confer sessions and shall, unless mutually agreed, be restricted to:

The City Personnel officer or his representative and up to two (2) management representatives appointed by the City Manager or City Council and such professional representation as required.

The Recognized Employee Organization of the Unit as represented by up to two (2) employee members as appointed in writing by the Board of Directors and submitted to the Employee Relations Officer and such professional representation as required.

Sec. 18 Confidentiality:

Except where contrary to law, all meet and confer sessions under these provisions are private. The City may not speak with the public, media, or Recognized Employee Organization membership. The Recognized Employee Organization may not speak with the public, media or City Council. Therefore, there shall be no discussion of the matters and issues other than before the parties involved. In the event of meet and confer reaches Impasse Procedure C, both parties are relieved from the public confidentiality of this Section.

Sec. 19 Location:

Meet and confer sessions shall be conducted at a place and time that is mutually agreed upon. Such session shall continue until agreement is reached or until Impasses is declared, except when such sessions are adjourned for purpose of reconvening at a later date and/or time.

Article VI – Impasse Procedures

Sec. 20 Initiation of Impasse Procedures

If the meet and confer process has reach impasse as defined in Section 2 of this Resolution, either party may initiate the impasse procedures by filing with the other party a written declaration of impasse. At the request of either party an impasse meeting shall then be scheduled promptly by the Employee Relations Officer. The purpose of such meeting shall be:

- a. To review the position of the parties in a final effort to reach agreement on a Memorandum of Understanding; and
- b. If the impasse is not resolved, to discuss implementation of the impasse procedures provided herein.

Should a meeting not be held or unsuccessful:

- c. Both parties shall make a written report of items and issues in dispute to the City Council. The City council's action on items and issues in dispute shall be final and binding.

Article VII – Miscellaneous Provisions

Sec. 21 Construction:

This Resolution shall be administrated and construed as follows:

- (a) Nothing in this Resolution shall be construed to deny any person, employee, organization, the City, or any authorized officer, body, or other representative of the City, the rights, powers and authority granted by federal or state law (or City Charter provisions).
- (b) This Resolution shall be interpreted so as to carry out its purpose as set forth in Section I of Article 1.

(c) Nothing in this Resolution shall be construed as making the provisions of California Labor Code Section 923 applicable to City employees or employee organizations, or of giving employees or employee organizations the right to participate in, support, cooperate or encourage, directly or indirectly, any strike, sickout or other total or partial stoppage or slowdown of work. In consideration of and as a condition of initial and continued employment by the City, employees recognize that any such actions by them are in violation of their conditions of employment except as expressly otherwise provided by legally preemptive state or contrary local law. In the event employees engage in such actions, they shall subject themselves to discipline up to and including termination, and may be replaced, to the extent such actions are not prohibited by preemptive law; and employee organizations may thereby forfeit rights accorded them under City law or contract.

Sec. 22 Severability:

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

Passed and adopted at a regular meeting of the City Council of the City of Lemoore held on the 21st day of December, 2010, by the following vote:

Ayes:
Noes:
Absent:
Abstain:

APPROVED:

Willard J. Rodarmel, Mayor

ATTEST:

Nanci C. O. Lima, CMC
City Clerk

CERTIFICATE

STATE OF CALIFORNIA)
COUNTY OF KINGS) ss.
CITY OF LEMOORE)

I, Nanci C. O. Lima, City Clerk of the City of Lemoore do hereby certify the above and foregoing to be a full, true and correct copy of a Resolution adopted by the City Council of the City of Lemoore at a Regular Meeting of the City Council held on 21st day of December, 2010.

DATED: _____, 2010

Nanci C. O. Lima, CMC
City Clerk