

AGENDA

NOTICE OF REGULAR MEETING

TIME: 6 p.m.

DATE: Tuesday, September 19, 2023

PLACE: Regular Meeting Place
7051 Dublin Boulevard, Dublin, CA
www.dsrsd.com

Our mission is to protect public health and the environment by providing reliable and sustainable water, recycled water, and wastewater services in a safe, efficient, and fiscally responsible manner.

1. CALL TO ORDER
2. PLEDGE TO THE FLAG
3. ROLL CALL – Members: Goel, Govindarao, Halket, Johnson, Vonheeder-Leopold
4. SPECIAL ANNOUNCEMENTS/ACTIVITIES
 - 4.A. New Employee Introductions
5. PUBLIC COMMENT (MEETING OPEN TO THE PUBLIC)

At this time those in the audience are encouraged to address the Board on any item of interest that is within the subject matter jurisdiction of the Board and not already included on tonight’s agenda. Comments should not exceed five minutes. Speaker cards are available from the District Secretary and should be completed and returned to the Secretary prior to addressing the Board. The President of the Board will recognize each speaker, at which time the speaker should proceed to the lectern, introduce him/herself, and then proceed with his/her comment. Written comments received by 3 p.m. on the day of the meeting will be provided to the Board.
6. AGENDA MANAGEMENT (CONSIDER ORDER OF ITEMS)
7. CONSENT CALENDAR

Matters listed under this item are considered routine and will be enacted by one Motion, in the form listed below. There will be no separate discussion of these items unless requested by a Member of the Board or the public prior to the time the Board votes on the Motion to adopt.

 - 7.A. Approve Regular Meeting Minutes of September 5, 2023
Recommended Action: Approve by Motion
 - 7.B. Approve Continuation of Emergency Action Procurement by General Manager for Repair of the LAVWMA Livermore Interceptor Pipeline and Find that the Need for the LAVWMA Livermore Interceptor Pipeline Emergency Still Exists
Recommended Action: Approve by Motion
 - 7.C. Affirm No Changes to Drug Free Workplace, Inspections for Prohibited Materials and District Property, Relations, and Salary Plan Policies
Recommended Action: Approve by Motion

- 7.D. Adopt Revisions to Rules and Regulations Governing Employer-Employee Organization Relations and Rescind Resolution No. 18-19
Recommended Action: Adopt Policy by Resolution
- 7.E. Approve Proclamation Celebrating October 7-15, 2023 as Water Professionals Appreciation Week
Recommended Action: Approve by Motion
- 8. BOARD BUSINESS
 - 8.A. Affirm No Changes to Consolidated Water Enterprise Fund Policy
Recommended Action: Approve by Motion
 - 8.B. Receive Presentation on Water Rates and Provide Direction for the 2024 Water Cost of Service Study and Rate Policies and Guidelines Policy
Recommended Action: Receive Presentation and Provide Direction
- 9. REPORTS
 - 9.A. Boardmember Items
 - 9.A.1. Joint Powers Authority and Committee Reports
 - 9.A.2. Submittal of Written Reports for Day of Service Events Attended by Directors
 - 9.A.3. Request New Agenda Item(s) Be Placed on a Future Board or Committee Agenda
 - 9.B. Staff Reports
- 10. CLOSED SESSION
 - 10.A. Conference with Legal Counsel – Significant Exposure to Litigation Pursuant to Government Code Section 54956.9(d)(2): (one case)
 - 10.B. Public Employee Appointment - Pursuant to Government Code Section 54957
Title: General Manager
- 11. REPORT FROM CLOSED SESSION
- 12. ADJOURNMENT

All materials made available or distributed in open session at Board or Board Committee meetings are public information and are available for inspection during business hours by calling the District Secretary at (925) 828-0515. A fee may be charged for copies. District facilities and meetings comply with the Americans with Disabilities Act. If special accommodations are needed, please contact the District Secretary as soon as possible, but at least two days prior to the meeting.

**DUBLIN SAN RAMON SERVICES DISTRICT
MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS**

September 5, 2023

1. CALL TO ORDER

A regular meeting of the Board of Directors was called to order at 6 p.m. by President Vonheeder-Leopold.

2. PLEDGE TO THE FLAG

3. ROLL CALL

Boardmembers present at start of meeting: President Georgean M. Vonheeder-Leopold, Vice President Ann Marie Johnson, Director Arun Goel, Director Dinesh Govindarao, and Director Richard M. Halket.

District staff present: Dan McIntyre, General Manager; Jan Lee, Assistant General Manager; Carol Atwood, Administrative Services Director/Treasurer; Steve Delight, Engineering Services Director/District Engineer; Michelle Gallardo, Special Assistant to the General Manager; Douglas E. Coty, General Counsel; and Nicole Genzale, Executive Services Supervisor/District Secretary.

4. SPECIAL ANNOUNCEMENTS/ACTIVITIES

4.A. New Employee Introductions

Amber Barnstead, Utility Billing & Customer Services Representative I
Rodrigo Garcia, Senior Utility Billing & Customer Services Representative
Mike Nakamura, Principal Electrical Engineer

5. PUBLIC COMMENT (MEETING OPEN TO THE PUBLIC) – 6:06 p.m. No public comment was received.

6. AGENDA MANAGEMENT (CONSIDER ORDER OF ITEMS) – General Manager McIntyre reported that Closed Session Item 10.A is not needed this evening as staff has no new information to report.

7. CONSENT CALENDAR

Director Govindarao MOVED for approval of the items on the Consent Calendar. Director Goel SECONDED the MOTION, which CARRIED with FIVE AYES.

7.A. Approve Regular Meeting Minutes of August 15, 2023 – Approved

7.B. Approve the Continuation for Repair of the LAVWMA Livermore Interceptor Pipeline by General Manager and Find that the Need for the District's State of Emergency Still Exists – Approved – Resolution No. 36-23

- 7.C. Approve Amendment to the Capital Improvement Program (CIP) Ten-Year Plan and Two-Year Budget for Fiscal Years 2024 and 2025 to Advance the Dublin Boulevard Extension Sewer Facilities Project (CIP 20-S028) – Approved – Resolution No. 37-23
- 7.D. Affirm No Changes to Proposition 218 Receipt, Tabulation, and Validation of Written Protests Policy – Approved
- 7.E. Affirm No Changes to Construction Project Acceptance by the General Manager Policy – Approved

8. BOARD BUSINESS

- 8.A. Adopt Revised District Participation in Charitable Events and Community Service Activities Policy and Rescind Resolution No. 50-14

Special Assistant to the General Manager Gallardo reviewed the item for the Board. The Board and staff discussed the policy's history and reaffirmed its purpose going forward. General Counsel Coty noted that the section pertaining to disaster relief (pre-authorized activity #1) was struck for removal, but was inadvertently left in the clean policy. As a follow-up item, staff will bring to the Board a draft update of the District Code section pertaining to facility use permitting (another element struck from the policy) for discussion and direction.

Director Halket MOVED to adopt Resolution No. 38-23, Revising the District Participation in Charitable Events and Community Service Activities Policy, with removal of the disaster relief section as noted, and Rescind Resolution No. 50-14. Vice President Johnson SECONDED the MOTION, which CARRIED with FIVE AYES.

9. REPORTS

- 9.A. Boardmember Items

- 9.A.1. Joint Powers Authority and Committee Reports
LAVWMA – August 16, 2023

President Vonheeder Leopold invited comments on recent JPA activities. Directors Johnson and Goel felt the available staff reports adequately covered the many matters considered at the JPA meeting and made a few comments about some of the JPA activities.

- 9.A.2. Submittal of Written Reports for Day of Service Events Attended by Directors

Director Govindarao submitted a written report to Executive Services Supervisor/District Secretary Genzale. He reported that he attended the Tri-Valley Mayors' Summit on Thursday, August 31 at the San Ramon Marriot. He summarized the activities and discussions at the meeting. He also reported that he will give a presentation tomorrow regarding DSRSD's conservation program to the Dublin Rotary Club at the Dublin Library.

President Vonheeder-Leopold submitted a written report to Executive Services Supervisor/District Secretary Genzale. She reported that she also attended the Tri-Valley Mayors' Summit. She summarized the activities and discussions at the meeting.

Vice President Johnson submitted a written report to Executive Services Supervisor/District Secretary Genzale. She reported that she attended the virtual California Special Districts Association Fiscal Committee meeting on Friday, August 18. She summarized the activities and discussions at the meeting.

9.A.3. Request New Agenda Item(s) Be Placed on a Future Board or Committee Agenda – None

- 9.B. Staff Reports – Assistant General Manager Lee reported on the following events:
- Zone 7 Water Agency is holding its Stoneridge PFAS Treatment Facility ribbon cutting on Wednesday, September 13. Evites were emailed to all Directors and there is still time to RSVP to attend.
 - The Association of California Water Agencies is hosting a Region 5 tour - *Regional Water Solutions: A Look at ACWD's Integrated Resources Planning Successes & Lessons Learned* - at Alameda County Water District in Fremont on Friday, September 22. Directors can contact staff if interested in attending.

10. NOT HELD – CLOSED SESSION

10.A. Public Employee Appointment Pursuant to Government Code Section 54957
Title: General Manager

11. NOT HELD – REPORT FROM CLOSED SESSION

12. ADJOURNMENT

President Vonheeder-Leopold adjourned the meeting at 6:31 p.m.

Submitted by,

Nicole Genzale, CMC
Executive Services Supervisor/District Secretary



TITLE: Approve Continuation of Emergency Action Procurement by General Manager for Repair of the LAVWMA Livermore Interceptor Pipeline and Find that the Need for the LAVWMA Livermore Interceptor Pipeline Emergency Still Exists

RECOMMENDATION:

Staff recommends the Board of Directors approve, by Motion, a continuation of the Emergency Action as declared in Board Resolution Nos. 22-23 and 36-23 and find that there exists a need for continuing the LAVWMA Livermore Interceptor Pipeline Emergency which the Board last confirmed on September 5, 2023.

DISCUSSION:

From late 2022 through March of 2023, a series of severe winter storms characterized as “atmospheric rivers” struck California bringing damaging winds and historic precipitation. On February 9, 2023, District staff discovered that these storms had left a portion of LAVWMA’s Livermore Interceptor Pipeline and its associated manhole exposed in the Arroyo Mocho Creek, and caused significant erosion in the nearby creek bed and banks.

The LAVWMA’s Livermore Interceptor Pipeline serves the sole benefit of the City of Livermore, and as such, all costs (100 percent) associated with the repair of the pipeline will be allocated to the City of Livermore. In their most recent action on September 5, 2023, the District’s Board of Directors approved Resolution No. 36-23, confirming the District State of Emergency declared by the General Manager on June 12, 2023 (Attachment 1) and authorizing emergency action procurement for the repair of the LAVWMA Livermore Interceptor Pipeline. Per Public Contract Code 22050, the Declaration of the District State of Emergency shall be reviewed by the Board of Directors at every regular meeting to determine, by a four-fifths vote, that there is a need to continue the emergency action.

To date, five task orders have been issued to Carollo Engineers and DPI, Inc. for engineering design services, construction services and construction management services totaling \$1,976,263 and a total of \$153,396.21 has been spent. Additional task orders, purchase orders, and/or other contracts are expected to be awarded in the near term for property acquisition and additional construction services.

Final design drawings are expected to be completed by mid-September. Staff is actively engaging with DPI, Inc. on constructability review, material selection and procurement, and construction costs. Staff currently anticipate construction to begin in early October. In parallel with the design effort, staff also continues to work with property owners on negotiating property rights for the new pipeline easements and right-of-entry permits, coordinating with respective agencies for the acquisition of environmental permits and encroachment permits, pursuing funding assistance through the Federal Emergency Management Agency (FEMA) and the California Office of Emergency Services (CalOES), and procuring long lead-time materials including large-diameter piping and valves.

To ensure the project can meet the aggressive project schedule, staff recommends the Board of Directors find the need to continue the State of Emergency declared by the General Manager on June 12, 2023. Expedited action, including the emergency procurement of construction materials, equipment, construction services, and construction management services, is necessary to mitigate any additional damage to the pipeline and avoid the potential discharge of treated wastewater effluent to the Arroyo Mocho Creek. A four-fifths vote is necessary to extend the emergency.

Originating Department: Engineering and Technical Services	Contact: K. Castro/S. Delight	Legal Review: Yes
Financial Review: Not Required	Cost and Funding Source: \$5,000,000 to be reimbursed by LAVWMA	
Attachments: <input type="checkbox"/> None <input type="checkbox"/> Resolution <input type="checkbox"/> Ordinance <input type="checkbox"/> Task Order <input type="checkbox"/> Proclamation <input checked="" type="checkbox"/> Other (see list on right)	Attachment 1 – Emergency Declaration	

Emergency Declaration
Dublin San Ramon Services District
LAVWMA Livermore Interceptor Repair
June 12, 2023

WHEREAS, from late 2022 through March of 2023, a series of severe winter storms characterized as atmospheric rivers struck California bringing damaging winds and historic precipitation; and

WHEREAS, Governor Newsom proclaimed a State of Emergency in Alameda and Contra Costa counties, among others, as a result of these winter storms due to their threat to critical infrastructure and declared that because of their magnitude, the necessary repairs and remedial actions are beyond the control of the services, personnel, equipment, and facilities of any single local government agency to appropriately respond; and

WHEREAS, the Governor therefore suspended applicable provisions of the Government Code and the Public Contracting Code, including but not limited to travel, advertising, and competitive bidding requirements, to the extent necessary to address the effects of these storms; and

WHEREAS, on February 9, 2023, LAVWMA and the Dublin San Ramon Services District (“DSRSD”) discovered that these recent winter storms, which had brought strong winds and above normal precipitation, had left a portion of LAVWMA’s pipeline and its associated manhole exposed in the Arroyo Mocho Creek, along with significant erosion in the creek bed and banks near the exposed pipeline; and

WHEREAS, the possibility of the pipeline to fail potentially causing discharge of wastewater or interruption of service could impact the creek and environmentally sensitive areas nearby, present a substantial risk to public health and safety, and subject LAVWMA to significant fines for unpermitted discharges; and

WHEREAS, on May 17, 2023, the Livermore-Amador Valley Water Management Agency approved a resolution declaring an emergency pursuant to Public Contract Code Section 220250 and Authorizing Emergency Work for the repair of the portion of the exposed pipeline; and

WHEREAS, pursuant to the Agreement for Maintenance of LAVWMA Facilities dated January 15, 1980, and Amendment No. 1 to the Agreement for Maintenance of LAVWMA Facilities dated June 4, 2021, the Dublin San Ramon Services Districts (District) provides all required operation and maintenance tasks for the LAVWMA facilities; and

WHEREAS, in response to the unexpected pipeline exposure, DSRSD implemented temporary measures to protect the pipeline, including the placement of rip rap to prevent further bank erosion, and engaged Carollo Engineers (“Carollo”) to assess the condition of the pipeline and to identify permanent repair options; and

WHEREAS, based on Carollo’s Pipeline Condition Assessment, dated May 12, 2023, the pipeline is currently in constant exposure to creek elements, debris, and water, which are factors that could lead to accelerated corrosion and wear on the external parts of the pipe, or pressure and impacts from the waterway that could lead to failure of the pipeline and result in the discharge of wastewater; and

WHEREAS, DSRSD, which will procure services related to this repair under the terms of its Purchasing Guidelines, is subject to the Uniform Public Construction Cost Accounting Act (Public Contract Code section 22000 et seq.), which generally requires a competitive bidding process for public projects in excess of \$60,000, except in cases of emergency, as set forth in Public Contract Code section 22035; and

WHEREAS, on May 1, 2012, the DSRSD Board of Directors approved Resolution No. 14-12, amending the adopted Emergency Response Plan (ERP) policy, and designates the DSRSD General Manager to serve as the District’s Emergency Manager, and authorizes the Emergency Manager to proclaim a State of Emergency; and

WHEREAS, Public Contract Code section 22050(b) authorizes the Board of Directors to delegate to the DSRSD General Manager the authority to order any action to “repair or replace a public facility, take any directly related and immediate action required by [the] emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts.”

DECLARATION OF EMERGENCY:

In order for the Dublin San Ramon Services District to comply with its contractual obligations to LAVWMA for the operation and maintenance of its facilities, effective immediately, I am declaring a State of Emergency to ensure adequate staffing and resources for the repair and maintenance the exposed pipeline crossing, and adjacent to, the Arroyo Mocho Creek, which thereby allows DSRSD, on LAVWMA's behalf, to order any action to repair or replace the affected pipeline, take any directly related and immediate action required by the emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts.

Daniel McIntyre
BY: Daniel McIntyre (Jun 12, 2023 16:00 PDT)
Daniel McIntyre
General Manager

DATE: _____

Nicole Genzale
ATTEST: Nicole Genzale (Jun 12, 2023 16:16 PDT)
Nicole Genzale
DSRSD District Secretary



TITLE: Affirm No Changes to Drug Free Workplace, Inspections for Prohibited Materials and District Property, Relations, and Salary Plan Policies

RECOMMENDATION:

Staff recommends the Board of Directors, approve, by Motion, affirmation of no changes to Drug Free Workplace, Inspections for Prohibited Materials and District Property, Relations, and Salary Plan policies.

DISCUSSION:

All District policies are reviewed on a rotating four-year cycle to ensure that they remain current and that the Board seated at the time continues to concur with that policy. Staff recently reviewed four Personnel policies scheduled for review in 2023. The policies have been reviewed for required or recommended legal updates, as well as continued applicability to the District’s strategic initiatives and operations. Staff determined that no changes were needed or applicable at this time for the following four (4) Personnel policies:

- Drug Free Workplace
- Inspections for Prohibited Materials and District Property
- Relations
- Salary Plan

The current policies with updated review history is attached. If affirmed, the policies will be scheduled for subsequent review in 2027.

Originating Department: Office of the General Manager	Contact: S. Koehler/M. Gallardo	Legal Review: Not Required
Financial Review: Not Required	Cost and Funding Source: N/A	
Attachments: <input type="checkbox"/> None <input type="checkbox"/> Resolution <input type="checkbox"/> Ordinance <input type="checkbox"/> Task Order <input type="checkbox"/> Proclamation <input checked="" type="checkbox"/> Other (see list on right)	Attachment 1 – Marked-up Drug Free Workplace policy Attachment 2 – Marked-up Inspections for Prohibited Materials and District Property policy Attachment 3 – Marked-up Relations policy Attachment 4 – Marked-up Salary Plan policy	



Policy

Policy No.: P700-19-2 <u>P700-</u>	Type of Policy: Personnel
Policy Title: Drug Free Workplace	
Policy Description: Identifies Dublin San Ramon Services District as a Drug Free Workplace.	
Approval Date: 9/20/2011	Last Review Date: 2019 <u>2023</u>
Approval Resolution No.: 52-11	Next Review Date: 2023 <u>2027</u>
Rescinded Resolution No.: 72-07	Rescinded Resolution Date: 12/18/2007

It is the policy of the Board of Directors of Dublin San Ramon Services District:

A. All Employees

Dublin San Ramon Services District is committed to protecting the health, well-being, and safety of all employees and others in the workplace from the hazards caused by misuse of drugs or alcohol. Because of the importance of this commitment and the addictive and secretive nature of substance abuse, accomplishing this goal will require the full support of all levels of management and supervision, as well as that of each employee. In furtherance of this goal, and in accordance with State and Federal requirements, the General Manager shall develop comprehensive rules in furtherance of this policy.

The District's Drug Free Workplace policy is applicable to all employees, interns, temporary employees, agents, contractors, and elected officials.

B. Employees Subject to Department of Transportation Regulations

In addition to the District's Drug Free Workplace policy, it is District policy to comply with all requirements pursuant to Regulations issued by the U.S. Department of Transportation. Employees required to possess a Class A or Class B commercial vehicle driver's license by the State of California Department of Motor Vehicles are required to comply with both the terms of the District's Drug Free Workplace policy and the terms of the personnel rules adopted pursuant to Department of Transportation regulations. A copy of the Department of Transportation regulations may be obtained from Human Resources.

The General Manager may provide for exceptions to this policy related to the minimal use of alcoholic beverages for ceremonial purposes (toasts, etc.).

The General Manager shall develop comprehensive rules in furtherance of this policy.

Policy No.: P700- 19-2	Policy Title: Drug Free Workplace
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Policy is current and no changes need to be adopted by the Board of Directors. <u>Status Quo Chronology:</u>	
Date Adopted:	
September 20, 2011	
Reviewed by Committee or Board:	Date:
Board	June 16, 2015
Board	March 5, 2019
<u>Board</u>	<u>September 19, 2023</u>



Policy

Policy No.: P700-19-3 <u>P700-</u>	Type of Policy: Personnel
Policy Title: Inspections for Prohibited Materials and District Property	
Policy Description: The right to inspect and search for prohibited materials and for District property while on District premises in accordance with applicable law.	
Approval Date: 12/18/2007	Last Review Date: 2019 <u>2023</u>
Approval Resolution No.: 61-07	Next Review Date: 2023 <u>2027</u>
Rescinded Resolution No.: 13-97	Rescinded Resolution Date: 2/18/1997

It is the policy of the Board of Directors of Dublin San Ramon Services District:

The District is committed to the maintenance of a workplace free of drugs, alcohol, and other harmful materials which is vital to the health and safety of its employees and to the protection of public services. The District also must protect against the unauthorized removal of District property and to assure its access at all times to District property, records, documents, and files. For these reasons, the District reserves the right to inspect and search for prohibited materials and for District property while on District premises in accordance with applicable law. This policy applies to all employees.

The General Manager shall develop comprehensive rules in furtherance of this policy.

Policy is current and no changes need to be adopted by the Board of Directors. <u>Status Quo Chronology:</u>	
Date Adopted:	
December 18, 2007	
Reviewed by Committee or Board:	Date:
Personnel	May 5, 2011
Board	June 16, 2015
Board	March 5, 2019
<u>Board</u>	<u>September 19, 2023</u>



Policy

Policy No.: P700-19-4 P700-	Type of Policy: Personnel
Policy Title: Relations	
Policy Description: Appointment of classified staff with direct relation to an elected official of the District.	
Approval Date: 12/18/2007	Last Review Date: 2019 2023
Approval Resolution No.: 62-07	Next Review Date: 2023 2027
Rescinded Resolution No.: 13-97	Rescinded Resolution Date: 2/18/1997

It is the policy of the Board of Directors of Dublin San Ramon Services District:

No person shall be appointed to the District's classified service who is related to an elected official of the District. This policy does not affect those individuals employed by the District at the time an official is elected to office; however, any such individual shall notify the General Manager upon the election of any relative to the Board of Directors.

The General Manager shall develop comprehensive rules in furtherance of this policy.

Policy is current and no changes need to be adopted by the Board of Directors. <u>Status Quo Chronology:</u>	
Date Adopted:	
December 18, 2007	
Reviewed by Committee or Board:	Date:
Personnel	May 5, 2011
Board	June 16, 2015
Board	March 5, 2019
<u>Board</u>	<u>September 19, 2023</u>



Policy

Policy No.: P700-19-5P700-	Type of Policy: Personnel
Policy Title: Salary Plan	
Policy Description: Identifying salary plan covering all classes of position in District employment.	
Approval Date: 11/15/2011	Last Review Date: 2019 2023
Approval Resolution No.: 70-11	Next Review Date: 2023 2027
Rescinded Resolution No.: 77-07	Rescinded Resolution Date: 12/18/2007

It is the policy of the Board of Directors of Dublin San Ramon Services District:

The General Manager shall develop and recommend for Board approval a salary plan covering all classes of positions in District employment. This salary plan shall identify the monthly flat rate of pay or salary range for each class, the effective date of that salary, and the date(s) indicating when the salary was previously revised.

A new appointee shall receive the minimum salary for the class to which the position is allocated. Occasionally, the qualifications of the candidate may dictate that a higher starting salary within the range is justified. Approval for any appointment above the minimum salary range requires approval from the General Manager. In no event may the General Manager establish the salary for a new appointee at a rate that is excess of the maximum salary for the class, as indicated in the salary plan that is approved by the Board.

Whenever a new or revised salary plan is adopted, the new or revised plan shall supersede any prior salary plan adopted by the District. The District shall maintain a record of all salary plans that were superseded for a period of at least five years.

Policy No.: P700-

Policy Title: Salary Plan

Policy is current and no changes need to be adopted by the Board of Directors.
Status Quo Chronology:

Date Adopted:

November 15, 2011

Reviewed by
Committee or Board:

Date:

Board

June 16, 2015

Board

March 5, 2019

Board

September 19, 2023



TITLE: Adopt Revisions to Rules and Regulations Governing Employer-Employee Organization Relations and Rescind Resolution No. 18-19

RECOMMENDATION:

Staff recommends the Board of Directors adopt, by Resolution, revisions to the Rules and Regulations Governing Employer-Employee Organization Relations for Dublin San Ramon Services District and rescind Resolution No. 18-19.

DISCUSSION:

The District’s current Rules and Regulations Governing Employer-Employee Organization Relations was adopted by Board Resolution No. 18-19 on May 7, 2019. In accordance with District practice, all Board policies are reviewed and updated every four years.

Staff have reviewed the current Rules and Regulations Governing Employer-Employee Organization Relations with employment attorney Genevieve Ng of Sloan Sakai Yeung & Wong LLP and incorporated recommended revisions into the revised document. In addition to non-substantiative edits and language clarifications, staff recommends that the policy be revised to:

- a) Add a section with defined procedures for handling requests to amend recognition of employee organization. This new section ensures the Rules and Regulations Governing Employer-Employee Organization Relations provide thorough and complete procedures for addressing a request from a bargaining unit to change its representation from one recognized employee organization to another recognized employee organization; and
- b) Revise the definition of “Proof of Employee Support” to be valid from sixty (60) days, to now being one (1) year, in accordance with Public Employment Relations Board (PERB) regulations, section 32700(b).

The District has satisfied all meet and confer obligations related to this matter.

Originating Department: Office of the General Manager	Contact: S. Koehler/M. Gallardo	Legal Review: Yes
Financial Review: Not Required	Cost and Funding Source: N/A	
Attachments: <input type="checkbox"/> None <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Ordinance <input type="checkbox"/> Task Order <input type="checkbox"/> Proclamation <input checked="" type="checkbox"/> Other (see list on right)	Attachment 1 – Marked-up Rules and Regulations Governing Employer-Employee Organization Relations policy	

EXHIBIT A

**RULES AND REGULATIONS GOVERNING
EMPLOYER-EMPLOYEE ORGANIZATION RELATIONS
FOR THE DUBLIN SAN RAMON SERVICES DISTRICT**

Article I. General Provisions

Section 1. 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 "Local Public Employee Organizations" (also referred to as the Meyers-Milias Brown Act [MMBA]) by providing orderly procedures for the administration of employer-employee relations between the District and its employee organizations and the employees they represent. 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 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. However, nothing herein shall be construed to restrict any legal or inherent exclusive District rights with respect to matters of general legislative or managerial policy, which include among others: the exclusive right to determine the mission of its constituent departments; set standards of 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 reasons; determine the content of job classifications; maintain the efficiency of operations; determine the methods, means and personnel by which 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 (as defined in Article III, Section ~~417~~).

Section 2. Definitions.

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

- (a) "Appropriate Unit" or "Unit" means a unit of employee classifications or positions, established pursuant to Article II hereof.
- (b) "District" means Dublin San Ramon Services District, and, where appropriate herein, refers to the Board of Directors, or any duly authorized District representative as herein defined.
- (c) "Confidential Employee" means any employee who, in the course of his or her duties, has access to confidential information relating to the District's administration of employer-employee relations.
- (d) "Consult/Consultation in Good Faith" means to communicate orally or in writing with all affected exclusively 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 such meet and confer process, does not involve an exchange of proposals and counter-proposals with an exclusively recognized employee organization in an endeavor to reach agreement in the form of a Memorandum of Understanding, nor is it subject to Article IV hereof.
- (e) "Day" means calendar day unless expressly stated otherwise.
- (f) "Employee" means any person employed by the District, except those who are: (1) elected officials; (2) persons employed by contract with a third party agency or company; and (3) independent contractors.

- (g) "Employee Organization" means either any organization that includes District employees and that has as one of its primary purposes representing those employees in their relations with the District; or any organization that seeks to represent District employees in their relations with the District.
- (h) "Employee Relations Officer" ["ERO"] means the General Manager or his/her/their duly authorized representative(s).
- (i) "Exclusively Recognized Employee Organization" means an employee organization which has been formally acknowledged by the District 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.
- (j) "Impasse" means that the representatives of the District and an Exclusively 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 any other matters of which they are required to meet and confer, remain so substantial and prolonged that further meeting and conferring would be futile.
- (k) "Management Employee" means an employee having significant responsibility for formulating, administering, or managing the implementation of District policies and programs, or managing Departments, major divisions of Departments or of functions, or any employee having authority to in the interest of the District, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or evaluate their performance, 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.
- (l) "Mediation" means effort by an impartial third party to assist in reconciling a dispute regarding wages, hours and other terms and conditions of employment between representatives of the Dublin San Ramon Services District and the Exclusively Recognized Employee Organization through interpretation, suggestion, and advice.
- (m) "Memorandum of Understanding" (or "MOU") means a written agreement between the District and an exclusively recognized employee organization regarding wages, hours and working conditions within the scope of representation. MOUs shall not be valid or enforceable unless and until adopted by the Board of Directors.
- (n) "Professional Employee" means an employee engaged in work requiring specialized knowledge and skills attained through completion of a prolonged and recognized course of specialized instruction in an institution of higher learning or a hospital, - as distinguished from a general academic education, from an apprenticeship, or from training in the performance of routine mental, manual, or physical processes,- including, but not limited to, attorneys, physicians, architects, engineers, teachers, registered nurses, and various types of physical, chemical, and biological scientists.
- (o) "Proof of Employee Support" means (1) an authorization card recently signed and personally dated by an employee; (2) a verified authorization petition or petitions recently signed and personally dated by an employee or employees; 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 sixty (60) days one (1) year prior to the filing of a petition.
- (p) "Supervisory Employee" means any employee having authority, in the interest of the District, to hire,

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transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or evaluate their performance, 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.

- (q) "Working Days" means the days that the Public Employment Relations Board is open for business.

Article II. Unit Determination and Representation Proceedings

Section 3.1. Policy and Standards 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 District including the compatibility of the unit with the mission of the District and the unit's impact on the District's ability 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 may include:

- (a) Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions.
- (b) History of representation in the District 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 structure of the District.
- (d) The 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 single or related classifications among two or more units.
- (g) The application and consistency of wage, hour and benefit packages within the bargaining unit.
- (h) Specific legal requirements, such as the rights of professional employees to form their own bargaining units.

Notwithstanding the foregoing provisions of this Section, managerial, supervisory and confidential responsibilities, as defined in [Article I](#), Section 2 of this Resolution, are determining factors in establishing appropriate units hereunder, and therefore such managerial, supervisory and confidential employees may only be included in units that do not include non-managerial, non-supervisory and non-confidential employees. Managerial, supervisory and confidential employees may not represent any employee organization that represents other employees.

Section 24. Procedure for the Establishment of Appropriate Units.

The Employee Relations Officer shall have the authority to establish Appropriate Units, pursuant to the provisions of Section [13](#) of Article II. Whenever the Employee Relations Officer establishes an Appropriate Unit, [he/shethey](#) shall give written notice of such action to the affected employees and/or employee

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organizations, if any. Thereafter, an affected employee organization may appeal the Employee Relations Officer's determination pursuant to the provisions of Section ~~46~~ of this Article II.

Following final determination of the Employee Relations Officer establishing an Appropriate Unit, employee organizations may file Recognition Petitions pursuant to Section ~~57~~ of this Article II, seeking to become the Exclusively Recognized Employee Organization for such unit.

Section ~~35~~. Procedure for Modification of Established Appropriate Units.

Bargaining unit modifications may be initiated by: (a) the District; (b) a group of employees; or (c) a recognized employee organization.

- (a.) District-initiated unit modifications: The District may initiate a modification of its unit structure, including the creation of new units, or the reallocation of classifications from one bargaining unit to another bargaining unit. The District shall provide written notice of the proposed modification, at which time all affected employee organizations shall be heard. After a final determination is made, the Employee Relations Officer will give written notice and call a meeting with all affected recognized employee organizations, for the purposes of providing all parties with copies of the Employee Relations Officer's decision in writing. Within ten (10) days of notice regarding the Employee Relations Officer's determination to modify a bargaining unit, or reallocate classifications, an affected recognized employee organization may submit an appeal to the Employee Relations Officer as provided in Section ~~46~~ 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 Organization for such new appropriate unit or units pursuant to Section ~~57~~ hereof.
- (b.) Employee and recognized employee organization-initiated modifications: An employee, group of employees, or a recognized employee organization may request that a unit be modified, or that one or more classifications be reallocated to a new or existing bargaining unit. Such request may be filed only during the time-period specified in Article II, Section 10~~3~~. The District shall provide notice to all affected employee organizations upon receipt of such a request. The request must be accompanied by documentation, dated no later than six months earlier than the request, showing that at least thirty percent (30%) of the employees in the classification(s) proposed to be reallocated to another unit, support the request. The request should also contain a statement of all the relevant facts in support of the proposed modified unit.
 - (i) The Employee Relations Officer may exercise discretion to deny the request in the event the criteria in Article II, Section 13 and Article II, Section 57 of this Resolution suggest to the Employee Relations Officer that the modification or reallocation is inappropriate. The Employee Relations Officer shall provide notice of the rejection to all affected employee organizations promptly after such determination.
 - (ii) If the Employee Relations Officer determines that the modification or reallocation of a unit is consistent with the criteria listed in Article II, Section 13 and Article II, Section 57, the Employee Relations Officer shall further process the request. If the Employee Relations Officer determines that a new unit or reallocation is appropriate, the Employee Relations Officer shall provide notice to all affected employee organizations in the District. If no protest is filed within ten (10) days, the Employee Relations Officer shall promptly reassign affected classifications to the new unit or reallocate the classifications to an existing bargaining unit. In the event of an assignment to a newly created bargaining unit, the Employee Relations Officer shall also notify the employees of their rights under this Resolution, including the right to select an employee organization of their choice for the purpose of meeting and conferring with the District regarding wages, hours and working condition under the MMBA.
 - (iii) Within ten (10) days of notice regarding the Employee Relations Officer's determination

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to modify a bargaining unit, or reallocate classifications, an affected recognized employee organization may submit an appeal to the Employee Relations Officer as provided in Section 46 of this Article II.

Section 46. Appeals of Appropriate Unit Determinations and Unit Modifications.

An employee organization aggrieved by the establishment or modification of an Appropriate Unit by the Employee Relations Officer pursuant to the provisions of this Article II may, within ten (10) days of notice thereof, file a written appeal with the Employee Relations Officer. Such appeal shall specify the provisions of this Article II to have been violated and the corrective action requested.

The Employee Relations Officer shall provide in writing his/her/their final determination within ten (10) days of receipt of the appeal. Either the employee organization or the Employee Relations Officer may request to meet with the other to discuss the appeal. If such a meeting is requested, it shall take place. If the parties meet, the Employee Relations Officer shall provide his/her/their final determination in writing within ten (10) days following the meeting.

The employee organization has ten (10) days after notice of the Employee Relations Officer's final determination to request that the matter be submitted for mediation to the California State Mediation and Conciliation Service (CSMCS), or fifteen (15) days to appeal the decision directly to the Board of Directors.

The request shall be made in writing to the Employee Relations Officer. If the employee organization chooses mediation and those efforts fail, the employee organization has ten (10) days from termination of the mediation to appeal to the Board. Such an appeal shall be filed in writing with the Board President and a copy thereof served on the Employee Relations Officer. The Board of Directors shall commence to consider the matter within thirty (30) days of the filing of the appeal and shall render a decision within sixty (60) days of the filing of the appeal. The Board of Directors may, at its discretion, refer the dispute to a neutral third party, such as an appointed hearing officer, who shall conduct a hearing and provide an advisory decision to the Board. Any decision of the Board of Directors on the use of such procedure, and/or any decision of the Board of Directors determining the substance of the dispute shall be final and binding.

If, at any stage of this appeal process, the employee organization fails to comply with the time limits contained herein, the appeal shall be deemed to have been resolved based upon the last response/action of the District. If, at any stage of this appeal process, the District fails to comply with the time limits contained herein, the employee organization may advance the appeal to the next level. Nothing herein is intended to prohibit the parties from waiving and/or modifying these time limits by mutual agreement. Such waivers shall be in writing to a date certain.

Section 57. 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, address, and telephone number of the employee organization.
- (b) Names and titles of the employee organizations' officers.
- (c) Names, telephone numbers, and email addresses 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 District.
- (e) A statement whether the employee organization is a chapter of, or affiliated directly or indirectly in

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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, creed, sex, national origin, age, religion, sexual orientation, mental or physical disability, or medical condition or any other trait protected by federal, state and local law.
- (i) A description of the proposed appropriate unit, including the job classifications or position titles of employees in the unit claimed to be included and those excluded (appropriate), and the approximate number of employees therein.
- (j) A statement that the employee organization has in its possession proof of employee support as defined herein 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 District. Such written proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party. In the case of a unit modification, the petition shall state that the signing employees support the request for the unit modification.
- (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.

Section ~~68~~. District 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 Section ~~57~~ of this Article II, and
- (b) The representation unit has been determined to be an appropriate unit in accordance with the provisions of Sections ~~13~~ and ~~24~~ of this Article II.

If the Employee Relations Officer determines that the foregoing two conditions have been satisfied, ~~they~~~~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 conditions has not been satisfied, 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 Section ~~46~~ of this Article II.

Granting Recognition without an Election. If the proof of support shows that a majority of the employees in the appropriate unit has 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.

Section ~~79~~. 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 of the classifications or positions set forth in the recognition petition being challenged) by filing a recognition 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 Section ~~57~~ 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 Section ~~13~~ of this Article II. The petitioning employee organizations shall have fifteen (15) days from the date of notice if 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 Section ~~46~~ of this Article II.

Section ~~810~~. Election Procedure.

The Employee Relations officer shall arrange for a secret ballot election to be conducted by a third party agreed to by the Employee Relations Officer and the concerned employee organization(s), in accordance with its rules and procedures subject to the provisions of this Resolution. Should the parties fail to reach agreement upon a third party, the California State Mediation and Conciliation Service shall be the neutral third party and shall verify the exclusive or majority status of the employee organization. All employee organizations that have duly submitted petitions that have been determined to be in conformance with this Article II shall be included as a choice on the ballot. The ballot shall also reserve to employees the option of having "No Representation." Employees entitled to vote in such election shall be those persons employed in regular permanent positions within the designated appropriate unit who are employed on the date of the election and who were employed during the pay period immediately prior to the date of the election, but which ended at least fifteen (15) days before the date the election commences. Voters shall include employees who did not work during such period because of illness, vacation or other authorized leaves of absence. 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 receives 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 only 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 (1) valid election under this Resolution pursuant to any petition in a twelve (12) month period affecting the same unit.

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

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

[Section ~~9XX~~. Procedure for Amendment of Recognition of Employee Organization](#)

[An employee organization may file with the District a request to amend its recognition in the event of a merger, amalgamation, affiliation, transfer of jurisdiction or in the event of a change in the name. The request shall be in writing, signed by the authorized agent of the ~~current~~ employee organization and include the following information:](#)

- [\(a\) The name, address and telephone number of the employee organization and the name, address](#)

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and telephone number of the agent to be contacted.

(b) The name, address and telephone number of the employer.

(c) A brief description of the established unit.

(d) A clear and concise statement of the nature of the merger, amalgamation, affiliation or other change in jurisdiction and the new name of the employee organization.

Upon receipt of the Request, the Employee Relations Officer shall determine whether there has been compliance with the requirements of Section 57 of this Article II.

If the Employee Relations Officer determines that the foregoing condition has been satisfied, he/shethey shall so inform the petitioning employee organization, shall give written notice of such request to the employees in the unit and shall take no action on said request for thirty (30) days thereafter. If the foregoing condition has not been satisfied, 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 Section 46 of this Article II.

If the Employee Relations Officer denies a unit amendment, such amendment may not be filed regarding the same representation unit until twelve (12) months after the date the petition was denied.

Section 101. 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 thirty (30) day period commencing October 1 of each calendar year. In accordance with the MMBA, decertification may not be requested during the first year after recognition of a unit. 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 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 percent (30%) of the employees in the established appropriate unit no longer desire to be represented by the incumbent Exclusively Recognized Employee Organization. Such proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party within the time limits specified in the first paragraph of this Section 10.

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/herthe EROs determination is in the negative, the EROhe/she shall offer to consult thereon with the representative(s) of such petitioning employees or employee organization and, if such determination thereafter remains unchanged, shall return such Petition to the employees or employee organization with a statement of the reasons therefore in writing. The petitioning employees or employee organization may appeal such determination in accordance with Section 46 of this Article II. If the determination of the Employee Relations Officer is in the affirmative, or if his/herthe EROs negative determination is reversed on appeal, he/shethe ERO shall give written notice of such Decertification

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to the incumbent Exclusively Recognized Employee Organization and to unit employees.

The Employee Relations Officer shall thereupon arrange for a secret ballot election to be held on or about fifteen (15) days after the above notice to determine the wishes of unit employees as to the question of decertification. Such election shall be conducted in conformance with Section ~~810~~ of this Article II.

If, pursuant to Section ~~101~~, a different employee organization is formally acknowledged as the Exclusively Recognized Employee Organization or a majority of voting employees select "No Representation" in such organization (if any), the employees assigned to the unit in question and the District shall be bound by all the terms and conditions of any Memorandum of Understanding then in effect for its remaining term.

Section ~~112~~. Procedure for Severance Petition

An employee organization that seeks to become the Exclusively Recognized Employee Organization representing the employees of an appropriate unit consisting of a group of employees who are already members of an established representation unit shall file a petition with the Employee Relations Officer containing the following information and documentation declared by the duly authorized signatory under penalty of perjury to be true, correct, and complete:

- (a) Name, address, and telephone number of the employee organization.
- (b) Names and titles of the employee organization's officers.
- (c) Names, telephone numbers, and email addresses 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 District.
- (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 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, creed, sex, national origin, age, religion, sexual orientation, mental or physical disability, or medical condition and other traits as protected by federal, state, and local law.
- (i) A brief description and title of the established unit.
- (j) A description of the proposed appropriate unit, including the job classifications or position titles of employees in the unit claimed to be included and those excluded (appropriate), and the approximate numbers therein.
- (k) The date on which the exclusive representative was recognized or certified;
- (l) The effective and expiration dates of the current memorandum of understanding, if any, covering

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employees in the established unit.

- (m) A statement that the employee organization has in its possession proof of employee support as defined herein to establish that a majority of the employees in the proposed unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the District. Such written proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party.
- (n) A request that the Employee Relations Officer formally acknowledge the petitioner as the Exclusively Recognized Employee Organization representing the employees in the proposed unit claimed to be appropriate for the purpose of meeting and conferring in good faith.

Whenever a memorandum of understanding exists, a severance petition must be filed during the “window period” which is the 29 day period that is less than 120 days but more than 90 days prior to the expiration date of a lawful memorandum of understanding.

Concurrent with the filing of a severance petition, the employee organization shall serve a copy of the petition, excluding any proof of support, on the exclusive representative of the established unit.

Section ~~123~~. District Response to Severance Petition

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

- (a) There has been compliance with the requirements of Section ~~112~~ of Article II, and
- (b) The representation unit has been determined to be an appropriate unit in accordance with the provisions of Sections ~~13~~ and ~~24~~ of Article II.

If the Employee Relations Officer determines that the foregoing two conditions have been satisfied, ~~they~~~~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 conditions has not been satisfied, the Employee Relations Officer shall inform that organization of the reasons therefore in writing. The petitioning employee organization may appeal such determination in accordance with Section ~~46~~ of this Article II.

If the Employee Relations Officer denies a unit severance petition, a unit severance petition may not be filed regarding the same representation unit until twelve (12) months after the date the petition was denied.

Article III. Administration

Section ~~14~~. Submission of Current Information by Exclusively Recognized Employee Organizations.

All changes in the information filed with the District by an Exclusively Recognized Employee Organization under items (a) through (k) of its Recognition Petition under Article II, Section ~~57~~ of this Resolution shall be submitted in writing to the Employee Relations Officer within fourteen (14) days of such change.

Section ~~215~~. Employee Organization Activities -- Use of District Resources.

Access to District work locations and the use of District 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

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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 organizing meetings and elections during working time and shall not interfere with the efficiency, safety and security of District operations.

Section ~~346~~. Administrative Rules and Procedures.

The General Manager 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.

Section ~~417~~. District Rights.

Subject to the requirements of the Government Code (MMBA), the District retains its rights:

- (a) To determine the mission of each of its constituent departments and divisions;
- (b) To set standards of services offered to the public;
- (c) To determine the procedures and standards of selection for employment and promotion;
- (d) To direct its employee, take disciplinary action for proper cause and to determine the content of job classifications, and to relieve its employees from duty because of lack of work or for other lawful reasons;
- (e) To maintain the efficiency of District operations, determine the methods, means and personnel by which District operations are to be conducted;
- (f) To take all necessary actions to carry out its mission in emergencies and to exercise complete control and discretion over its organization and the technology of performing its work;
- (g) The exercise of such District rights by the District shall not preclude employees or their representatives from the exercise of their rights under the Government Code (MMBA) or under this resolution.

Article IV. Impasse Procedures

Section ~~18~~. Initiation of Impasse Procedures.

If the meet and confer process has reached impasse as defined in this Resolution, either party may initiate impasse procedures by filing with the other party a [declaration of impasse](#), a written request for an impasse meeting, together with a statement of its position on all unresolved issues. Once impasse is declared, a meeting between the parties shall then be scheduled promptly by the Employee Relations Officer. The purpose of this meeting shall be:

- (a) To review the position of the parties in a final effort to reach agreement; and
- (b) If this final effort does not result in an agreement, to discuss arrangements for the utilization of the impasse procedures provided herein.

Section ~~219~~. Impasse Procedures.

Mediation and Request for Factfinding

- (a) If the parties agree to submit the dispute to mediation, and agree on the selection of a mediator, the dispute shall be submitted to mediation. Selection of the mediator will be decided jointly by the District and the Exclusively Recognized Employee Organization. In the event that the District and the Exclusively Recognized Employee Organization are unable to agree on the selection of a mediator, the District will request the California State Mediation and Conciliation Service to appoint a mediator. All mediation proceedings shall be confidential. The mediator shall make no public recommendation, nor take any public position at any time concerning the issues.
- (b) If the parties participate in mediation, and if the mediator is unable to effect settlement of the dispute, the Exclusively Recognized Employee Organization may present a request to the Public Employment Relations Board ("PERB") to submit the impasse to fact-finding. This request by the Exclusively Recognized Employee Organization to submit the impasse to fact-finding must be made no sooner than 30 days, but no later than 45 days, following the selection of a mediator by the parties.
- (c) If the parties do not agree to participate in mediation, the Exclusively Recognized Employee Organization may present a request to PERB to submit the impasse to fact-finding no later than 30 days following the date that either party has provided the other a written notice of declaration of impasse.
- (d) If the Exclusively Recognized Employee Organization does not request fact-finding within the timeframes provided for above, the District may impose its last, best and final offer.
- (e) Within five (5) working days after PERB's determination that the request for fact-finding is sufficient, the District and the Exclusively Recognized Employee Organization shall each appoint one member to the panel. PERB shall, within five (5) working days after the parties appoint the two members to the panel, select a chairperson for the panel.
- (f) The following constitute the jurisdictional and procedural requirements for fact-finding:
 - (1) The panel shall, within ten (10) days after its appointment unless extended by the parties, meet with the parties or their representatives, either jointly or separately, and may make inquiries and investigations, hold hearings, and take any other steps it deems appropriate.
 - (2) For the purposes of the hearings, investigations, and inquiries, the panel shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence. The District shall furnish the panel, upon its request, with all records, papers, and information in their possession relating to any matter under investigation by or in issue before the panel.
 - (3) Subject to the stipulations of the parties, the fact-finders shall consider, weigh and be guided by the following measures and criteria in arriving at their findings and recommendations:
 - a. State and federal laws that are applicable to the District.
 - b. The District's local rules, regulations, and resolutions and ordinances.
 - c. Stipulations of the parties.
 - d. The interests and welfare of the public, and the financial ability of the District.

- e. Comparison of the wages, hours, and conditions of employment of the employees involved in the fact-finding proceeding with the wages, hours, and conditions of employment of other employees performing similar services in comparable public agencies.
 - f. The consumer price index for goods and services, commonly known as the cost of living.
 - g. The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
 - h. Any other facts that are normally or traditionally taken into consideration in making the findings and recommendations, including, but not limited to:
 - (i.) Maintaining appropriate compensation relationships between classifications and positions within the District;
 - (ii.) Other legislatively determined and projected demands on District resources (i.e., budgetary priorities as established by the Board of Directors);
 - (iii.) Allowance for equitable compensation increases for other employees and employee groups for the corresponding fiscal period(s);
 - (iv.) Revenue projections not to exceed currently authorized tax and fee rates for the relevant fiscal year(s);
 - (v.) Assurance of sufficient and sound budgetary reserves; and
 - (vi.) Constitutional, statutory, and local limitations on the level and use of revenues and expenditures.
- (4) Within thirty (30) days after the appointment of the fact-finding panel, or, upon agreement by both parties within a longer period, the panel shall make written findings of fact and recommended terms of settlement, which shall be advisory only for the resolution of the issues in dispute, which shall be presented in terms of the criteria and limitations specified above. Any member of a fact-finding panel shall be accorded the right to file dissenting written findings of fact and recommendations. The fact-finder or chairperson of the fact-finding panel shall serve such findings and recommendations on the District and the designated representative of the Exclusively Recognized Employee Organization before they are made available to the public.
- (g) If the parties have not resolved the impasse within ten (10) days after service of the findings and recommendations upon them, the District shall make the findings and recommendations public.
 - (h) After any applicable mediation and fact-finding procedures have been exhausted, but no earlier than ten (10) days after the fact-finders' written findings of fact and recommended terms of settlement have been submitted to the parties, the Board of Directors may after holding a public hearing regarding the impasse, implement in its discretion its last, best and final offer, but shall not implement a memorandum of understanding. The unilateral implementation of a public agency's last, best, and final offer shall not deprive a recognized employee organization of the right each year to meet and confer on matters within the scope of representation, whether or not those matters are included in the unilateral implementation, prior to the adoption by the public agency of its annual budget, or as

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otherwise required by law. Any legislative action by the District on the impasse shall be final and binding.

| Section ~~320~~. Costs of Impasse Procedures.

The costs for the services of a mediator and a chairperson of a fact-finding panel utilized by the parties, and other mutually incurred costs of mediation and fact-finding, shall be borne equally by the District and the Exclusively Recognized Employee Organization. The chairperson's per diem fees shall not exceed the per diem fees stated on the chairperson's resumé on file with PERB. The chairperson's bill showing the amount payable by the parties shall accompany his or her final report to the parties and PERB. The cost for a fact-finding panel member selected by each party, and other separately incurred costs, shall be borne by such party.

Article V. Miscellaneous Provisions

| Section ~~121~~. Construction.

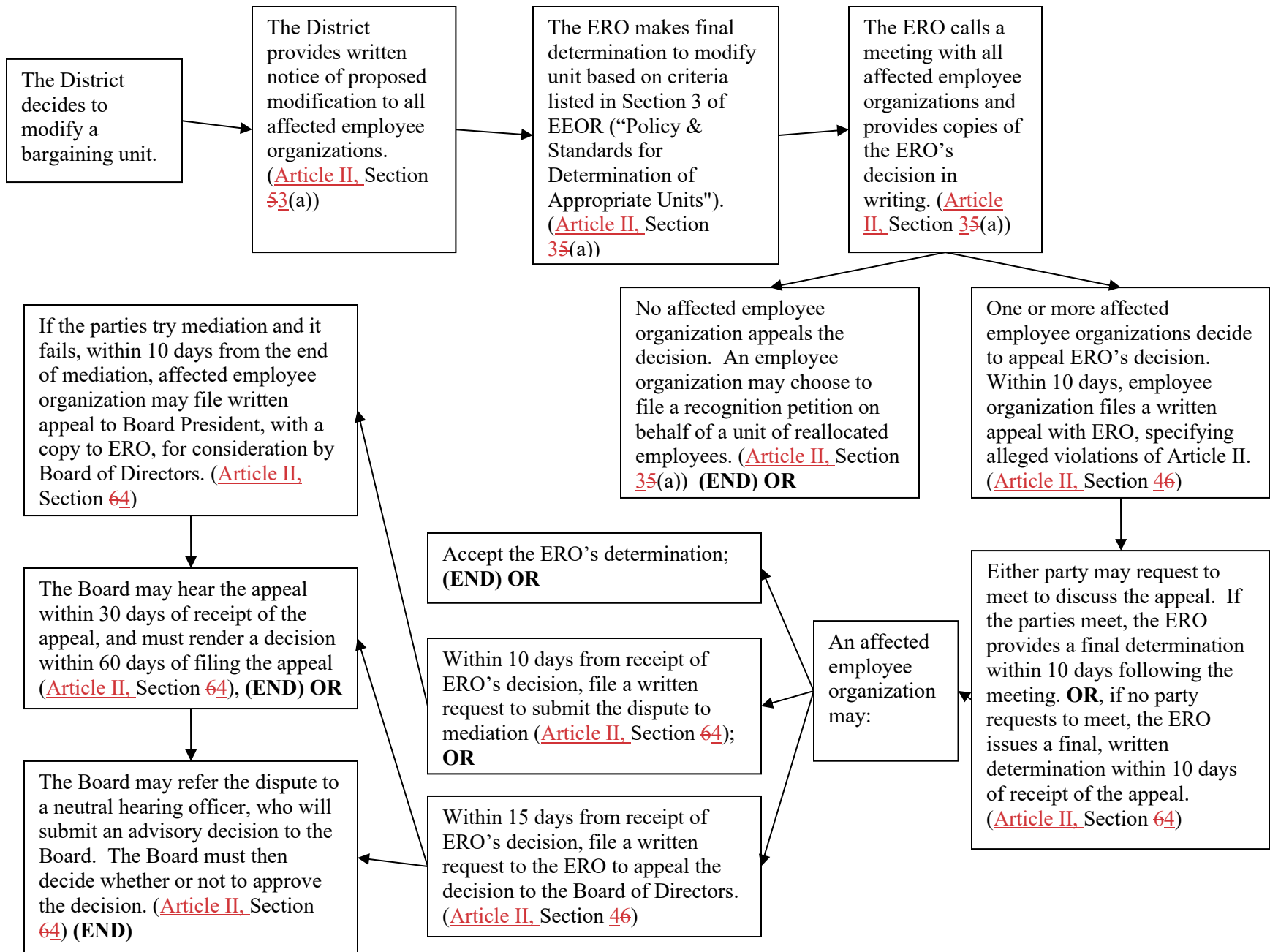
This Resolution shall be administered and construed as follows:

- (a) Nothing in this Resolution shall be construed to deny to any person, employee, organization, the District, or any authorized officer, body or other representative of the District, the rights, powers and authority granted by Federal or State law.
- (b) This Resolution shall be interpreted so as to carry out its purposes as set forth in Article I.

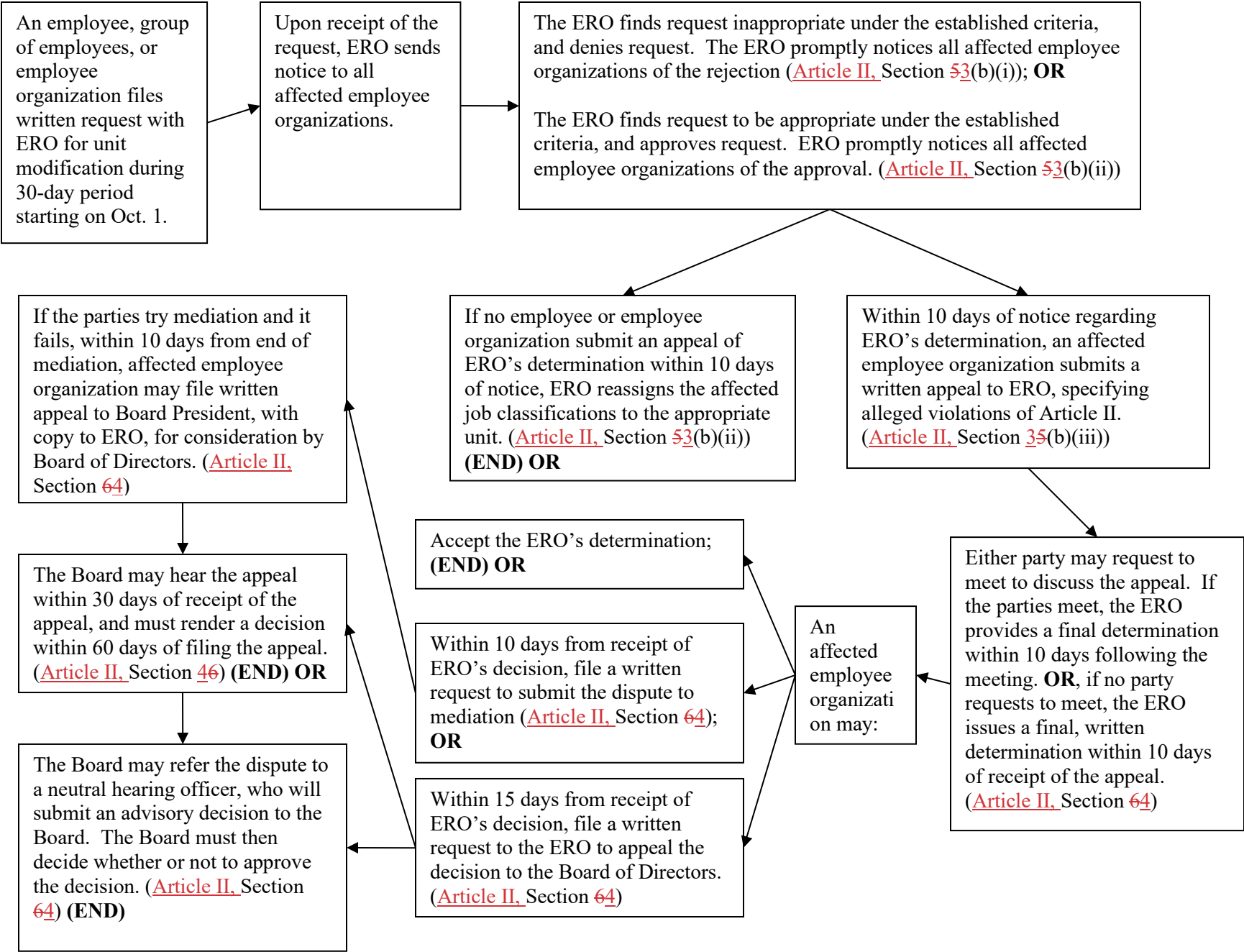
| Section ~~22~~. Severability.

If any provision of this Resolution, or the application of such provision to any persons or circumstance, 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.

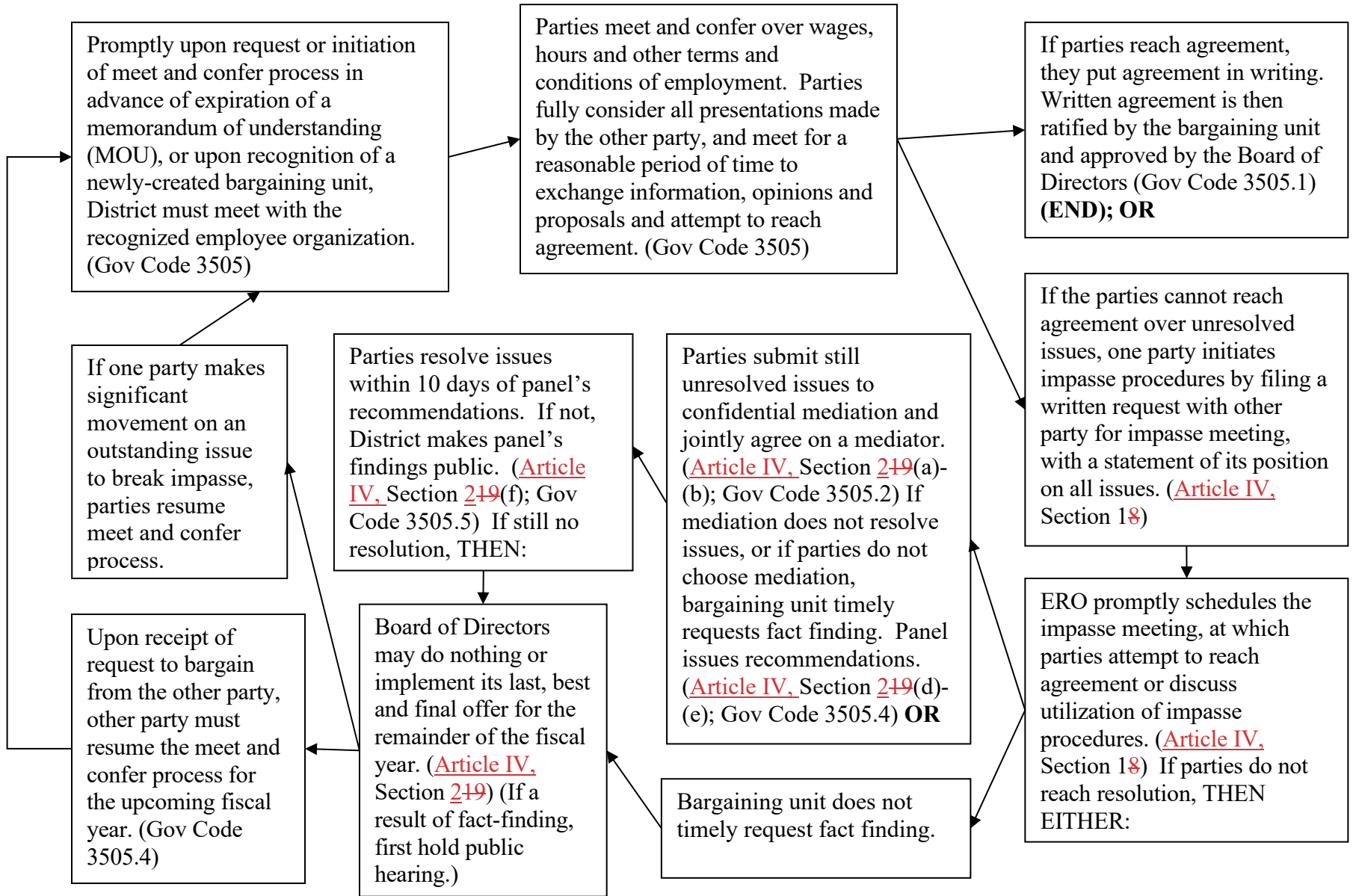
DISTRICT-INITIATED UNIT MODIFICATION



EMPLOYEE-INITIATED UNIT MODIFICATION



MEET AND CONFER PROCESS



RESOLUTION NO. _____

RESOLUTION OF THE BOARD OF DIRECTORS OF DUBLIN SAN RAMON SERVICES DISTRICT ADOPTING REVISED RULES AND REGULATIONS GOVERNING EMPLOYER-EMPLOYEE ORGANIZATION RELATIONS AND RESCINDING RESOLUTION NO. 18-19

WHEREAS, in July 1970, the Valley Community Services District enacted Ordinance No. 83 to establish local rules and regulations governing employer-employee organization relations to implement Sections 3500-3510 of the California Government Code (the Meyers-Milias-Brown Act, or “MMBA”); and

WHEREAS, in 1977, the Valley Community Services District adopted its current name, Dublin San Ramon Services District (“District”); and

WHEREAS, the District adopted new Rules and Regulations Governing Employer-Employee Organization Relations on March 19, 2002, and repealed Ordinance No. 83; and

WHEREAS, the District adopted new Rules and Regulations Governing Employer-Employee Organization Relations on May 3, 2004, due to significant changes to the MMBA in late 2002 and rescinded Resolution No. 11-02; and

WHEREAS, the District reviewed and revised the Rules and Regulations Governing Employer-Employee Organization Relations on December 15, 2009, and rescinded Resolution No. 17-04; and

WHEREAS, the District reviewed and revised the Rules and Regulations Governing Employer-Employee Organization Relations on March 4, 2014, due to significant changes to the MMBA in October 2011 and rescinded Resolution No. 69-09; and

WHEREAS, the District reviewed and revised the Rules and Regulations Governing Employer-Employee Organization Relations on May 7, 2019, to improve clarity and transparency of the requirements specified within the policy; and

WHEREAS, the District’s policy is to review all Board policies every four years to ensure consistency with applicable regulations and update accordingly to reflect changes in law and/or for ease of use and efficiency; and

WHEREAS, the District has recently completed a review of its local rules and regulations governing its employer-employee organization relations and now desires to adopt revised Rules and Regulations

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Governing Employer-Employee Organization Relations to update definitions and add procedures for addressing a request from an employee organization for amendment to its recognized representation.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF DUBLIN SAN RAMON SERVICES DISTRICT, a public agency in the Counties of Alameda and Contra Costa, California as follows, effective upon adoption of this Resolution:

1. The policy set forth in Exhibit "A," attached hereto, shall govern the District's employer-employee relations pursuant to the MMBA.
2. Resolution No. 18-19, attached as Exhibit "B," is hereby rescinded.

ADOPTED by the Board of Directors of Dublin San Ramon Services District, a public agency in the State of California, Counties of Alameda and Contra Costa, at its regular meeting held on the 19th day of September, 2023, and passed by the following vote:

AYES:

NOES:

ABSENT:

Georgean M. Vonheeder-Leopold, President

ATTEST: _____
Nicole Genzale, District Secretary

EXHIBIT A

RULES AND REGULATIONS GOVERNING EMPLOYER-EMPLOYEE ORGANIZATION RELATIONS FOR THE DUBLIN SAN RAMON SERVICES DISTRICT

Article I. General Provisions

Section 1. 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 "Local Public Employee Organizations" (also referred to as the Meyers-Milias Brown Act [MMBA]) by providing orderly procedures for the administration of employer-employee relations between the District and its employee organizations and the employees they represent. 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 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. However, nothing herein shall be construed to restrict any legal or inherent exclusive District rights with respect to matters of general legislative or managerial policy, which include among others: the exclusive right to determine the mission of its constituent departments; set standards of 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 reasons; determine the content of job classifications; maintain the efficiency of operations; determine the methods, means and personnel by which 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 (as defined in Article III, Section 4).

Section 2. Definitions.

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

- (a) "Appropriate Unit" or "Unit" means a unit of employee classifications or positions, established pursuant to Article II hereof.
- (b) "District" means Dublin San Ramon Services District, and, where appropriate herein, refers to the Board of Directors, or any duly authorized District representative as herein defined.
- (c) "Confidential Employee" means any employee who, in the course of his or her duties, has access to confidential information relating to the District's administration of employer-employee relations.
- (d) "Consult/Consultation in Good Faith" means to communicate orally or in writing with all affected exclusively 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 such meet and confer process, does not involve an exchange of proposals and counter-proposals with an exclusively recognized employee organization in an endeavor to reach agreement in the form of a Memorandum of Understanding, nor is it subject to Article IV hereof.
- (e) "Day" means calendar day unless expressly stated otherwise.
- (f) "Employee" means any person employed by the District, except those who are: (1) elected officials; (2) persons employed by contract with a third party agency or company; and (3) independent contractors.

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- (g) "Employee Organization" means either any organization that includes District employees and that has as one of its primary purposes representing those employees in their relations with the District; or any organization that seeks to represent District employees in their relations with the District.
- (h) "Employee Relations Officer" ["ERO"] means the General Manager or their duly authorized representative(s).
- (i) "Exclusively Recognized Employee Organization" means an employee organization which has been formally acknowledged by the District 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.
- (j) "Impasse" means that the representatives of the District and an Exclusively 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 any other matters of which they are required to meet and confer, remain so substantial and prolonged that further meeting and conferring would be futile.
- (k) "Management Employee" means an employee having significant responsibility for formulating, administering, or managing the implementation of District policies and programs, or managing Departments, major divisions of Departments or of functions, or any employee having authority to in the interest of the District, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or evaluate their performance, 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.
- (l) "Mediation" means effort by an impartial third party to assist in reconciling a dispute regarding wages, hours and other terms and conditions of employment between representatives of the Dublin San Ramon Services District and the Exclusively Recognized Employee Organization through interpretation, suggestion, and advice.
- (m) "Memorandum of Understanding" (or "MOU") means a written agreement between the District and an exclusively recognized employee organization regarding wages, hours and working conditions within the scope of representation. MOUs shall not be valid or enforceable unless and until adopted by the Board of Directors.
- (n) "Professional Employee" means an employee engaged in work requiring specialized knowledge and skills attained through completion of a prolonged and recognized course of specialized instruction in an institution of higher learning or a hospital, - as distinguished from a general academic education, from an apprenticeship, or from training in the performance of routine mental, manual, or physical processes,- including, but not limited to, attorneys, physicians, architects, engineers, teachers, registered nurses, and various types of physical, chemical, and biological scientists.
- (o) "Proof of Employee Support" means (1) an authorization card recently signed and personally dated by an employee; (2) a verified authorization petition or petitions recently signed and personally dated by an employee or employees; 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 (1) year prior to the filing of a petition.
- (p) "Supervisory Employee" means any employee having authority, in the interest of the District, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or

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responsibility to direct them, or to adjust their grievances, or evaluate their performance, 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.

- (q) "Working Days" means the days that the Public Employment Relations Board is open for business.

Article II. Unit Determination and Representation Proceedings

Section 1. Policy and Standards 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 District including the compatibility of the unit with the mission of the District and the unit's impact on the District's ability 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 may include:

- (a) Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions.
- (b) History of representation in the District 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 structure of the District.
- (d) The 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 single or related classifications among two or more units.
- (g) The application and consistency of wage, hour and benefit packages within the bargaining unit.
- (h) Specific legal requirements, such as the rights of professional employees to form their own bargaining units.

Notwithstanding the foregoing provisions of this Section, managerial, supervisory and confidential responsibilities, as defined in Article I, Section 2 of this Resolution, are determining factors in establishing appropriate units hereunder, and therefore such managerial, supervisory and confidential employees may only be included in units that do not include non-managerial, non-supervisory and non-confidential employees. Managerial, supervisory and confidential employees may not represent any employee organization that represents other employees.

Section 2. Procedure for the Establishment of Appropriate Units.

The Employee Relations Officer shall have the authority to establish Appropriate Units, pursuant to the provisions of Section 1 of Article II. Whenever the Employee Relations Officer establishes an Appropriate Unit, they shall give written notice of such action to the affected employees and/or employee organizations, if any. Thereafter, an affected employee organization may appeal the Employee Relations Officer's determination

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pursuant to the provisions of Section 4 of this Article II.

Following final determination of the Employee Relations Officer establishing an Appropriate Unit, employee organizations may file Recognition Petitions pursuant to Section 5 of this Article II, seeking to become the Exclusively Recognized Employee Organization for such unit.

Section 3. Procedure for Modification of Established Appropriate Units.

Bargaining unit modifications may be initiated by: (a) the District; (b) a group of employees; or (c) a recognized employee organization.

- (a.) District-initiated unit modifications: The District may initiate a modification of its unit structure, including the creation of new units, or the reallocation of classifications from one bargaining unit to another bargaining unit. The District shall provide written notice of the proposed modification, at which time all affected employee organizations shall be heard. After a final determination is made, the Employee Relations Officer will give written notice and call a meeting with all affected recognized employee organizations, for the purposes of providing all parties with copies of the Employee Relations Officer's decision in writing. Within ten (10) days of notice regarding the Employee Relations Officer's determination to modify a bargaining unit, or reallocate classifications, an affected recognized employee organization may submit an appeal to the Employee Relations Officer as provided in Section 4 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 Organization for such new appropriate unit or units pursuant to Section 5 hereof.

- (b.) Employee and recognized employee organization-initiated modifications: An employee, group of employees, or a recognized employee organization may request that a unit be modified, or that one or more classifications be reallocated to a new or existing bargaining unit. Such request may be filed only during the time-period specified in Article II, Section 10. The District shall provide notice to all affected employee organizations upon receipt of such a request. The request must be accompanied by documentation, dated no later than six months earlier than the request, showing that at least thirty percent (30%) of the employees in the classification(s) proposed to be reallocated to another unit, support the request. The request should also contain a statement of all the relevant facts in support of the proposed modified unit.
 - (i) The Employee Relations Officer may exercise discretion to deny the request in the event the criteria in Article II, Section 1 and Article II, Section 5 of this Resolution suggest to the Employee Relations Officer that the modification or reallocation is inappropriate. The Employee Relations Officer shall provide notice of the rejection to all affected employee organizations promptly after such determination.

 - (ii) If the Employee Relations Officer determines that the modification or reallocation of a unit is consistent with the criteria listed in Article II, Section 1 and Article II, Section 5, the Employee Relations Officer shall further process the request. If the Employee Relations Officer determines that a new unit or reallocation is appropriate, the Employee Relations Officer shall provide notice to all affected employee organizations in the District. If no protest is filed within ten (10) days, the Employee Relations Officer shall promptly reassign affected classifications to the new unit or reallocate the classifications to an existing bargaining unit. In the event of an assignment to a newly created bargaining unit, the Employee Relations Officer shall also notify the employees of their rights under this Resolution, including the right to select an employee organization of their choice for the purpose of meeting and conferring with the District regarding wages, hours and working condition under the MMBA.

 - (iii) Within ten (10) days of notice regarding the Employee Relations Officer's determination to modify a bargaining unit, or reallocate classifications, an affected recognized

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employee organization may submit an appeal to the Employee Relations Officer as provided in Section 4 of this Article II.

Section 4. Appeals of Appropriate Unit Determinations and Unit Modifications.

An employee organization aggrieved by the establishment or modification of an Appropriate Unit by the Employee Relations Officer pursuant to the provisions of this Article II may, within ten (10) days of notice thereof, file a written appeal with the Employee Relations Officer. Such appeal shall specify the provisions of this Article II to have been violated and the corrective action requested.

The Employee Relations Officer shall provide in writing their final determination within ten (10) days of receipt of the appeal. Either the employee organization or the Employee Relations Officer may request to meet with the other to discuss the appeal. If such a meeting is requested, it shall take place. If the parties meet, the Employee Relations Officer shall provide their final determination in writing within ten (10) days following the meeting.

The employee organization has ten (10) days after notice of the Employee Relations Officer's final determination to request that the matter be submitted for mediation to the California State Mediation and Conciliation Service (CSMCS), or fifteen (15) days to appeal the decision directly to the Board of Directors.

The request shall be made in writing to the Employee Relations Officer. If the employee organization chooses mediation and those efforts fail, the employee organization has ten (10) days from termination of the mediation to appeal to the Board. Such an appeal shall be filed in writing with the Board President and a copy thereof served on the Employee Relations Officer. The Board of Directors shall commence to consider the matter within thirty (30) days of the filing of the appeal and shall render a decision within sixty (60) days of the filing of the appeal. The Board of Directors may, at its discretion, refer the dispute to a neutral third party, such as an appointed hearing officer, who shall conduct a hearing and provide an advisory decision to the Board. Any decision of the Board of Directors on the use of such procedure, and/or any decision of the Board of Directors determining the substance of the dispute shall be final and binding.

If, at any stage of this appeal process, the employee organization fails to comply with the time limits contained herein, the appeal shall be deemed to have been resolved based upon the last response/action of the District. If, at any stage of this appeal process, the District fails to comply with the time limits contained herein, the employee organization may advance the appeal to the next level. Nothing herein is intended to prohibit the parties from waiving and/or modifying these time limits by mutual agreement. Such waivers shall be in writing to a date certain.

Section 5. 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, address, and telephone number of the employee organization.
- (b) Names and titles of the employee organizations' officers.
- (c) Names, telephone numbers, and email addresses 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 District.
- (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

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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, creed, sex, national origin, age, religion, sexual orientation, mental or physical disability, or medical condition or any other trait protected by federal, state and local law.
- (i) A description of the proposed appropriate unit, including the job classifications or position titles of employees in the unit claimed to be included and those excluded (appropriate), and the approximate number of employees therein.
- (j) A statement that the employee organization has in its possession proof of employee support as defined herein 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 District. Such written proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party. In the case of a unit modification, the petition shall state that the signing employees support the request for the unit modification.
- (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.

Section 6. District 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 Section 5 of this Article II, and
- (b) The representation unit has been determined to be an appropriate unit in accordance with the provisions of Sections 1 and 2 of this Article II.

If the Employee Relations Officer determines that the foregoing two conditions have been satisfied, they 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 conditions has not been satisfied, 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 Section 4 of this Article II.

Granting Recognition without an Election. If the proof of support shows that a majority of the employees in the appropriate unit has 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.

Section 7. 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 of the classifications or positions set forth in the recognition petition being challenged) by filing a recognition 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 Section 5 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 Section 1 of this Article II. The petitioning employee organizations shall have fifteen (15) days from the date of notice if 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 Section 4 of this Article II.

Section 8. Election Procedure.

The Employee Relations officer shall arrange for a secret ballot election to be conducted by a third party agreed to by the Employee Relations Officer and the concerned employee organization(s), in accordance with its rules and procedures subject to the provisions of this Resolution. Should the parties fail to reach agreement upon a third party, the California State Mediation and Conciliation Service shall be the neutral third party and shall verify the exclusive or majority status of the employee organization. All employee organizations that have duly submitted petitions that have been determined to be in conformance with this Article II shall be included as a choice on the ballot. The ballot shall also reserve to employees the option of having "No Representation." Employees entitled to vote in such election shall be those persons employed in regular permanent positions within the designated appropriate unit who are employed on the date of the election and who were employed during the pay period immediately prior to the date of the election, but which ended at least fifteen (15) days before the date the election commences. Voters shall include employees who did not work during such period because of illness, vacation or other authorized leaves of absence. 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 receives 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 only 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 (1) valid election under this Resolution pursuant to any petition in a twelve (12) month period affecting the same unit.

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

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

Section 9. Procedure for Amendment of Recognition of Employee Organization

An employee organization may file with the District a request to amend its recognition in the event of a merger, amalgamation, affiliation, transfer of jurisdiction or in the event of a change in the name. The request shall be in writing, signed by the authorized agent of the current employee organization and include the following information:

- (a) The name, address and telephone number of the employee organization and the name, address and telephone number of the agent to be contacted.

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- (b) The name, address and telephone number of the employer.
- (c) A brief description of the established unit.
- (d) A clear and concise statement of the nature of the merger, amalgamation, affiliation or other change in jurisdiction and the new name of the employee organization.

Upon receipt of the Request, the Employee Relations Officer shall determine whether there has been compliance with the requirements of Section 5 of this Article II.

If the Employee Relations Officer determines that the foregoing condition has been satisfied, they shall so inform the petitioning employee organization, shall give written notice of such request to the employees in the unit and shall take no action on said request for thirty (30) days thereafter. If the foregoing condition has not been satisfied, 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 Section 4 of this Article II.

If the Employee Relations Officer denies a unit amendment, such amendment may not be filed regarding the same representation unit until twelve (12) months after the date the petition was denied.

Section 10. 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 thirty (30) day period commencing October 1 of each calendar year. In accordance with the MMBA, decertification may not be requested during the first year after recognition of a unit. 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 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 percent (30%) of the employees in the established appropriate unit no longer desire to be represented by the incumbent Exclusively Recognized Employee Organization. Such proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party within the time limits specified in the first paragraph of this Section 10.

The Employee Relations Officer shall initially determine whether the Petition has been filed in compliance with the applicable provisions of this Article II. If the EROs determination is in the negative, the ERO shall offer to consult thereon with the representative(s) of such petitioning employees or employee organization and, if such determination thereafter remains unchanged, shall return such Petition to the employees or employee organization with a statement of the reasons therefore in writing. The petitioning employees or employee organization may appeal such determination in accordance with Section 4 of this Article II. If the determination of the Employee Relations Officer is in the affirmative, or if the EROs negative determination is reversed on appeal, the ERO shall give written notice of such Decertification to the incumbent Exclusively Recognized Employee Organization and to unit employees.

The Employee Relations Officer shall thereupon arrange for a secret ballot election to be held on or about fifteen (15) days after the above notice to determine the wishes of unit employees as to the question of decertification. Such election shall be conducted in conformance with Section 8 of this Article II.

If, pursuant to Section 10, a different employee organization is formally acknowledged as the Exclusively Recognized Employee Organization or a majority of voting employees select "No Representation" in such organization (if any), the employees assigned to the unit in question and the District shall be bound by all the terms and conditions of any Memorandum of Understanding then in effect for its remaining term.

Section 11. Procedure for Severance Petition

An employee organization that seeks to become the Exclusively Recognized Employee Organization representing the employees of an appropriate unit consisting of a group of employees who are already members of an established representation unit shall file a petition with the Employee Relations Officer containing the following information and documentation declared by the duly authorized signatory under penalty of perjury to be true, correct, and complete:

- (a) Name, address, and telephone number of the employee organization.
- (b) Names and titles of the employee organization's officers.
- (c) Names, telephone numbers, and email addresses 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 District.
- (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 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, creed, sex, national origin, age, religion, sexual orientation, mental or physical disability, or medical condition and other traits as protected by federal, state, and local law.
- (i) A brief description and title of the established unit.
- (j) A description of the proposed appropriate unit, including the job classifications or position titles of employees in the unit claimed to be included and those excluded (appropriate), and the approximate numbers therein.
- (k) The date on which the exclusive representative was recognized or certified;
- (l) The effective and expiration dates of the current memorandum of understanding, if any, covering

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employees in the established unit.

- (m) A statement that the employee organization has in its possession proof of employee support as defined herein to establish that a majority of the employees in the proposed unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the District. Such written proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party.
- (n) A request that the Employee Relations Officer formally acknowledge the petitioner as the Exclusively Recognized Employee Organization representing the employees in the proposed unit claimed to be appropriate for the purpose of meeting and conferring in good faith.

Whenever a memorandum of understanding exists, a severance petition must be filed during the “window period” which is the 29 day period that is less than 120 days but more than 90 days prior to the expiration date of a lawful memorandum of understanding.

Concurrent with the filing of a severance petition, the employee organization shall serve a copy of the petition, excluding any proof of support, on the exclusive representative of the established unit.

Section 12. District Response to Severance Petition

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

- (a) There has been compliance with the requirements of Section 11 of Article II, and
- (b) The representation unit has been determined to be an appropriate unit in accordance with the provisions of Sections 1 and 2 of Article II.

If the Employee Relations Officer determines that the foregoing two conditions have been satisfied, they 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 conditions has not been satisfied, the Employee Relations Officer shall inform that organization of the reasons therefore in writing. The petitioning employee organization may appeal such determination in accordance with Section 4 of this Article II.

If the Employee Relations Officer denies a unit severance petition, a unit severance petition may not be filed regarding the same representation unit until twelve (12) months after the date the petition was denied.

Article III. Administration

Section 1. Submission of Current Information by Exclusively Recognized Employee Organizations.

All changes in the information filed with the District by an Exclusively Recognized Employee Organization under items (a) through (k) of its Recognition Petition under Article II, Section 5 of this Resolution shall be submitted in writing to the Employee Relations Officer within fourteen (14) days of such change.

Section 2. Employee Organization Activities -- Use of District Resources.

Access to District work locations and the use of District 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

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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 organizing meetings and elections during working time and shall not interfere with the efficiency, safety and security of District operations.

Section 3. Administrative Rules and Procedures.

The General Manager 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.

Section 4. District Rights.

Subject to the requirements of the Government Code (MMBA), the District retains its rights:

- (a) To determine the mission of each of its constituent departments and divisions;
- (b) To set standards of services offered to the public;
- (c) To determine the procedures and standards of selection for employment and promotion;
- (d) To direct its employee, take disciplinary action for proper cause and to determine the content of job classifications, and to relieve its employees from duty because of lack of work or for other lawful reasons;
- (e) To maintain the efficiency of District operations, determine the methods, means and personnel by which District operations are to be conducted;
- (f) To take all necessary actions to carry out its mission in emergencies and to exercise complete control and discretion over its organization and the technology of performing its work;
- (g) The exercise of such District rights by the District shall not preclude employees or their representatives from the exercise of their rights under the Government Code (MMBA) or under this resolution.

Article IV. Impasse Procedures

Section 1. Initiation of Impasse Procedures.

If the meet and confer process has reached impasse as defined in this Resolution, either party may initiate impasse procedures by filing with the other party a declaration of impasse, a written request for an impasse meeting, together with a statement of its position on all unresolved issues. Once impasse is declared, a meeting between the parties shall then be scheduled promptly by the Employee Relations Officer. The purpose of this meeting shall be:

- (a) To review the position of the parties in a final effort to reach agreement; and
- (b) If this final effort does not result in an agreement, to discuss arrangements for the utilization of the impasse procedures provided herein.

Section 2. Impasse Procedures.

Mediation and Request for Factfinding

- (a) If the parties agree to submit the dispute to mediation, and agree on the selection of a mediator, the dispute shall be submitted to mediation. Selection of the mediator will be decided jointly by the District and the Exclusively Recognized Employee Organization. In the event that the District and the Exclusively Recognized Employee Organization are unable to agree on the selection of a mediator, the District will request the California State Mediation and Conciliation Service to appoint a mediator. All mediation proceedings shall be confidential. The mediator shall make no public recommendation, nor take any public position at any time concerning the issues.
- (b) If the parties participate in mediation, and if the mediator is unable to effect settlement of the dispute, the Exclusively Recognized Employee Organization may present a request to the Public Employment Relations Board ("PERB") to submit the impasse to fact-finding. This request by the Exclusively Recognized Employee Organization to submit the impasse to fact-finding must be made no sooner than 30 days, but no later than 45 days, following the selection of a mediator by the parties.
- (c) If the parties do not agree to participate in mediation, the Exclusively Recognized Employee Organization may present a request to PERB to submit the impasse to fact-finding no later than 30 days following the date that either party has provided the other a written notice of declaration of impasse.
- (d) If the Exclusively Recognized Employee Organization does not request fact-finding within the timeframes provided for above, the District may impose its last, best and final offer.
- (e) Within five (5) working days after PERB's determination that the request for fact-finding is sufficient, the District and the Exclusively Recognized Employee Organization shall each appoint one member to the panel. PERB shall, within five (5) working days after the parties appoint the two members to the panel, select a chairperson for the panel.
- (f) The following constitute the jurisdictional and procedural requirements for fact-finding:
 - (1) The panel shall, within ten (10) days after its appointment unless extended by the parties, meet with the parties or their representatives, either jointly or separately, and may make inquiries and investigations, hold hearings, and take any other steps it deems appropriate.
 - (2) For the purposes of the hearings, investigations, and inquiries, the panel shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence. The District shall furnish the panel, upon its request, with all records, papers, and information in their possession relating to any matter under investigation by or in issue before the panel.
 - (3) Subject to the stipulations of the parties, the fact-finders shall consider, weigh and be guided by the following measures and criteria in arriving at their findings and recommendations:
 - a. State and federal laws that are applicable to the District.
 - b. The District's local rules, regulations, and resolutions and ordinances.
 - c. Stipulations of the parties.
 - d. The interests and welfare of the public, and the financial ability of the District.

- e. Comparison of the wages, hours, and conditions of employment of the employees involved in the fact-finding proceeding with the wages, hours, and conditions of employment of other employees performing similar services in comparable public agencies.
 - f. The consumer price index for goods and services, commonly known as the cost of living.
 - g. The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
 - h. Any other facts that are normally or traditionally taken into consideration in making the findings and recommendations, including, but not limited to:
 - (i.) Maintaining appropriate compensation relationships between classifications and positions within the District;
 - (ii.) Other legislatively determined and projected demands on District resources (i.e., budgetary priorities as established by the Board of Directors);
 - (iii.) Allowance for equitable compensation increases for other employees and employee groups for the corresponding fiscal period(s);
 - (iv.) Revenue projections not to exceed currently authorized tax and fee rates for the relevant fiscal year(s);
 - (v.) Assurance of sufficient and sound budgetary reserves; and
 - (vi.) Constitutional, statutory, and local limitations on the level and use of revenues and expenditures.
- (4) Within thirty (30) days after the appointment of the fact-finding panel, or, upon agreement by both parties within a longer period, the panel shall make written findings of fact and recommended terms of settlement, which shall be advisory only for the resolution of the issues in dispute, which shall be presented in terms of the criteria and limitations specified above. Any member of a fact-finding panel shall be accorded the right to file dissenting written findings of fact and recommendations. The fact-finder or chairperson of the fact-finding panel shall serve such findings and recommendations on the District and the designated representative of the Exclusively Recognized Employee Organization before they are made available to the public.
- (g) If the parties have not resolved the impasse within ten (10) days after service of the findings and recommendations upon them, the District shall make the findings and recommendations public.
 - (h) After any applicable mediation and fact-finding procedures have been exhausted, but no earlier than ten (10) days after the fact-finders' written findings of fact and recommended terms of settlement have been submitted to the parties, the Board of Directors may after holding a public hearing regarding the impasse, implement in its discretion its last, best and final offer, but shall not implement a memorandum of understanding. The unilateral implementation of a public agency's last, best, and final offer shall not deprive a recognized employee organization of the right each year to meet and confer on matters within the scope of representation, whether or not those matters are included in the unilateral implementation, prior to the adoption by the public agency of its annual budget, or as

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otherwise required by law. Any legislative action by the District on the impasse shall be final and binding.

Section 3. Costs of Impasse Procedures.

The costs for the services of a mediator and a chairperson of a fact-finding panel utilized by the parties, and other mutually incurred costs of mediation and fact-finding, shall be borne equally by the District and the Exclusively Recognized Employee Organization. The chairperson's per diem fees shall not exceed the per diem fees stated on the chairperson's resumé on file with PERB. The chairperson's bill showing the amount payable by the parties shall accompany his or her final report to the parties and PERB. The cost for a fact-finding panel member selected by each party, and other separately incurred costs, shall be borne by such party.

Article V. Miscellaneous Provisions

Section 1. Construction.

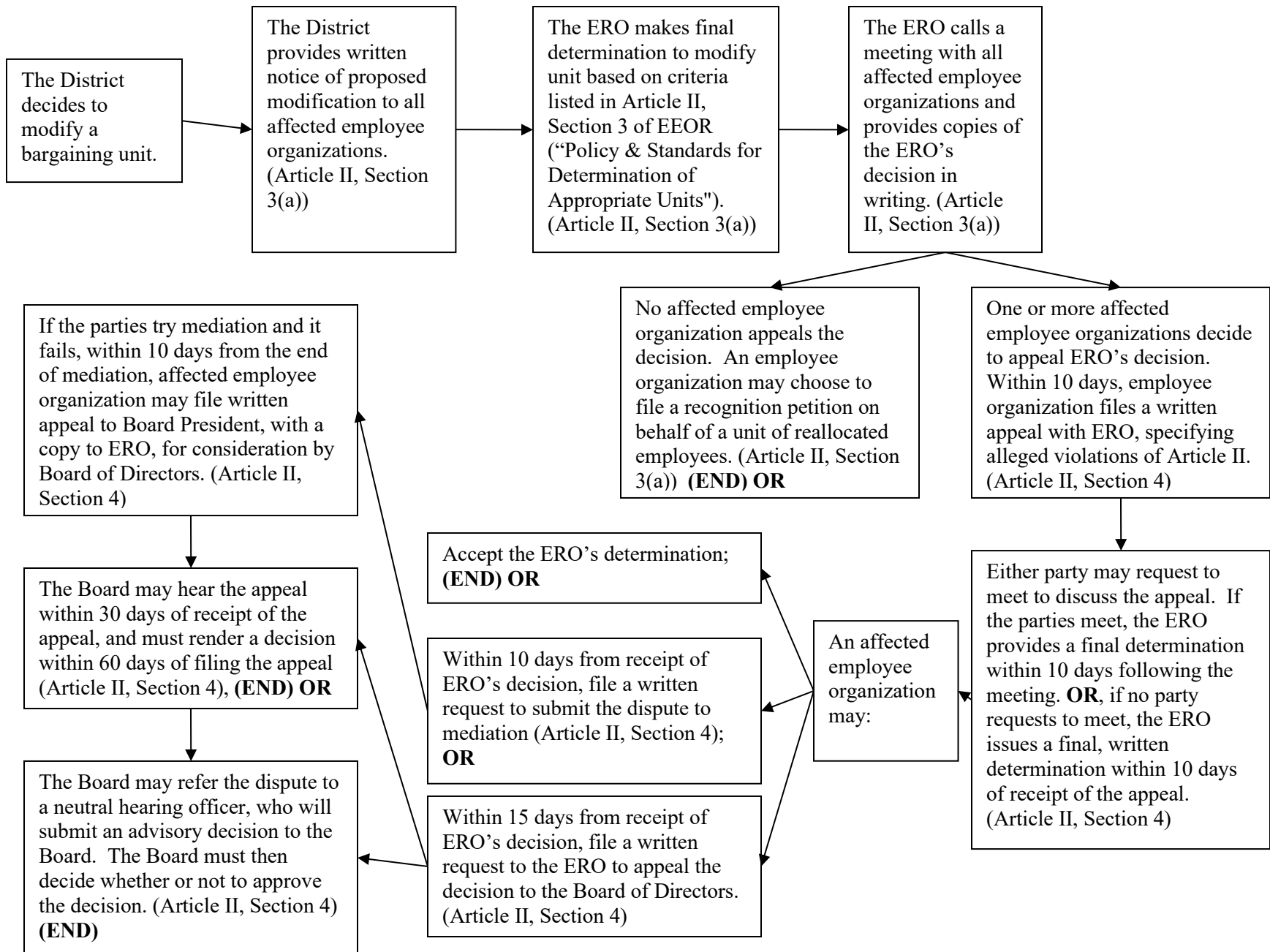
This Resolution shall be administered and construed as follows:

- (a) Nothing in this Resolution shall be construed to deny to any person, employee, organization, the District, or any authorized officer, body or other representative of the District, the rights, powers and authority granted by Federal or State law.
- (b) This Resolution shall be interpreted so as to carry out its purposes as set forth in Article I.

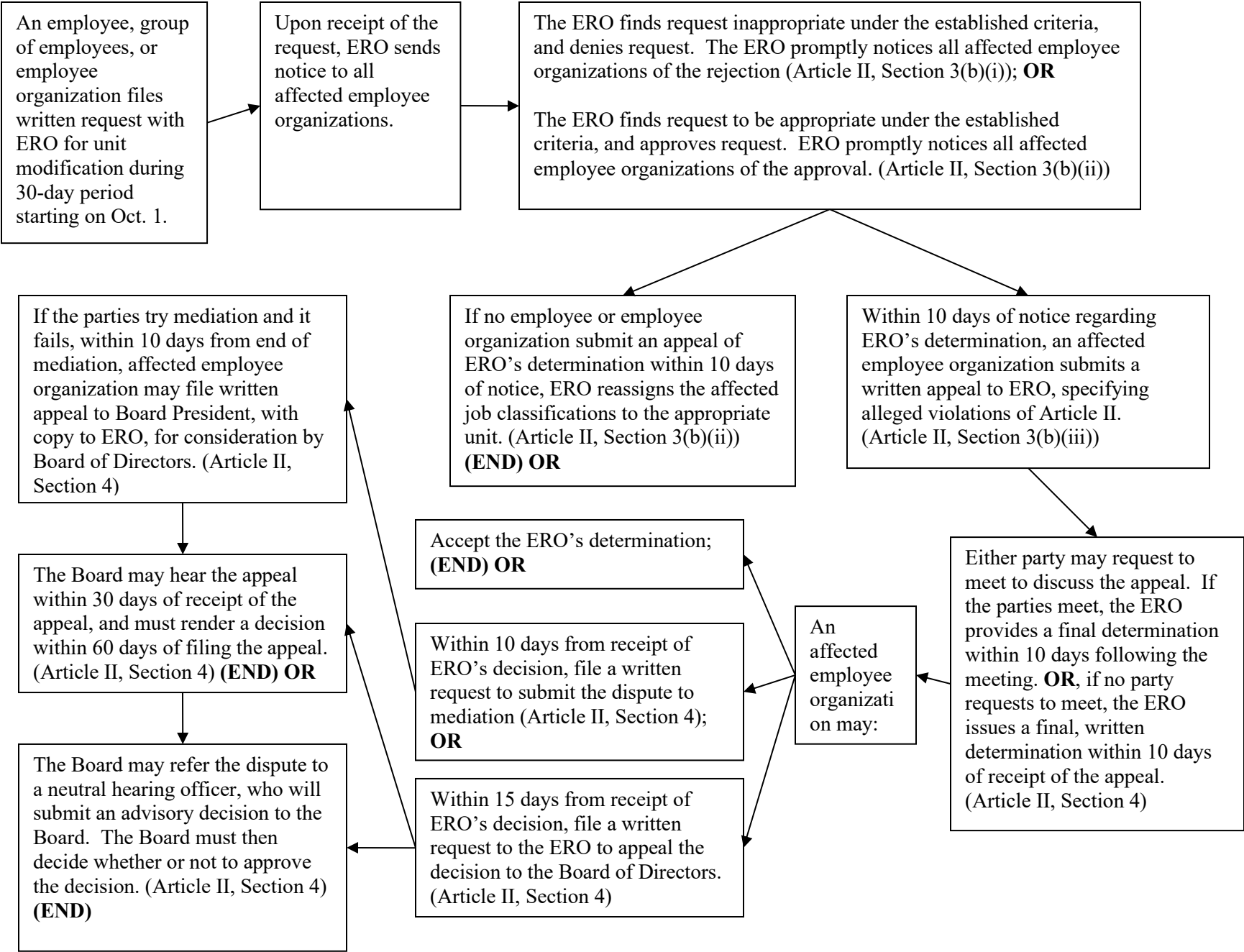
Section 2. Severability.

If any provision of this Resolution, or the application of such provision to any persons or circumstance, 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.

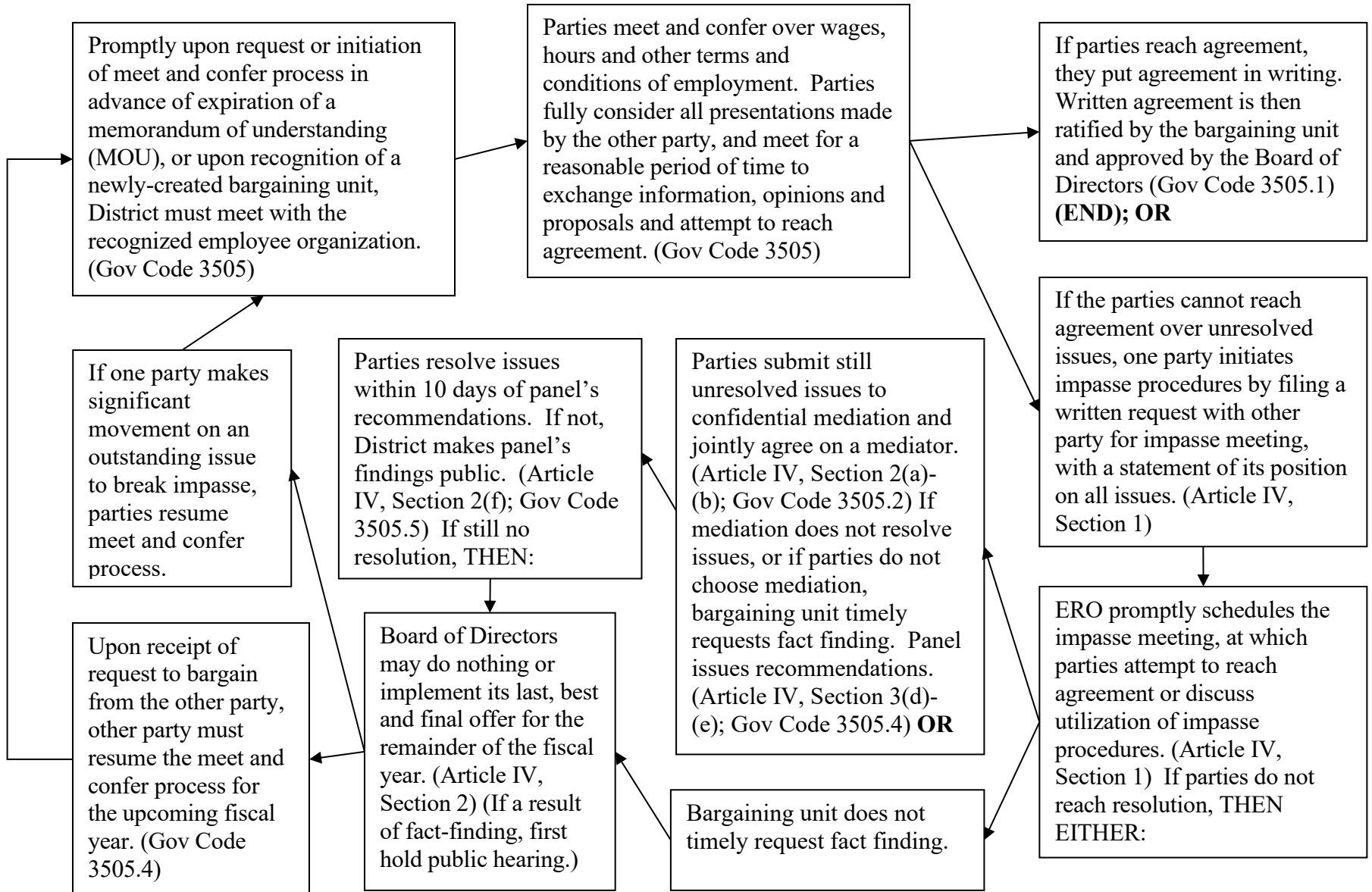
DISTRICT-INITIATED UNIT MODIFICATION



EMPLOYEE-INITIATED UNIT MODIFICATION



MEET AND CONFER PROCESS



RESOLUTION NO. 18-19

RESOLUTION OF THE BOARD OF DIRECTORS OF DUBLIN SAN RAMON SERVICES DISTRICT ADOPTING REVISED RULES AND REGULATIONS GOVERNING EMPLOYER-EMPLOYEE ORGANIZATION RELATIONS AND RESCINDING RESOLUTION NO. 12-14

WHEREAS, in July 1970, the Valley Community Services District enacted Ordinance No. 83 to establish local rules and regulations governing employer-employee organization relations to implement Sections 3500-3510 of the California Government Code (the Meyers-Milias-Brown Act, or "MMBA"); and

WHEREAS, in 1977, the Valley Community Services District adopted its current name, Dublin San Ramon Services District ("District"); and

WHEREAS, the District adopted new Rules and Regulations Governing Employer-Employee Organization Relations on March 19, 2002, and repealed Ordinance No. 83; and

WHEREAS, the District adopted new Rules and Regulations Governing Employer-Employee Organization Relations on May 3, 2004, due to significant changes to the MMBA in late 2002 and rescinded Resolution No. 11-02; and

WHEREAS, the District reviewed and revised the Rules and Regulations Governing Employer-Employee Organization Relations on December 15, 2009, and rescinded Resolution No. 17-04; and

WHEREAS, the District reviewed and revised the Rules and Regulations Governing Employer-Employee Organization Relations on March 4, 2014, due to significant changes to the MMBA in October 2011 and rescinded Resolution No. 69-09; and

WHEREAS, the District's policy is to review all Board policies every four years to ensure consistency with applicable regulations and update accordingly to reflect changes in law and/or for ease of use and efficiency; and

WHEREAS, the District has recently completed a review of its local rules and regulations governing its employer-employee organization relations and now desires to adopt revised Rules and Regulations Governing Employer-Employee Organization Relations to improve clarity and transparency of the requirements specified within the policy.

Res. No. 18-19

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF DUBLIN SAN RAMON SERVICES DISTRICT, a public agency in the Counties of Alameda and Contra Costa, California as follows, effective upon adoption of this Resolution:

1. The policy set forth in Exhibit "A" attached hereto shall govern the District's employer-employee relations pursuant to the MMBA.
2. Resolution No. 12-14, attached as Exhibit "B", is hereby rescinded.

ADOPTED by the Board of Directors of Dublin San Ramon Services District, a public agency in the State of California, Counties of Alameda and Contra Costa, at its regular meeting held on the 7th day of May, 2019, and passed by the following vote:

AYES: 4 - Directors Richard M. Halket, Georgan M. Vonheeder-Leopold,
Ann Marie Johnson, Madelyne A. Misheloff

NOES: 0

ABSENT: 1 - Director Edward R. Duarte

ATTEST: 
Nicole Genzale, District Secretary


Madelyne A. Misheloff, President



TITLE: Approve Proclamation Celebrating October 7-15, 2023 as Water Professionals Appreciation Week

RECOMMENDATION:

Staff recommends the Board of Directors approve, by Motion, a Proclamation celebrating October 7-15, 2023 as Water Professionals Appreciation Week.

DISCUSSION:

The Dublin San Ramon Services District’s mission is to “Protect public health and the environment by providing reliable and sustainable water, recycled water, and wastewater services in a safe, efficient, and fiscally responsible manner.” October 7-15, 2023 is recognized in California as Water Professionals Appreciation Week, highlighting the important role of water industry professionals and local public water agencies in ensuring safe and reliable water, wastewater and recycled water operations in California. To celebrate Water Awareness Month, the District will engage in outreach via the DSRSD website, Pipeline eNewsletter, social media platforms, and in partnering with water wholesaler Zone 7 Water Agency and other Tri-Valley water retailers.

Originating Department: Office of the General Manager	Contact: M. Gallardo/D. McIntyre	Legal Review: No
Financial Review: No	Cost and Funding Source: N/A	
Attachments: <input type="checkbox"/> None <input type="checkbox"/> Resolution <input type="checkbox"/> Ordinance <input type="checkbox"/> Task Order <input checked="" type="checkbox"/> Proclamation <input type="checkbox"/> Other (see list on right)		55 of 73



Proclamation

Celebrating

Water Professionals Appreciation Week: October 7–15, 2023

WHEREAS, it is the mission of Dublin San Ramon Services District to “Protect public health and the environment by providing reliable and sustainable water, recycled water, and wastewater services in a safe, efficient, and fiscally responsible manner;” and

WHEREAS, water is the lifeblood of California and without safe and reliable water, no community and no sector of the economy – from high tech to manufacturing to agriculture – can thrive or expand; and

WHEREAS, now more than ever, the water industry is proud of the important role our essential workers play in making sure our communities have safe and reliable drinking water; and

WHEREAS, thanks to technological advances by highly skilled and trained water professionals and the dedication of thousands of industry professionals in the state, California drinking water and treated wastewater meets some of the most stringent water quality standards in the nation; and

WHEREAS, depending on where you live in California, your water may come from a nearby well or river, or it may travel hundreds of miles through canals or pipelines to reach your tap. Regardless of where it originates, your drinking water is filtered, cleaned, tested, and distributed in a process carefully managed by trained water professionals; and

WHEREAS, California is steadily expanding the reuse of treated wastewater and pioneering the use of advanced purified recycled water to replenish aquifers, prevent seawater intrusion and improve local water supply reliability; and

WHEREAS, water professionals at local public water and wastewater agencies work 24/7 to plan for the future, maintain and upgrade their systems and improve the safety and resiliency of local water supplies for their communities; and

WHEREAS, according to the Public Policy Institute of California, local public water and wastewater agencies invest more than \$25 billion a year on local water-related programs and projects that protect public health and the environment, improve local water supply reliability, replenish and clean up groundwater basins, provide water for fire protection and protect against floods; and

WHEREAS, thousands of essential water, wastewater and recycled water industry professionals in the state dedicate their careers to keeping drinking water, recycled water, and treated wastewater safe and reliable for use by Californians.

NOW, THEREFORE BE IT PROCLAIMED that the Board of Directors of Dublin San Ramon Services District, a public agency in the State of California, Counties of Alameda and Contra Costa, celebrates and declares October 7-15, 2023 Water Professionals Appreciation Week, and extends its sincere gratitude and appreciation to the water and wastewater professionals who work 24/7 to provide excellent essential services to our community every day.

October 7–15, 2023 is Water Professionals Appreciation Week

Adopted this 19th day of September, 2023

Georgean M. Vonheeder-Leopold, President

Ann Marie Johnson, Vice President

Arun Goel, Director

Dinesh Govindarao, Director

Richard M. Halket, Director

Nicole Genzale, District Secretary



TITLE: Affirm No Changes to Consolidated Water Enterprise Fund Policy

RECOMMENDATION:

Staff recommends the Board of Directors approve, by Motion, affirmation of no changes to the Consolidated Water Enterprise Fund policy.

DISCUSSION:

All District policies are reviewed on a rotating four-year cycle to ensure that they remain current and that the Board seated at the time continues to concur with that policy. Staff recently reviewed the Consolidated Water Enterprise Fund policy (P400-19-1) and recommends no changes. The current policy with updated review history is attached. If affirmed, the policy will be scheduled for subsequent review in 2027.

At a recent Board meeting, staff received a request to evaluate segregating potable and recycled water enterprises into separate funds. Currently, operation costs for both water and recycled water services are consolidated in the Water Operations (Fund 600) per the Consolidated Water Enterprise Fund policy. The current practice of a single consolidated potable and recycled water enterprise is consistent with the majority of water districts based on a recent poll through the California Special District Association (CSDA).

In regard to rates, District water rates are based on cost of service and are comprised of two components: supply and distribution. The supply component is determined separately based on current Zone 7 Water Agency charges for potable water (\$1,800 per acre feet) and DSRSD-EBMUD Recycled Water Authority (DERWA) charges for recycled water (\$1,200 per acre feet). Distribution costs (non-supply costs associated with operating and maintaining the water distribution infrastructure, as well as administrative costs) in the Water Fund are then calculated to determine the distribution component for all water customers and are evenly apportioned across the potable and recycled water customers. As a result, both potable and recycled water customers are charged the same fixed meter and distribution charges, but potable customers bear a higher overall cost as water supply costs from Zone 7 are higher than DERWA. Since water rates are developed based on cost of service principles set forth in Proposition 218, the District is legally mandated to calculate charges based on actual costs as reflected under our current rate scenario. It is not permissible for one class of customers to subsidize the rates of another class of customers.

Originating Department: Administrative Services	Contact: C. Atwood	Legal Review: Not Required
Financial Review: Yes	Cost and Funding Source: N/A	
Attachments: <input type="checkbox"/> None <input type="checkbox"/> Resolution <input type="checkbox"/> Ordinance <input type="checkbox"/> Task Order <input type="checkbox"/> Proclamation <input checked="" type="checkbox"/> Other (see list on right)	Attachment 1 – Marked-up Consolidated Water Enterprise Fund policy	



Policy

Policy No.: P400-19-1	Type of Policy: Finance
Policy Title: Consolidated Water Enterprise Fund	
Policy Description: Potable Water and Recycled Water to be Managed as Consolidated Funds for Operations, Replacement and Expansion	
Approval Date: 4/16/2019	Last Review Date: 2019 <u>2023</u>
Approval Resolution No.: 17-19	Next Review Date: 2023 <u>2027</u>
Rescinded Resolution No.: 36-16	Rescinded Resolution Date: 6/7/2016

It is the policy of the Board of Directors of Dublin San Ramon Services District that:

Potable and recycled water operations shall be managed as consolidated funds for operations, replacement, and expansion.

Background, Definitions and Basis for Policy

In support of the District's Mission¹, the District is committed to planning, designing, constructing, operating, and maintaining the District's water system so that it meets all legal and regulatory requirements and contractual obligations. In order to do so, it is imperative that sufficient revenue be collected and appropriate reserves maintained for both the potable and recycled water systems (collectively, the "**Water System**"). It is equally important that an appropriate financial structure and reporting system be maintained to account for the cost of providing potable and recycled water service (collectively, "**Water Service**") and the investments made by the District into the Water System.

The District has been providing potable water service since the 1960's and started deliveries of recycled water within its service area in the 1990's. The District anticipates a steady and continued expansion of those distribution systems. Recycled water is integrated into the District's water supply and distribution system planning. The District's recycled water system benefits all customers of the District by improving the reliability of the potable supply. The integration of the systems also supports the District's Water Supply, Storage, Conveyance, Quality and Conservation policy. Experience has also shown that it is more efficient and effective to maintain a consolidated and coordinated fund structure for the District's water service.

¹ The District's Mission is to protect public health and the environment by providing reliable and sustainable water, recycled water, and wastewater services in a safe, efficient, and fiscally responsible manner (Proposed Strategic Plan FY 2020-2024)

Policy No.: P400-19-1	Policy Title: Consolidated Water Enterprise Fund
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Accordingly, it is the policy of the District:

1. To maintain a consolidated fund structure for the potable and recycled water enterprises (collectively, the “**Water Enterprise**”), the fund structure shall include, but not be limited, to an enterprise fund for ongoing operations and maintenance, an expansion fund for increasing the capacity of the system, and a replacement fund for renewing and replacing assets; and
2. To charge equivalent system capacity fees in a given area (also known as connection fees) for all new potable and recycled water connections to the **Water System** (as well as connections for which the capacity is increased); and
3. To impose on all users of the **Water System** charges for water and recycled water usage. The charges will be developed approximately every five years in conjunction with the District’s Water Rate Study. Charges will be calculated based on industry standards and documented in an Administrative Record as required by law.

<p style="text-align: center;"><u>Policy is current and no changes need to be adopted by the Board of Directors.</u> <u>Status Quo Chronology:</u></p>	
<p style="text-align: center;"><u>Date Adopted:</u></p>	
<p style="text-align: center;"><u>April 16, 2019</u></p>	
<p style="text-align: center;"><u>Reviewed by</u> <u>Committee or Board:</u></p>	<p style="text-align: center;"><u>Date:</u></p>
<p style="text-align: center;"><u>Board</u></p>	<p style="text-align: center;"><u>September 19, 2023</u></p>



TITLE: Receive Presentation on Water Rates and Provide Direction for the 2024 Water Cost of Service Study and Rate Policies and Guidelines Policy

RECOMMENDATION:

Staff recommends the Board of Directors receive a presentation on water rates and provide policy direction for the 2024 Water Cost of Service Study and revisions to the Rate Policies and Guidelines policy to:

1. Separate the fixed and variable wholesale rate charges from Zone 7 Water Agency (Zone 7) and collect 100% of the fixed charge revenue requirement via a fixed charge.
2. Continue the current practice of allocating DSRSD retail costs between fixed and variable charges at a ratio of 20% fixed and 80% variable.
3. Forego the fifth and final authorized Consumer Price Index (CPI) rate adjustment for the District’s retail rates in January 2024 in favor of adopting new rates, effective March 2024.

SUMMARY:

Dublin San Ramon Services District (District/DSRSD) conducts water rate studies approximately every five years with the last study completed in 2019. The objective in conducting a comprehensive water rate study is to develop cost-based rates that meet the District’s operation and maintenance needs and fund water capital asset replacement. Staff is requesting direction from the Board on three policy issues related to the Zone 7 wholesale cost of water, the ratio between fixed and variable charges for the District’s retail water rate, as well as the implementation timing and considerations for updated rates. Board direction will guide the 2024 Water Cost of Service Study and will also be incorporated into the Rate Policies and Guidelines policy.

BACKGROUND:

The District provides potable and recycled water service to customers in the City of Dublin and the Dougherty Valley area of the City of San Ramon. Types of customers include residential, commercial, industrial, and institutional. The District receives wholesale treated water from Zone 7. The District also partners with East Bay Municipal Utility District (EBMUD) to produce and distribute recycled water through the DSRSD-EBMUD Recycled Water Authority (DERWA), a joint powers authority formed in 1995. In an average year, 75% of DSRSD’s water supply to its customers is potable water from Zone 7, and about 25% of its water supply is recycled water for outdoor irrigation.

In accordance with the District’s adopted Rate Policies and Guidelines policy, District water rates are periodically reviewed to ensure financial sufficiency to meet operation and maintenance and capital replacement costs, achieve policy reserve fund targets, and realign rates to more closely reflect costs incurred and adequately recover the water enterprise’s revenue requirements. Water rates were last updated in July 2019. In adopting the rates in 2019, the Board authorized annual Consumer Price Index (CPI) percentage adjustments, commencing January 1, 2021 through January 1, 2024.

As the District approaches the fifth and final authorized CPI adjustment for the rate study period, staff has begun a 2024 Water Cost of Service Study to review cost of service and revenue requirements for the water enterprise. This effort was accelerated when the District’s Adopted Operating Budget for Fiscal Years 2024-2025 identified unanticipated cost increases to the Water Fund.

Originating Department: Office of the General Manager	Contact: C. Ferreyra/D. McIntyre	Legal Review: Not Required
Financial Review: Yes	Cost and Funding Source: N/A	
Attachments: <input type="checkbox"/> None <input type="checkbox"/> Resolution <input type="checkbox"/> Ordinance <input type="checkbox"/> Task Order <input type="checkbox"/> Proclamation <input checked="" type="checkbox"/> Other (see list on right)	Attachment 1 – Rate Policies and Guidelines policy	

Those costs include:

1. DERWA operating expenses allocated to the District are anticipated to increase by \$900,000 in Fiscal Year 2024 (FY24) due to increases in the cost to treat the filter backwash waste streams generated from the recycled water treatment plant (\$600,000), a projected 30% increase in Pacific Gas & Electric (PG&E) charges (\$200,000), and increased labor to maintain the DERWA treatment and transmission system (\$100,000).
2. Costs to pump potable and recycled water are anticipated to increase by \$400,000 in FY24 based on a projected increase of 30% in PG&E charges.
3. Costs for emergency subsurface repair work is anticipated to increase by \$400,000 annually due to the aging of the District's infrastructure and increased costs for labor, equipment, and materials.
4. Two new full-time equivalent positions were added to address new and evolving regulatory requirements and increase preventative maintenance of water facilities. These positions, which were based on recommendations from the 2023 Operations Workforce Study, are anticipated to increase costs by \$300,000 in FY24.

The costs described above, which total \$2 million in FY24, were not included as cost of service assumptions in the 2019 Comprehensive Water Cost of Service Study.

DISCUSSION:

Staff is requesting direction from the Board of Directors on several water rate policy issues to provide the framework for the 2024 Water Cost of Service Study, as well as direction on potential revisions to the Rate Policies and Guidelines policy (Attachment 1, "Policy"). The Policy provides guidance and consistency in decision-making for developing and adopting rates. The Policy was last reviewed in 2016. As staff prepares the 2024 Water Cost of Service Study, there is an opportunity to revise the Policy to document Board direction on several key issues. The benefit of providing direction beyond that currently included in the policy, which is comprised of generally accepted best management practices, is that staff has a clear understanding of the Board's policy stances on rates and a framework to operate within for future rate studies.

DSRSD Retail Water Rates

The District's current water rate structure consists of two types of water charges: fixed service charge and variable consumption charge. Both charges are billed bi-monthly. A fixed service charge is a fixed amount charged to each customer based on meter size. The fixed charge, referred to as the "meter service charge," is the same for both potable and recycled customers. Effective January 1, 2023, the bi-monthly fixed charge for a 5/8" meter (the most common meter in the system, typically serving single family residential) is \$39.37.

A variable consumption charge is based on water demand and is charged per hundred cubic foot of water used (CCF, approximately 748 gallons). There are different variable charges, commonly referred to as a "commodity charge," for each water service type, including residential and non-residential, potable irrigation, and recycled water. The District's current retail variable charge is \$1.45 per CCF. Lastly, the District also charges customers a power charge to recover energy costs associated with pumping water to certain elevated areas.

Zone 7 Wholesale Water Rates

The District purchases all of its potable water supplies from Zone 7, the Tri-Valley’s wholesale water supplier. Zone 7 charges the District a wholesale rate for purchasing treated water. This rate covers Zone 7’s cost of purchasing water from the Department of Water Resources through the State Water Project, as well as treating and storing water. The actual cost of distributing water to individual customers is reflected in the District’s separate “retail rate” charged by DSRSD, mentioned above. Note that a small portion of the water received from Zone 7 is part of DSRSD’s independent groundwater pumping quota, which Zone 7 pumps on DSRSD’s behalf at a discounted rate.

Like the District’s rates, Zone 7’s wholesale rates are comprised of fixed and variable charges, typically adjusted January 1 of each year by the Zone 7 Board of Directors. For calendar year 2023, DSRSD’s fixed charge from Zone 7 is \$8.4 million. This amount is paid to Zone 7 regardless of the amount of water purchased. In order to collect enough revenue to pay Zone 7 for the cost of purchased water, DSRSD currently blends the fixed and variable wholesale charges, in proportion to estimated water use, and passes through a “Zone 7 Cost of Water” charge to District customers. The District also passes through any future adjustments to the wholesale rate that the Zone 7 Board of Directors authorizes, as provided for in state law (California Government Code 53756).

Policy #1: Zone 7 Wholesale Cost

In 2016, Zone 7 began charging its retailers separate fixed and variable charges. In 2019, the fixed charge from Zone 7 accounted for 37.5% of the cost of water purchased from Zone 7 by the retailers. Effective January 1, 2023, that percentage increased to 45% of the cost of water purchased by retailers. This means almost half of Zone 7’s revenue is collected through a fixed charge from its retail agencies in the Tri-Valley, regardless of the amount of water purchased.

DSRSD’s practice of blending the fixed charge as a variable component to the Zone 7 charge means the District takes on financial risk if actual water sales are less than projected and DSRSD collects insufficient revenue to fully pay the Zone 7 fixed charge. This risk is more pronounced during water shortage conditions because the District can only charge water shortage conditions rates (“drought rates”) on its own retail rate, but not the current Zone 7 cost of water because it was established as a pass through. The obligation to pay Zone 7’s fixed charge (\$8.4 million in 2023) remains, despite reduced consumption. Conversely, if water sales are higher than projected, DSRSD will generate more water rate revenue than is necessary to pass through to Zone 7.

Blending the Zone 7 fixed and variable charges minimizes the impact to low consumption customers because it allows a greater percentage of their bill to be controlled based on water usage. Staff reviewed residential consumption data over the last year to establish usage bands for the purpose of analyzing the impacts of rate changes studied as part of the 2024 Cost of Service Study.

Single Family Residential Water Consumption Demographics

Consumption Band	Bi-Monthly Consumption (CCF)	Percent of Total Accounts
Low	0-10	24%
Medium	11-25	58%
High	26-30+	17%

In an effort to minimize the risk associated with the increasing percentage Zone 7’s fixed charge accounts for of the cost of water purchased by retailers, staff offers the following options, along with the estimated impacts to each consumption band. It should be noted that these impacts have been derived using the 2019 Cost of Service Study assumptions for revenue requirements. These impacts do not take into consideration new revenue requirements, like those mentioned in the Operating Budget, which will be analyzed in the 2024 Cost of Service Study that is underway.

Option 1: *Collect a portion (30%) of the Zone 7 fixed charge as a separate Zone 7 fixed charge* – This option would establish separate fixed and variable pass through charges for Zone 7 costs and would partially mitigate over/under collection if actual demand varies from projections. The new fixed charge would be based on meter size and would be offset by a reduced variable charge. This method would ensure collection of 30% of the required revenue from the fixed charge (roughly \$2.5 million of the \$8.4 million fixed charge for 2023), regardless of water demand, which provides the District with mildly increased revenue stability. However, this option will only partially address the financial risk during water shortage conditions.

Separating the fixed charge results in a greater portion of the customer’s bill becoming fixed, which adversely impacts low water use customers. For comparison, the City of Pleasanton has proposed this option (at a lower percentage, 22%), which is being considered for adoption at the Pleasanton City Council meeting this evening. Following is a table of potential cost impacts on customers for Option #1.

Policy #1 – Option 1 Estimated Total Bill Impact

Consumption Band	Bi-Monthly Consumption (CCF)	Percent of Total Accounts	Estimated Total Bill Impact
Low	0-10	24%	9%
Medium	11-25	58%	-3%
High	26-30+	17%	-6%

For a low water use customer who uses 10 CCF of water in a bi-monthly billing period, Option 1 would increase the Zone 7 portion of their bill from \$45 to \$54, while their total bill would increase from \$98 to \$107. Other customers would see a reduction.

Option 2: *Collect 100% of the Zone 7 fixed charge as a separate Zone 7 fixed charge* – This option would also establish a separate fixed and variable charge for Zone 7 costs and would completely mitigate over/under collection of the pass-through charge if actual demand varies from projections. The charge would be based on meter size and would continue to be a pass through charge. This method would collect 100% of the required revenue from the fixed charge, regardless of water demand, which is particularly important during times of water shortage. For comparison, the City of Livermore implemented this methodology several years ago. This option will have a significant impact on low water use customers, but would provide the most revenue stability.

Policy #1 – Option 2 Estimated Total Bill Impact

Consumption Band	Bi-Monthly Consumption (CCF)	Percent of Total Accounts	Estimated Total Bill Impact
Low	0-10	24%	17%
Medium	11-25	58%	-6%
High	26-30+	17%	-12%

For a low water use customer who uses 10 CCF of water in a bi-monthly billing period, Option 2 would increase the Zone 7 portion of their bill their bill from \$45 to \$62, while their total bill would increase from \$98 to \$116. Other customers would see a reduction.

Option 3a: *Continue current practice of blending Zone 7 fixed and variable charges as a separate Zone 7 cost of water charge (status quo)* – To the extent that the District’s water demand projections deviate from actual demand, the Zone 7 fixed charge would continue to be over/under collected. Continuation of the current practice would be easy to understand due to the fact that customers are already used to seeing one variable charge for all Zone 7 costs and would also continue to allow low water users more control over their bills through management of usage. This option does not address the financial risk during water shortage conditions.

Policy #1 – Option 3a Estimated Total Bill Impact

Consumption Band	Bi-Monthly Consumption (CCF)	Percent of Total Accounts	Estimated Total Bill Impact
Low	0-10	24%	0%
Medium	11-25	58%	0%
High	26-30+	17%	0%

Option 3b: *Blend Zone 7 wholesale water costs into the DSRSD retail rate* – This option would eliminate the current Zone 7 cost of water charge as a pass through, and incorporate the cost to purchase wholesale water as a component to the retail variable charge. This practice, sometimes referred to as a “supply rate” would have no-net impact on the customer’s bill because it would involve simply aggregating the current Zone 7 cost of service rate with the District’s retail rate.

This approach would address the financial risk by allowing the District to design water shortage condition rates to include the cost of purchasing wholesale water, ensuring revenue requirements are met during a shortage, which is a practice the District cannot currently implement given the pass through nature of the Zone 7 cost of water charge. This methodology would also allow the District the control on how to handle Zone 7 wholesale rate increases and specifically, the impacts of those rate adjustments on District customers. An example would include the use of the Water Rate Stabilization Fund to “smooth out” future rate increases over several years. This option would also slightly simplify customer bills as it would remove one charge by adding two existing charges together (instead of a \$4.45 Zone 7 charge and a \$1.45 DSRSD retail rate, customers would see a consolidated \$5.90 retail rate). Similar to option 3a, this option would also continue to benefit low water users by allowing them to maintain their current control over their bills since there would be no increase to fixed charges. This option is most common among water retailers.

The disadvantage associated with blending the wholesale water purchase cost into the District’s retail rate is the District would take on the onus of the revenue requirement (i.e., the cost to purchase wholesale water), which includes the potential for increased protests as provided for in Proposition 218, a voter approved initiative from 1996 embedded in the California Constitution, Article 13D. While this is a transparent option, from the perspective of a customer, future Zone 7 wholesale rate adjustments would need to now be anticipated and accounted for in the Cost of Service Study. This option would be a significant change from DSRSD’s policy.

Staff Recommendation: Staff recommends that the Board select Option 2 and collect 100% of the Zone 7 fixed charge as a separate, passed through Zone 7 fixed charge to fully mitigate the financial risk associated with the Zone 7 fixed charge, which is most pronounced during water shortage conditions. While Option 3b would also address the financial risk in a different manner, staff recommends the Board continue the practice of passing through Zone 7 charges until more is known about future Zone 7 rate increases required to fund major capital improvements.

Policy #2: Fixed vs. Variable Cost Ratio for DSRSD’s Retail Water Rates

As illustrated in the discussion of Policy #1, collecting a higher percentage of revenue requirements through fixed charges provides greater revenue stability during periods of lower demand. However, higher fixed charge allocations impact lower usage customers because fixed charges represent a greater proportion of their overall water bill. The District’s current water charges for DSRSD’s retail rate component generate approximately 20% of total rate revenue from the fixed charge and the remaining 80% from variable charges. The best management practice, per the American Water Works Association is 30% fixed/70% variable. Building on the concept discussed in Policy #1, staff reviewed the following options to address balancing revenue stability during periods of water shortage with impacts to low water usage customers.

Option 1: Reallocate the District’s fixed and variable charges to 30%/70% – The reallocation will increase current fixed charges, which will be offset by lower variable charges. Collecting a higher percentage of revenue requirements through fixed charges provides greater revenue stability during periods of lower demand. This table below displays the impact to each consumption band, assuming the Zone 7 cost of water is blended and not allocated to fixed and variable separately (i.e., if Policy #1: Options 3a or 3b are selected).

Policy #2 – Option 1 Estimated Total Bill Impact

Consumption Band	Bi-Monthly Consumption (CCF)	Percent of Total Accounts	Estimated Total Bill Impact
Low	0-10	24%	11%
Medium	11-25	58%	1%
High	26-30+	17%	-1%

For a low water use customer who uses 10 CCF of water in a bi-monthly billing period, Option 1 would increase the DSRSD portion of their bill from \$54 to \$65, while their total bill would increase from \$98 to \$109.

Option 2: Reallocate the District’s fixed and variable charges to 30%/70% in addition to separating Zone 7’s fixed and variable charges – This option would be the same as Option 1 for DSRSD’s retail rate, but builds on the assumption that Zone 7 pass through charges would be segregated and fully recovered via separate fixed charge. This table below displays the impact to each consumption band, assuming the Zone 7 cost of water is separated and 100% of the fixed charge from Zone 7 is recovered through a separate fixed charge (i.e., Policy #1 Option 2), in addition to reallocating the District’s retail fixed and variable ratio to 30%/70%.

Policy #2 – Option 2 Estimated Total Bill Impact

Consumption Band	Bi-Monthly Consumption (CCF)	Percent of Total Accounts	Estimated Total Bill Impact
Low	0-10	24%	28%
Medium	11-25	58%	-5%
High	26-30+	17%	-10%

For a low water use customer who uses 10 CCF of water in a bi-monthly billing period, Option 2 would increase the fixed portion of their bill from \$39 to \$92, decrease the variable portion of their bill from \$59 to \$34, while their total bill would increase from \$98 to \$126.

Option 3: Continue the District’s current fixed and variable charges allocation of 20%/80% (status quo) – This option would keep the District’s current fixed and variable charge allocation to 20%/80% and would have no impact to customers.

Staff Recommendation: This policy decision is largely dependent on the direction provided in Policy #1. If the Board agrees with the staff recommendation to separate fixed and variable Zone 7 pass through charges and fully recover the fixed charge via separate fixed charge on the bill, then staff recommends Option 3, which keeps the status quo 20%/80% split between DSRSD’s retail rates. This approach mitigates the impact separating the Zone 7 fixed and variable charges for low water use customers, but still balances the financial risk of collecting a lower percentage of revenue via a fixed charge as part of the retail rate. The recommended action would increase the total water bill for a low water use customer from \$98 to \$116.

If the Board provides direction to maintain the current practice of passing through a blended rate for fixed and variable charges from Zone 7, staff recommends Option 1. This option would reallocate the District’s fixed and variable charges to 30%/70% to mitigate financial risk to the District during water shortage conditions.

Policy #3: 2024 Retail Rate Adjustment

The Board authorized annual Consumer Price Index (CPI) percentage adjustments, commencing January 1, 2021 through January 1, 2024 as part of the 2019 Water Cost of Service Study. Staff is requesting Board direction on if a fifth and final CPI index adjustment to DSRSD retail rates should be implemented on January 1, 2024. Because of concerns about revenue and expenditure trends identified in the 10-year financial model in the recently adopted operating budget, staff initiated a cost of service study, in anticipation of recommending reformulated water rates effective January 1, 2024. Staff recommends that in lieu of a final scheduled CPI index adjustment, that rates for 2024 (and later years) be reformulated based on a new cost of service study.

Staff estimates that a cost of service study will be completed and presented to the Board in November 2023. After the Board reviews and authorizes the Proposition 218 notice, the rates would be subject to the mandated 45-day public notification period required by Proposition 218, and a public hearing to consider adoption of the rates would tentatively be held in January 2024. An important caveat to this expedited schedule is the fact that some options that will be presented to the Board on September 19 are significant shifts from the District's current rate structure and design methodology. Should the Board choose to pursue some of the more complex options, staff will need an additional one to two months to address all related issues and properly communicate the change to customers.

Based on this timing, staff requests the Board consider the following options:

Option 1: *Forego a rate adjustment on January 1, 2024 and make new rates effective March 1, 2024* – The benefit of this approach is that the District avoids increasing rates twice in a given year, which could be confusing to customers. This option accelerates implementation of rates designed to include previously unanticipated costs for DERWA, energy, underground repairs, and staffing as revised revenue requirements.

Option 2: *Implement a rate adjustment on January 1, 2024, and make new rates effective July 1, 2024* – The benefit of this approach is that the District could phase rate adjustments for the customer into two smaller adjustments. The risk for this option is that customers could be confused by the adjustments being so closely timed together.

Staff Recommendation: Staff recommends the Board select the approach outlined in Option 1, which is to forego a January 1, 2024 CPI adjustment for the District's retail rates in favor of accelerating the implementation of updated water rates, which address increased costs, shortly thereafter.

It should be noted, the District also passes through any future adjustments to the wholesale rate that the Zone 7 Board of Directors authorizes, as provided for in state law (California Government Code 53756). Based on the direction provided by the Board, and as part of the 2024 Water Cost of Service Study, staff will review options for implementation of any wholesale water rate structure changes and propose a recommendation to the Board when preliminary rates are presented in November.

Next Steps

Staff plans to return to the Board of Directors in October with a revised Rate Policy and Guidelines policy, which will reflect the direction received this evening. Staff will then incorporate the policy direction into the 2024 Water Cost of Service Study and present preliminary rates to the Board in November with a public hearing estimated to be held in January 2024.



Policy

Policy No.: P400-16-1	Type of Policy: Finance
Policy Title: Rate Policies and Guidelines	
Policy Description: Provides guidance and consistency in decision-making for developing and adopting rates.	
Approval Date: 6/7/2016	Last Review Date: 2016
Approval Resolution No.: 35-16	Next Review Date: 2020
Rescinded Resolution No.: 38-12	Rescinded Resolution Date: 8/21/2012

It is the policy of the Board of Directors of Dublin San Ramon Services District:

To ensure that rates are developed using a generally-accepted methodology, to provide financial stability, to achieve rate stability, to ensure public well-being and safety and with consideration of the rate impact as outlined in the following guidelines.

The Rate Policies and Guidelines are attached hereto and made a part hereof as if written in full in this policy.

The following rate policies and guidelines have been developed to provide guidance and consistency in decision-making for the District's management team. These policies and guidelines will assist the District in achieving financial and rate stability from year-to-year for the water and wastewater Enterprises. The proposed policies and guidelines should be reviewed periodically to determine if they are still relevant and appropriate. The policies framework is shown below:

Dublin San Ramon Services District Rate Policies and Guidelines

1. **Rate Setting Methodology**
 - 1.1. Revenue Requirements
 - 1.2. Cost of Service
 - 1.3. Rate Design
2. **Financial Stability**
 - 2.1. Reserves
 - 2.2. Cash Flow
 - 2.3. Debt Services Coverage
 - 2.4. Capital Improvement Funding From Rates
3. **Rate Stability**
4. **Public Well-Being and Safety**
5. **Rate Impacts**

Rate Setting Methodology

1. **Rates Should Be Established Utilizing a “Generally Accepted” Rate Setting Methodology.**

First and foremost, rate setting must conform to all legal constraints established for the District. In addition, when reviewing rates it is important to use a methodology that is “generally accepted” in the financial and rate setting community as well as the water and wastewater industries. This will assure a legally defensible approach as well as consistency of the analysis over time.

- 1.1. **It is recommended the District use the following “generally accepted” approaches to establish rates.**

- Revenue requirement analysis
- Cost of service analysis
- Rate design analysis

REVENUE REQUIREMENTS:

- 1.1.1 Revenue requirements will be established on a “cash basis” approach. The “cash basis” approach includes operation & maintenance (O&M) expenses, taxes/transfer payments, debt service (P&I), and funding for replacement of capital assets. The revenue requirements, as defined herein, are the basic components. Revenue requirements should also include any other cost items requiring funding (e.g. bond reserves) or needed to operate the Enterprise on a financially stable basis (e.g. accumulation or reduction in working capital).

- 1.1.2 Currently, revenue requirements include the impact of capacity fee “buy in” revenue. This “buy in” will be eliminated at District buildout. The District should plan accordingly and gradually eliminate the impact of the revenue from the “buy in” component on revenue requirements. The funding for asset replacements should be 100% funded by rate revenue by the end of the 10 year planning period (2027).
- 1.1.3 Costs associated with each of the District’s funds (i.e. Enterprise, Replacement, Expansion, etc.), for both water and wastewater, shall be tracked and budgeted separately for use within the revenue requirements.
- 1.1.4 At a minimum, revenues and costs will be projected for a six-year projected test period.
- 1.1.5 Projections of O&M costs should include any estimated incremental O&M costs associated with future capital improvements.
- 1.1.6 Costs associated with mandated program requirements will be identified and included within the cash basis approach.

COST OF SERVICE:

- 1.2.1 A cost of service study will be utilized to allocate costs equitably to customer classifications of service.
- 1.2.2 The cost allocation methodology will utilize techniques that are “generally accepted” by the industry (e.g. American Water Works Association, American Public Works Association, etc.).
- 1.2.3 The water cost of service will, at a minimum, consider the following cost components:
 - ✓ *Commodity costs* – those costs that vary with the total amount, or flow of water consumed by a customer over an extended period of time (e.g. electricity and chemicals).
 - ✓ *Capacity costs* – those costs that vary with maximum demand, or the maximum rates of flow to customers (e.g. sizing facilities to meet peak demands).
 - ✓ *Public fire protection costs* – those costs related to the public fire protection function (e.g. hydrants and over-sizing of mains).
 - ✓ *Customer related costs* – those costs that vary with the number of customers on the system (e.g. postage, meter maintenance expense).
 - ✓ *Revenue related costs* – those costs associated with the amount of revenue received by the water enterprise fund (e.g. a gross proceeds tax, delinquent fees).
- 1.2.4 The wastewater cost of service will, at a minimum, consider the following cost components:

- ✓ *Volume costs* – those costs that vary with the total flow of wastewater contributed by a customer over an extended period of time.
- ✓ *Strength costs* – those treatment-related costs associated with the strength of wastewater (e.g. biochemical oxygen demand and suspended solids) will be determined separately and will depend on the class of service and type of service provided (local vs. regional).
- ✓ *Customer related costs* – those costs that vary with the number of customers on the system (e.g. postage).
- ✓ *Revenue related costs* – those costs associated with the amount of revenue received by the Wastewater Enterprise fund (e.g. a gross proceeds tax, delinquent fees).

RATE DESIGN:

- 1.3.1 Rate designs will be reflective of the District's needs and also reflect the greater public purpose and policy goals of the District's Board (e.g. economic development, conservation, ability to pay, etc.).
- 1.3.2 Rate structures will recognize the appropriateness of both a fixed charge and a variable charge in order to provide the correct price signal to the District's customers. Fixed charges provide the District with a level of revenue stability and they are preferred by rating agencies as the method to best ensure debt coverage, while customers generally prefer variable charges, which allow them to control the amount of their bill. The balancing of these two competing rate components should be considered when reviewing rate structures. For water rates, variable rates will be established at no less than 70% of the total revenue requirement while the District remains subject to CUWCC BMP 11.
- 1.3.3 Rates will be set at a level that recovers necessary costs, by classification, yet flexible enough to accomplish the District's objectives (e.g. public purpose programs).
- 1.3.4 Rates should be designed to be equitable and detailed to a level to reflect the service provided (e.g., private fire protection, multi-family services, etc.).
- 1.3.5 Rates will be set at a level to ensure that bond covenants are met without reliance on capacity fees.

Financial Stability

2. The District Should Continue to be Managed to Maintain Financial Stability Over Time.

The District, like any other business, should strive to maintain financial stability over time, as it has done in the past. Financial stability is not only a prudent financial management goal; it can also minimize financial costs in the long-term (e.g. unnecessary borrowing). Above all, financial stability

will provide the community with the confidence of knowing a strong, consistent management team is managing the Enterprise.

2.1 Financial Policies and Measures Will be Developed to Measure, Manage, and Achieve Financial Stability.

RESERVES:

2.1.1 The minimum and target reserve levels in the Enterprise funds (as defined in the Financial Reserves policy) are indicators of the financial health of the Enterprise and will be used to determine when certain actions should be taken.

- ✓ **Fund is below the target working capital level** - If the Enterprise fund's working capital is projected to go below the minimum reserve level and stay below that level in the subsequent year, a rate increase shall be considered in order to maintain the financial stability of that fund.
- ✓ **Fund is above the target working capital level and revenues exceed expenses** - If the Enterprise fund's working capital is projected to be in excess of the working capital target and the rate revenues in the fund exceed the sum of the O&M expenses and replacement transfer, a rate decrease shall be considered to bring the working capital target between the minimum and target levels.
- ✓ **Fund is above the target working capital level and expenses exceed revenues** - If the Enterprise fund's working capital is projected to be in excess of the working capital target and the rate revenues in the fund are less than the sum of the O&M expenses and replacement transfer, the excess reserves will be used to cover expenses. In these circumstances, current rates are not covering current costs, and it is likely that a rate increase will be needed in future periods.

CASH FLOW:

2.2.1 Except as noted in section 2.1, each Enterprise should have annual net income (total revenue less O&M, taxes, debt service, and replacement funding) greater than or equal to zero unless the Board has made a policy decision to utilize Rate Stabilization Reserves.

DEBT SERVICE COVERAGE:

2.3.1 The Debt Service Coverage Ratio is an important financial measure that is reviewed by banks and bond companies to show the Enterprise's ability to make debt payments. The ratio is the Enterprise's Net Operating Income over the Total Debt service. Net Operating Income is gross income less operating and maintenance expense. For financial planning purposes, the annual debt service coverage ratio shall be the highest ratio, by Enterprise, for the District's current debt covenants.

- 2.3.2 For all debt issues with a legal bond covenant, when the debt service coverage ratio falls below the legal requirement the District's Board will abide by the specific covenants related to the bond issue.
- 2.3.3 While rates will be developed to achieve contractual debt coverage levels, the overall target for debt service coverage is 1.60, and will include revenue received from capacity reserve fees.

CAPITAL IMPROVEMENT FUNDING FROM RATES:

- 2.4.1 Each Enterprise should adequately fund through its rates, an amount sufficient for the replacement of District assets.
- 2.4.2 Replacement funding is determined based upon capital asset replacement needs and Capital Projects to be in compliance with Financial Revenues policy P400-15-1.

Rate Stability

3. Rates Should be Stable Over Time.

Financial stability of an Enterprise also provides rate stability. Rate stability reinforces that costs are being managed and controlled, thereby gaining customers' confidence of the management team's credibility.

3.1 Rates Should Not Only be Stable in Their Ability to Generate Sufficient Revenues, but also in the Customer's Perception of the Rate Changes from Year to Year.

- 3.1.1 The District should review rates during the biennial budget process to assure that they provide sufficient revenues. This does not imply that rates must be adjusted, simply that the rates are reviewed in the context of these policies to assure that they are adequately funding each Enterprise.
- 3.1.2 Rate reviews will consider a six-year projected period to attempt to stabilize and minimize rates over time.
- 3.1.3 The District will attempt to minimize impacts to customers when rate adjustments are needed.
- 3.1.4 A comprehensive rate study will be conducted at least every five years in order to assess the fairness of the rates to the District's ratepayers and to ensure that the necessary revenue is available for the District's operating and replacement needs.

Public Well-Being and Safety

4. The District will maintain its facilities at a level that will provide for the public well-being and safety of the residents.

The District's facilities will be maintained at a level that assures system reliability and efficiency. A well thought out renewal and replacement program will extend the life of the system that will in turn reduce infrastructure costs in the long-term.

- 4.1 Sufficient funding should be made available to provide for adequate renewal and replacement of capital assets and equipment.**
 - 4.2 The District will adequately fund costs for meeting current industry standards and regulations (e.g. Safe Drinking Water Act, Clean Water Act, NPDES II, etc.).**
 - 4.3 The District will fund improvements according to an adopted Capital Improvement Program.**
- 5. The District will consider the impacts of rates on their customers and financial and operating needs will be balanced against the rates and financial impacts.**

Rates are one of the most important ways in which the District communicates with its customers, and should follow these guiding principles.

- 5.1 Rates will be easy to understand and the District will attempt to keep the frequency and magnitude of rate adjustments to a minimum.**
- 5.2 Rates will be reviewed for their overall competitiveness.**
- 5.3 Rates will be balanced to meet the varying competing needs.**