



**CONSENT CALENDAR**

**Agenda Item # 8**

**AGENDA REPORT SUMMARY**

**Meeting Date:** August 24, 2021

**Subject:** Resolution 2021-47: Los Altos Employer-Employee Relations Resolution.

**Prepared by:** Irene Barragan Silipin, Human Resources Manager

**Reviewed by:** Jon Maginot, Deputy City Manager

**Approved by:** Gabriel Engeland, City Manager

**Attachment(s):**

1. Resolution 2021-47

**Initiated by:**

Staff

**Previous Council Consideration:**

Not applicable

**Fiscal Impact:**

Not applicable

**Environmental Review:**

Not applicable

**Policy Question(s) for Council Consideration:**

- Does the Council wish to adopt Resolution 2021-47 and the terms within the Employer-Employee Relations within the City of Los Altos?

**Summary:**

- The City met and consulted with all labor group representatives to establish an employer-employee relations resolution.
- Passing this Resolution will create local rules and regulations governing the City's relations with its recognized employee organizations, i.e. unions and associations

**Staff Recommendation:**

Move to approve Resolution 2020-47 and the terms outlined in the Employer-Employee Relations within the City of Los Altos.

**Purpose**

These local rules and regulations will assist your Human Resources team in negotiations and other labor relations matters, such as disputes with recognized employee organizations. The rules and regulations will also govern how employees can organize and the procedures that must be followed



**Subject:** Resolution 2021-47: A Side Letter Agreement between City of Los Altos & Los Altos Police Officers Association (LAPOA); Six-Month Extension of Memorandum of Understanding (MOU)

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for employees to create new recognized employee organizations, as well as the procedures the City must follow to decertify a recognized employee organization.

### **Background**

The City had the need to establish a formal method of resolving disputes regarding wages, hours, and other terms and conditions of employment between the City, employees and their labor groups.

It is also the purpose of this resolution to promote the improvement of personnel management and employer employee relations within the City of Los Altos by providing a uniform basis for recognizing the right of City employees to join employee organizations of their own choice and to be represented by such organizations in their employment relationships with the City.

It is standard for City Councils and other public agency governing bodies to adopt such local rules and regulations. Indeed, since no later than 1969, the California Government Code has given public agencies the right to adopt such local rules and regulations.

The City has satisfied its legal bargaining obligations with all the City's recognized employee organizations prior to Council adoption of this Resolution. Thus, the Council can approve this Resolution without objection from labor.

### **Discussion/Analysis**

#### **Options**

- 1) Adopt Resolution 2020-47 as outlined in the Employer-Employee Relations Resolution terms within the City of Los Altos.

**Advantages:** The parties have met and consulted in good faith in accordance with the Meyers Milias Brown Act (MMBA) to establish the Employer-Employee Relations within the City of Los Altos.

**Disadvantages:** None. Parties have mutually reached this Employer-Employee Relations Resolution in accordance with the MMBA.



**Subject:** Resolution 2021-47: A Side Letter Agreement between City of Los Altos & Los Altos Police Officers Association (LAPOA); Six-Month Extension of Memorandum of Understanding (MOU)

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2) Do not approve the terms outlined in the Employer-Employee Relations Resolution within the City of Los Altos.

**Advantages:** The City will continue to operate without an Employer-Employee Relations Resolution.

**Disadvantages:** Without this resolution, disputes between labor and the City are more likely to be adjudicated by the California Public Employee Relations Board – an administrative agency with members appointed by the Governor.

### **Recommendation**

The staff recommends Option 1.

RESOLUTION NO. 2021-47

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS  
RELATED TO THE EMPLOYER-EMPLOYEE RELATIONS WITHIN THE  
CITY OF LOS ALTOS**

**NOW THEREFORE, BE IT RESOLVED**, that the City Council of the City of Los Altos hereby resolves:

**Article I -- General Provisions**

**Sec. 1.01. Statement of Purpose**

This Resolution implements Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500 *et seq.*) captioned “Meyers-Milias-Brown Act” (“MMBA”), by providing orderly procedures for the administration of employer-employee relations between the City and its employee organizations. Nothing contained herein, however, shall be deemed to supersede the provisions of state law, the Municipal Code, ordinances, resolutions 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 the 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 Municipal Code. The City shall not be required to meet and confer over the merit, necessity or organization of any service or activity provided by law or executive order.

Nothing contained in this Resolution shall be construed to restrict any legal or inherent exclusive City rights with respect to matters of general legislative or managerial policy. Unless specifically in conflict with any Memorandum of Understanding, the City retains all management rights, which include, but are not limited to: the sole and exclusive right to determine the City’s mission, including that of its constituent departments, commissions, and boards; the sole and exclusive right to direct the affairs of, manage, and maintain the efficiency of the City, to set standards of service; and to control the organization and operation of the City. The City also has the sole and exclusive right to take any actions which the City deems desirable to conduct its affairs, including, but not limited to, determining the procedures and standards of selection for employment, directing its work force (including scheduling and assigning work and overtime), hiring, firing, discharges, promotions, demotions, transfers, taking disciplinary action, determining the methods, means and personnel by which City operations are to be conducted, relieving employees from duty because of budgetary considerations, lack of work, or other lawful reasons, subcontracting, maintaining discipline and efficiency of employees, determining the content of job classifications, taking all necessary actions to carry out its mission in emergencies, and

exercising complete control and discretion over its organization and the technology of performing its work consistent with the provisions of this Resolution and the MMBA. The foregoing is meant to be descriptive of the City's rights, and not exhaustive,

## **Sec. 1.02. 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 of this Resolution.
- b. "City" means the City of Los Altos, 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 meet and discuss issues with all affected recognized employee organizations, in good faith, 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 representation (as defined in California Government Code section 3504), does not involve an endeavor to reach a binding agreement, nor is it subject to the impasse resolution procedures set forth in Article IV of this Resolution.
- e. "Day" means calendar day unless expressly stated otherwise.
- f. "Employee Relations Officer" means the City Manager or designee.
- 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 determined pursuant to Article II of this Resolution, having the exclusive right to meet and confer in good faith concerning matters within the scope of representation pertaining to unit employees, and thereby assuming the corresponding obligation of fairly representing such employees.

Such recognition status may only be challenged by another employee organization as set forth in Article II section 8.

- 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/or concerning matters over 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 and employees who exercise supervisory authority.
- j. “Professional Employee” means employees engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction, including, but not limited to, attorneys, physicians, registered nurses, engineers, architects, teachers, and the various types of physical, chemical, and biological scientists.
- k. “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.
- l. “Supervisory Authority” 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 responsibly to direct them, or to adjust their grievances, or effectively to recommend such action if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.
- m. Terms not defined herein shall have the meanings as set forth in the MMBA.

**Article II -- Representation Proceedings**

**Sec. 2.01. Filing of Recognition Petition by Employee Organization**

An employee organization which 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, and mailing addresses.
- c. Names and telephone numbers of employee organization representatives who are authorized to speak on behalf of the organization in any communication with the City.

- 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 mailing addresses and email addresses, to whom notice sent by regular United States mail and/or email 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, marital status, sexual orientation, mental or physical disability, medical condition, military or veteran status, gender identity or expression, genetic information, or any other legally-protected classification.
- 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. 2.02. 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 for the filing of a Recognition Petition as set forth in section 2.01 hereof, and
- b. The proposed representation unit is an appropriate unit in accordance with Sec. 2.07 of this Article II.

If an affirmative determination is made by the Employee Relations Officer on the foregoing two matters, the Employee Relations Officer 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. 2.10 of this Resolution.

### **Sec. 2.03. Open Period for Filing Challenging Petition**

Within thirty (30) days of the date written notice 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 percent (30%) and otherwise in the same form and manner as set forth in Sec. 2.01 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. 2.07 of this Article II and shall provide written notice of his/her determination.

If the petitioning employee organizations do not agree with the decision rendered by the Employee Relations Officer, the petitioning employee organizations shall have fifteen (15) days from the date of when the 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. 2.09 of this Article II.

### **Sec. 2.04. 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 unit deemed to be appropriate 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. 2.05. Election Procedure**

Where recognition is not granted pursuant to Sec. 2.04 of this Resolution, then, upon determination of an appropriate unit in accordance with Sec. 2.02 and 2.07 of this Article II, the Employee Relations Officer shall arrange for a secret ballot election to be conducted and supervised by the California State Mediation and Conciliation Service (“CSMCS”), 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 choice of “no organization” shall also be included on the ballot thereby allowing employees the choice of representing themselves individually in their employment relations with the City.

Employees 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 designated appropriate unit following an election or run-off election if it received a numerical majority of all valid votes cast in the election. 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 shall also apply 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 CSMCS declines to conduct the election, for any reason, the parties agree that the election shall be conducted by a neutral arbitrator selected from a list of seven (7) names to be provided by CSMCS. The parties shall alternately strike from the list until one name remains, and that person shall be appointed Election Supervisor.

If, once the Election Supervisor is appointed, the parties cannot agree as to the time, place, and manner of the election, the parties shall authorize the Election Supervisor to unilaterally determine such issues and carry out the election accordingly.

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

**Sec. 2.06. 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 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:

- a. The name, address and telephone number of the petitioner and a designated representative 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 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 set forth in this Resolution, 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 this Section 2.06, and otherwise conforms to the requirements of Section 2.01 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 II. 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 Sec. 2.10 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. Upon request, the Employee Relations Officer shall provide a copy of the petition with names and all other identifying information redacted.

The Employee Relations Officer shall thereupon arrange for a secret ballot election to be held on or about thirty (30) 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 Sec. 2.05 of this Article II.

During the "open period" specified in the first paragraph of this Sec. 2.06, the Employee Relations Officer may on his/her own motion, when he/she has good faith doubt 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 this Sec. 2.06.

If, pursuant to this Sec. 2.06, 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. 2.07. Policy and Standards for Determination of Appropriate Units**

The Employee Relations Officer shall maintain a list of all current bargaining units in the City and shall have the management discretion to form and define reasonable bargaining units, based on the procedures specified in this Resolution. 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.

In considering whether classifications share an identifiable community of interest, the following factors shall be considered:

- a. Similarity of the work performed, required qualifications, levels of responsibility, and the general working conditions.
- b. History of representation in the City; except that no unit shall be deemed inappropriate solely on the basis of the extent to which employees in the proposed unit have organized.

- c. Consistency with the organizational patterns and structure 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 on the stability of the employer-employee relationship of dividing a single or related classifications among two or more bargaining units.

Notwithstanding the foregoing provisions of this Section, managerial, supervisory and confidential responsibilities, as defined in Sec. 1.02 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.<sup>1</sup> Managerial, supervisory and confidential employees may not represent any employee organization which represents other employees.

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<sup>1</sup> The Designation of Management or Confidential Employees and their representation units (if applicable) shall be subject to the following:

- a. The Employee Relations Officer is authorized to designate employees as management or confidential after consultation with recognized employee organizations concerned (if any exist), and may at any time revoke such designations. Upon designation by the Employment Relations Officer, the management and/or confidential employees will be assigned to an appropriate representative unit, unless no such unit exists. In the event no such appropriate representative unit exists, the management or confidential employees shall not be in any designated representative unit. Upon revocation of designation as a management or confidential employee, the Employee Relations Officer will assign the affected employee to an appropriate representative unit, unless no such unit exists. In the event no such appropriate representative unit exists, the affected employee shall not be in any designated representative unit.
- b. The Employee Relations Officer may combine, alter or modify confidential employee representative units or management employee representation units, after consultation with recognized employee organizations concerned (if any exist).
- c. An employee organization directly affected by an action taken by the Employee Relations Officer in accordance with this section may appeal to the Employee Relations Officer. The appeal shall be in writing and filed with the Employee Relations Officer within thirty (30) days after notice of such action is given to the directly affected employee organization by certified mail delivered to the employee organization at its address on file with the Employee Relations Officer. If the appeal is denied, the affected employee organization may invoke the impasse procedures prescribed in this Resolution, provided that the request for impasse procedure is filed in writing with the Employee Relations Officer within seven (7) days after the organization has been notified of the Employee Relations Officer's denial of the appeal by certified mail delivered to the organization. Failure to appeal or invoke the impasse procedure within the designated time shall be an abandonment of the organization's right to challenge the Employee Relations Officer's action.
- d. Action taken by the Employee Relations Officer pursuant to subdivision (a) or (b) above shall not have force or effect until the expiration of the 30-day time to appeal described in subdivision (c) above. If an appeal is timely filed pursuant to subdivision (c), such action shall not become effective pending hearing of the appeal and completion of the impasse procedure if invoked.

Peace Officers have the right to be represented in separate units composed solely of such peace officers.

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 positions, delete eliminated classifications or positions, and retain, reallocate or delete classifications or positions from units in accordance with the provisions of this Section. The decision of the Employee Relations Officer shall be final.

### **Sec. 2.08. Procedure for Modification of Established Appropriate Units**

#### a. Request for Modification from Employee Organizations

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. 2.06 of this Article II. Such requests shall be submitted in the form of a Recognition Petition and, in addition to the requirements set forth in Sec. 2.01 of this Article II, 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. 2.07 of this Resolution. The Employee Relations Officer shall process such petitions as other Recognition Petitions under this Article II.

#### b. Unit Modification by Motion of the Employee Relations Officer

When new classifications are adopted, existing classifications abolished, or when a classification is no longer compatible with the existing bargaining unit under the factors of Sec. 2.07 of this Article II, the Employee Relations Officer may, by his or her own motion, at any time 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. 2.07 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 Section 2.10 of this Article II.

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. 2.01 of this Article II.

**Sec. 2.09. Procedure for Processing Severance Requests**

An employee organization may file a request to become the exclusively recognized employee organization of a unit alleged to be appropriate that consists of a group of employees who are already a part of a larger established unit represented by another exclusively recognized employee organization. The timing, form and processing of such request shall be as specified in Sec. 2.08 of Article II for modification requests.

**Sec. 2.10. Appeals**

An employee organization aggrieved by a determination of the Employee Relations Officer that a Recognition Petition (Sec. 2.01), Challenging Petition (Sec. 2.03), Decertification Petition (Sec. 2.06), Determination of an Appropriate Unit (Sec. 2.07), Unit Modification Petition (Sec. 2.08) or Severance Request (Sec. 2.09) has not been filed in compliance with the applicable provisions of this Article II, may, within ten (10) days of notice of the Employee Relations Officer's determination, appeal such 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 non-binding 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.

**Article III -- Administration**

**Sec. 3.01. 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. 2.01 of this Resolution shall be submitted in writing to the Employee Relations Officer within fourteen (14) days of such change.

**Sec. 3.02. 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 rules and procedures, and 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 City operations.

**Sec. 3.03. Administrative Rules and Procedures**

The Employee Relations Officer 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**

**Sec. 4.01. Impasse Resolution**

If the meet and confer process has reached impasse as defined in Article 1, Section 1.02 of this Resolution, the parties (the City and the Employee Organization) can agree on any impasse resolution process they believe will help them resolve their impasse. This includes, but is not limited to an internal meeting (e.g., with the City Manager) or mediation. Any impasse resolution procedures are voluntary. Both parties have to agree.

Whether or not the parties utilize any impasse resolution process, the employee organization has the right to submit the impasse to fact-finding as provided for in the MMBA.

**Sec. 4.02. Costs of Impasse Procedures**

The cost for the services of a mediator and/or any other mutually incurred costs of any other impasse procedures shall be borne equally by the City and Recognized Employee Organization. Separately incurred services or costs shall be borne solely by the party incurring the cost.

**Article V -- Miscellaneous Provisions**

**Sec. 5.01. Construction**

This Resolution shall be administered and construed as follows:

- a. Nothing in this Resolution shall be construed to deny to 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 Municipal Code provisions).
- b. This Resolution shall be interpreted so as to carry out its purpose as set forth in Article I.
- 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 all rights accorded them under this Resolution and other City law for a period of up to one (1) year from commencement of such activity.

- d. Nothing in this Resolution shall be construed as a waiver of any rights unless expressly and specifically stated.

**Sec. 5.02. 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 application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

**I HEREBY CERTIFY** that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the \_\_\_\_ day of \_\_\_\_, 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Neysa Fligor, MAYOR

Attest:

\_\_\_\_\_  
Andrea Chelemengos, MMC, CITY CLERK