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| SEC. 16.200. - TITLE OF ORDINANCE.

This ordinance shall be known as the Employee Relations Ordinance of the City and County of San Francisco.

(Amended by Ord. 313-76, App. 7/30/76)

| SEC. 16.201. - STATEMENT OF PURPOSE.

The purpose of this ordinance is to promote full communication between the City and County of San Francisco and its employees by providing a reasonable method of resolving disputes between the City and County and its employees and their employee organizations. It is also the purpose of this ordinance to promote the improvement of personnel management and employer-employee relations within City and County government by providing a uniform basis for recognizing the right of City and County employees to join employee organizations of their own choice, and to be represented by such organizations in their employment relationship with the City and County.

Nothing contained herein shall be deemed to supersede the provisions of the City and County Charter or ordinances and civil service rules establishing and regulating the civil service system; provided, however, that amendments to existing ordinances and civil service rules may be proposed through utilization of the meeting and conferring process.

Nothing contained herein shall be deemed to affect employees who collectively bargain under federal statutes such as the Railway Labor Act or employees whose salary is established pursuant to Section 8.405 of the Charter of the City and County of San Francisco.

(Amended by Ord. 313-76, App. 7/30/76)

| SEC. 16.202. - DEFINITIONS.

Unless the context requires otherwise, the words and phrases set forth in Sections 16.202.1 through 16.202.17, inclusive, shall have the meanings respectively ascribed to them in said sections.

(Amended by Ord. 313-76, App. 7/30/76)

SEC. 16.202.1.

"Confidential employee" means an employee who is privy to recommendations or decisions of City and County management affecting employee relations.

(Amended by Ord. 313-76, App. 7/30/76)

SEC. 16.202.2.

"Consult" means to communicate verbally or in writing between management and registered employee organizations or individual employees, for the purpose of presenting and obtaining views or advising of intended actions.

(Amended by Ord. 313-76, App. 7/30/76)

SEC. 16.202.3.

"Days" means calendar days.

(Amended by Ord. 313-76, App. 7/30/76)

SEC. 16.202.4.

"Determining official or body" means the official or body which has final authority to make a decision on the issue under discussion.

(Amended by Ord. 31376, App. 7/30/76)

SEC. 16.202.5.

"Employee organization" means any organization or joint council of organizations which includes employees of the City and County, and which has as one of its purposes representing such employees in their relations with the City and County.

(Amended by Ord. 313-76, App. 7/30/76)

SEC. 16.202.6.

"Employee representation" unit means a unit established pursuant to Section 16.210 of this ordinance.

(Amended by Ord. 313-76, App. 7/30/76)

SEC. 16.202.7.

"Impasse" means failure after a reasonable effort and reasonable period of time to reach agreement in the discussions between the designated representatives of the City and County and representatives of recognized employee organizations over matters on which they meet and confer.

(Amended by Ord. 313-76, App. 7/30/76)

SEC. 16.202.8.

"Management employee" means any employee, as designated by the Human Resources Director or designee, who is in a high administrative and policy-influencing position with responsibility for managing a major function or rendering management advice to top-level administrative authority.

(Amended by Ord. 313-76, App. 7/30/76; Ord. 109-94, App. 3/11/94)

SEC. 16.202.9.

"Mediation" means effort by an impartial third party to assist in reconciling a dispute between an appointing power and a recognized employee organization over a matter subject to meeting and conferring through interpretation, suggestion and advice.

(Amended by Ord. 313-76, App. 7/30/76)

SEC. 16.202.10.

"Meet and confer in good faith" means that representatives designated by the City and County and representatives of recognized employee organizations, shall have the mutual obligation personally to meet and confer in order to exchange freely information, opinions and proposals, and to endeavor to reach agreement on matters within the scope of representation.

(Amended by Ord. 313-76, App. 7/30/76)

SEC. 16.202.11.

"Memorandum of Understanding" means a written statement incorporating all matters within the scope of representation agreed on through meeting and conferring between designated representatives of the City and County and representatives of one or more recognized employee organizations. The agreement stated in the memorandum becomes effective only if ratified by the determining body or official of the City and County.

(Amended by Ord. 313-76, App. 7/30/76)

SEC. 16.202.12.

"Commission" means the Civil Service Commission of the City and County of San Francisco as established pursuant to Section 3.660 of the San Francisco Charter.

(Amended by Ord. 313-76, App. 7/30/76; Ord. 109-94, App. 3/11/94)

SEC. 16.202.13.

"Professional employees," for the purpose of this ordinance, means employees engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction, including, but not limited to, attorneys, physicians, registered nurses, engineers, architects, teachers, and various types of physical, chemical, and biological scientists.

(Amended by Ord. 313-76, App. 7/30/76)

SEC. 16.202.14.

"Recognized employee organization" means an employee organization which, by election, has been chosen by the majority of employees voting in a particular representation unit to represent them, and certified by the Civil Service Commission in the manner provided in Section 16.211 of this ordinance.

(Amended by Ord. 313-76, App. 7/30/76)

SEC. 16.202.15.

"Registered employee organization" means an employee organization which has been registered with the Human Resources Director or designee, as provided in Section 16.209 of this ordinance.

(Amended by Ord. 313-76, App. 7/30/76; Ord. 109-94, App. 3/11/94)

SEC. 16.202.16.

"Scope of representation" means matters relating to employment conditions and employee relations, including wages, hours and other terms and conditions of employment. The scope of representation shall not include consideration of the merits, necessity or organization of any service or activity provided by law or executive order.

(Amended by Ord. 313-76, App. 7/30/76)

SEC. 16.202.17.

"Supervisory employee" means any employee, as designated by the Human Resources Director or designee, who has authority to hire, assign, evaluate or discipline other employees, or to adjust their grievances, or effectively to recommend any such action.

(Amended by Ord. 313-76, App. 7/30/76; Ord. 109-94, App. 3/11/94)

| SEC. 16.203. - EMPLOYEE RELATIONS DIVISION.

- (a) There is hereby created an Employee Relations Division which shall be placed under the control and jurisdiction of the Board of Supervisors. Said division shall be headed by a Human Resources Director or designee who shall serve as the representative of the City and County of San Francisco in the implementation of those provisions of Chapter 10 of Government Code applicable to the City and County of San Francisco and which are not specifically delegated by Charter provision and/or ordinance to a particular officer, board or commission of the City and County.
- (b) The Human Resources Director or designee shall coordinate the meeting and conferring process. City and County departments and staff agencies may be called upon by the Employee Relations Division to participate and to give expert assistance. Any department about to enter into discussion with an employee organization on matters of intra-departmental concern shall notify the Human Resources Director or designee so that he can participate, and so that the Employee Relations Division can serve as a clearing house for all such discussion. All departments shall cooperate with and furnish data to the Human Resources Director or designee.
- (c) Nothing contained herein shall be deemed to prevent the Board of Supervisors from contracting for the performance of functions carried out by, and/or required of the Employee Relations Division, pursuant to Charter Sections 8.300 and 8.300-1.

(Amended by Ord. 383-80, App. 8/22/80; Ord. 109-94, App. 3/11/94)

| SEC. 16.204. - POWERS AND DUTIES OF THE CIVIL SERVICE COMMISSION.

- (a) In addition to such other powers and duties as it has under the Charter and this ordinance and as may be conferred upon it from time to time by law, the Civil Service Commission shall have the power and duty:
 - (1) To certify as the recognized employee organization of a representation unit that employee organization which has a majority of the employees in such representation unit as determined by a secret ballot election;
 - (2) To conduct elections to ascertain which employee organization represents a majority of the employees in a particular representation unit, or to arrange for the election to be conducted by a mutually agreed upon third party;
 - (3) To decertify as the recognized representative an employee organization which has been found by election no longer to be the majority representative in a particular representation unit;
 - (4) To adopt rules and regulations for the conduct of its business and the carrying out of its powers and duties;
 - (5) To investigate charges of unfair employee relations practices or violations as defined in this

ordinance and, if it deems appropriate, arrange for a hearing on said practices or charges by an administrative law judge, and

- (6) To administratively process all matters which require or permit a hearing before an administrative law judge and to the extent necessary make all arrangements for said hearings. The Commission, after review of the facts in any particular dispute, may attempt to obtain the agreement of the parties involved on the disputed issue(s) before the matter is submitted to an administrative law judge.

(Amended by Ord. 313-76, App. 7/30/76)

SEC. 16.205. - UTILIZATION OF ADMINISTRATIVE LAW JUDGES.

The City and County is hereby authorized to enter into an agreement or contract with the Office of Administrative Hearings, California State Personnel Board, for the purpose of obtaining the services of an administrative law judge. Such agreement or contract shall provide that said administrative law judge shall be responsible for the duties as hereinafter set forth in this Article.

The costs involved in obtaining the services of an administrative law judge as necessitated by this Article shall be borne by the City and County of San Francisco, provided, however, that all expenses incurred by the City and County in utilizing the administrative law judge in processing unfair employee relations complaints shall be divided equally among the parties involved.

The authority of the administrative law judge shall be to the extent as set forth in this Article and in no event shall any decision of the administrative law judge conflict with, alter or attempt to alter the provisions of the Charter or rules and regulations of the Civil Service Commission.

Any costs incurred in transcribing and reporting the proceedings shall be borne by the party requesting such transcribing or reporting, unless a contrary agreement is reached by mutual consent.

(Amended by Ord. 313-76, App. 7/30/76)

SEC. 16.206. - MANAGEMENT RIGHTS.

The City and County of San Francisco retains all rights as set forth in the provisions in the Charter of the City and County of San Francisco, existing ordinances and civil service rules establishing and regulating the Civil Service System; provided, however, that amendments to said existing ordinances and civil service rules may be proposed through the meeting and conferring process. The exercise of City and County rights does not preclude employees or registered employee organizations from consulting or raising grievances on decisions which affect wages, hours and other terms and conditions of employment. The City and County reserves the right to take whatever action may be necessary in an emergency situation; however, a recognized employee organization affected by the action shall be promptly notified. Any questions regarding the interpretation of this Section or Section 16.207 which cannot be resolved between employee and management representatives shall, upon request by either party involved, be referred by the Human Resources Director or designee to an administrative law judge for hearing and final determination.

(Amended by Ord. 313-76, App. 7/30/76; Ord. 109-94, App. 3/11/94)

SEC. 16.207. - EMPLOYEE RIGHTS.

Employees of the City and County shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employee relations. Employees of the City and County shall also have the right to refuse to join or participate in the activities of employee organizations. Employees shall also have the right to represent themselves individually in their employment relations with the City and County. No employee shall be interfered with, intimidated, restrained, coerced or discriminated against because of his or her exercise of those rights.

(Amended by Ord. 313-76, App. 7/30/76)

SEC. 16.208. - DESIGNATION OF MANAGEMENT, SUPERVISORY AND CONFIDENTIAL

EMPLOYEES.

- (a) The Human Resources Director or designee, in consultation with department heads, shall specify the employees who are to be designated as management, supervisory or confidential for the purpose of this ordinance. Each such person shall be notified by his or her department head of his or her management, supervisory or confidential status. A list of the employees so designated shall be maintained in the office of the Human Resources Director.
- (b) If an employee designated as management, supervisory or confidential, or an employee organization, or a department head, disagrees with such designation, the question shall be referred to an administrative law judge for hearing and final determination.
- (c) Management, supervisory and confidential employees may not represent an employee organization which represents other than management, supervisory or confidential employees on matters within the scope of representation.

(Amended by Ord. 313-76, App. 7/30/76; Ord. 109-94, App. 3/11/94)

SEC. 16.209. - PROCEDURE FOR REGISTRATION OF EMPLOYEE ORGANIZATIONS.

- (a) An organization or joint council of organizations which wishes to be registered as an employee organization shall submit to the Human Resources Director or designee a request signed by a duly authorized officer of the organization containing the following information:
 - (1) Name and address of the employee organization.
 - (2) Names and titles of its officers, as well as designation of the officials authorized to act as representatives of the organization in employer-employee relations with the City and County.
 - (3) A statement of whether or not the organization is a chapter or local of, or affiliated with, a regional or state, or national or international organization, and, if so, the name and address of each such regional, state, national or international organization.
 - (4) A copy of its constitution or by-laws, and a statement signed by an officer of the employee organization to the effect that the organization has as one of its purposes representing employees of the City and County in employment relations.
 - (5) Verification of employee membership in the employee organization which may be shown by employee organization payroll dues deductions or authorization cards.
 - (6) A designation of those persons residing in California, not exceeding three in number, to whom notice sent by United States mail would be deemed sufficient by the organization for any purpose.
 - (7) A statement that the organization recognizes and is aware of Government Code Section 3509. (Section 923 of Labor Code is not applicable to public employees.)
 - (8) A statement that the organization agrees to abide by all of the provisions of this ordinance, except that this shall not preclude the right of the organization to challenge by court action any provision it deems to be invalid.
- (b) Upon receipt of the petition, the Human Resources Director or designee shall verify that the petition complies with the requirements of this Section and, within 14 days, notify the employee organization that it is registered.
- (c) The City and County is under no obligation to consult with employee organizations which do not satisfactorily comply with the requirements of Paragraph (a) of this Section.

(Amended by Ord. 313-76, App. 7/30/76; Ord. 109-94, App. 3/11/94)

SEC. 16.210. - ESTABLISHMENT OF REPRESENTATION UNITS.

- (a) All employees throughout the City and County of San Francisco within any of the following categories shall constitute an appropriate representation unit:
 - Unit 1.** In determining any appropriate representation unit, separate representation shall be granted to any building trade or other craft or group which has historically established separate bargaining units in private industry or the journeymen of which normally attain status through the completion of a substantial period of apprenticeship. In establishing any such craft or group unit, there shall be included all apprentices, journeymen, foremen and general foremen that are customarily included in such craft or group units in negotiated contracts in private industry and shall also include within the separate craft or group unit those positions that have historically been represented by the craft or group organization in the handling of grievances and determination of wages and working conditions with the City and County of San Francisco.

Employees whose rates of pay are established by the City and County by reference to a craft or group rate in private industry on a percentage of the craft rate or other basis shall also be included within such craft group or unit. Classifications or positions which combine the work of more than one craft shall be placed in the

craft unit representing the highest skill required to be performed by the position. In the event this is not possible to ascertain, any individual or individuals occupying any such position or classification shall have the right to a self-determination election to determine appropriate placement of the position or classification. Employee organizations representing City and County employees whose compensation is fixed pursuant to Section 8.403 of the Charter, or whose members are in the Code 7300 Journeyman Trade Group (including apprentices, foremen and general foremen) shall be designated the recognized employee organization for such representation unit by the Commission upon complying with the provisions of Section 16.209; provided, however, that after the initial recognition granted herein such recognition shall be subject to the terms and conditions of Section 16.212 of this ordinance.

Unit 2. Nonsupervisory employees in blue collar positions not included in Unit 1 above.

Unit 3. Supervisory employees in blue collar positions related to Units 1 and 2, not included in Unit 1.

Unit 4. Nonsupervisory employees in white collar positions.

Unit 5. Supervisory employees in white collar positions.

Unit 6. Nonprofessional hospital and institutional employees.

Unit 7. Municipal Railway employees excepting clerical classifications, transit car cleaners, engineers, technical engineering employees and related supervisory employees to excepted classes.

Unit 8. Professional employees; provided, however, that each profession, including medical interns and residents shall have the right to separate representation for that particular professional category.

Unit 9. Security and detention personnel, excluding sworn permanent and promotive personnel of the Sheriff's Department.

Unit 10. Technical engineering employees to include employees working in technical supportive capacities to engineers and architectural staff.

Unit 11. Supervisory employees in positions related to Units 6, 7, 8, 9, 10.

Unit 12. All sworn permanent and promotive personnel, including supervisory personnel, in the Sheriff's Department except the Sheriff and the Undersheriff.

Unit 13. "Paraprofessional" employees in the San Francisco Unified School District and the San Francisco Community College District as classified by the Human Resources Department.

Unit 14. Nonsupervisory peace officers except sworn permanent and promotive personnel of the Sheriff's Department and Police Department; provided, however, that the Employee Relations Division shall group peace officers in subunits based upon their duties and responsibilities and each subunit shall have the right to separate representation.

Unit 15. Supervisory peace officers in positions related to Unit 14, except the Chief, Bureau of Airport Security, provided, however, that the Employee Relations Division shall group peace officers in subunits based upon their duties and responsibilities and each subunit shall have the right to separate representation.

- (b) In the event an employee or employee organization disagrees with his or her or its inclusion in a particular unit above, the aggrieved party may submit a protest to an administrative law judge for a hearing and final determination. In arriving at said determination, said judge shall consider, in addition to any other factors, the similarity of skills, wages, hours and other working conditions among the employees involved, the history of collective bargaining with regard to the employees involved and the desires of said employees.

(Amended by Ord. 295-83, App. 5/27/83; Ord. 109-94, App. 3/11/94)

SEC. 16.211. - PROCEDURE FOR RECOGNITION OF EMPLOYEE ORGANIZATION.

- (a) Any registered employee organization determined by Section 16.209 of this ordinance may request recognition by filing with the Commission a written statement indicating verification of employee approval in the form of dues deduction or authorization cards, of 30 percent of the employees in the particular representation unit.
- (b) The Commission shall give written notice to the other registered employee organizations having members in the representation unit for which recognition is sought. Within 30 calendar days from the date of such notice the employee organizations with membership in the particular representation unit

may file a challenging petition seeking to become the recognized organization in said unit. The challenging statement shall contain verification in the form of dues deduction or authorization cards of employee approval of 30 percent of the employees in the representation unit. Upon submission of such verification the challenging employee organization shall be placed on the ballot.

- (c) Irrespective of whether or not a challenging petition has been filed, the Commission shall, within 30 days, or as soon thereafter as is practicable, after the period allowed for filing challenging petitions expires, cause to be conducted a secret ballot election within the representation unit to determine which organization, if any, shall be recognized.
- (d) The ballot in any such election shall contain the choice of "no organization." Where there are three or more choices and no one receives a majority of the valid ballots cast, a run-off election shall be conducted between the two choices receiving the largest number of ballots cast.
- (e) Employees entitled to vote in a representation election shall be those employees within the representation unit with permanent or permanent limited tenure status whose names appear on the last payroll bearing a date which is no less than 30 calendar days prior to the date on which the election is to be held or such other date within the discretion of the Commission as may be practicable under the circumstances.
- (f) There shall be no more than one valid representation election in a 12 month period within the same representation unit.

(Amended by Ord. 313-76, App. 7/30/76)

SEC. 16.212. - DECERTIFICATION.

A decertification petition may be filed with the Commission by employees or by an employee organization to determine whether or not a recognized employee organization continues to represent a majority of the employees in the representation unit. Such petition must be accompanied by proof of employee approval in the form of dues deductions or authorization cards equal to at least 30 percent of the employees within the representation unit, and must be filed within the period between the 90th and 60th day immediately preceding the expiration date of the recognized employee organization's existing memorandum agreement; provided, however, that the existing memorandum agreement does not exceed a two year period. In the event the existing memorandum agreement does exceed a two year period, the decertification petition must be filed within the period between the 90th and 60th day immediately preceding the expiration of the second year of the memorandum agreement. When such a petition has been filed, the Commission shall cause to be conducted a secret ballot election to determine whether the incumbent recognized employee organization shall be decertified and whether another organization shall be recognized. If the challenging employee organization receives a majority of the valid votes cast, the presently recognized employee organization will be decertified and the employee organization receiving a majority of the valid votes cast will become the recognized employee organization. There shall be no more than one valid decertification election in a 12 month period within the same representation unit.

(Amended by Ord. 313-76, App. 7/30/76)

SEC. 16.213. - UNFAIR LABOR PRACTICES.

- (a) It shall be an unfair labor practice for the City and County to:
 - (1) Interfere with, restrain or coerce employees in the exercise of the rights recognized or granted in this ordinance;
 - (2) Dominate or interfere with the formation of any employee organization or contribute financial support to it; provided that the City and County may permit the use of its facilities, make dues deductions, and permit employees who are officers or representatives of employee organizations to confer with City and County representatives during work hours without loss of time or pay, subject to applicable regulations;
 - (3) Refuse to meet and confer in good faith at reasonable times, places and frequencies with representatives of recognized employee organizations or to refuse to consult upon request with registered employee organizations on matters which are properly within the scope of representation; and
 - (4) Refuse or fail to cooperate in the impasse procedure involved under the provisions of this ordinance.
- (b) It shall be an unfair labor practice for any officer of the City and County or any aide or administrative assistant of any officer of the City and County to meet and confer, or to attempt to meet and confer with an employee, an employee organization, or an employee representative, or any agent thereof, other than at a scheduled public meeting of the Board of Supervisors or a committee meeting of the Board of

- Supervisors, on matters which the Human Resources Director or designee has been duly authorized to meet and confer on by an appropriate officer, board or commission of the City and County.
- (c) It shall be an unfair labor practice for an employee, an employee organization, an employee representative, or any agent thereof to:
- (1) Interfere with, restrain, or coerce employees in the exercise of the rights recognized or granted in this ordinance;
 - (2) Refuse to meet and confer in good faith at reasonable times, places and frequencies when the employee organization involved is a recognized representative;
 - (3) Refuse or fail to cooperate in the impasse procedure involved under the provisions of this ordinance; and
 - (4) Engage in a strike, slowdown or work stoppage of any kind against the City and County of San Francisco in violation of Section 16.221 of this ordinance.
- (d) It shall be an unfair labor practice for any employee, an employee organization, an employee representative, or any agent thereof, to meet and confer or attempt to meet and confer with any officer, aide or administrative assistant to an officer of the City and County other than at a scheduled public meeting of the Board of Supervisors or a committee meeting of the Board of Supervisors, on matters which the Human Resources Director or designee has been duly authorized to meet and confer on by an appropriate officer, board or commission of the City and County.

The provisions of this subsection shall not apply to an employee, an employee organization, an employee representative, or any agent thereof, who desires to communicate with the Board of Supervisors during the meeting and conferring process and does so in writing and addresses said communication to the Clerk of the Board of Supervisors with the request that all members of the Board of Supervisors be provided with copies of the communication.

(Amended by Ord. 415-76, App. 10/15/76; Ord. 109-94, App. 3/11/94)

SEC. 16.214. - SANCTIONS FOR UNFAIR LABOR PRACTICES.

Charges of committing any unfair labor practices may be initiated by a management representative, by a representative of an employee organization, or by an individual employee or group of employees. Such charges shall be filed in writing with the Commission. Each charge so filed shall be processed in accordance with the rules and regulations of the Commission.

- (a) If the administrative law judge's decision is that the City and County or a management employee has engaged in an unfair labor practice, the administrative law judge shall issue cease and desist orders which are not in conflict with the Charter or other provisions of law, and/or shall recommend to the appropriate body that corrective action be taken. Such corrective action shall be taken within five days of the administrative law judge's notification and recommendation.
- (b) If the decision is that an employee or employee organization or its agents have engaged in an unfair labor practice, the administrative law judge shall instruct the offending party to take appropriate corrective action. If compliance with the administrative law judge's instruction is not obtained within five days, the administrative law judge shall instruct the appropriate officer, board or commission to take appropriate action. Such action may include, but is not limited to suspension or revocation of privileges provided a registered or recognized employee organization such as dues deduction. Individual employees found by the administrative law judge to have engaged in unfair labor practices shall be subject to such discipline as may be recommended by the administrative law judge to the appointing officer of such employee within the limits of the applicable Charter provisions, and civil service and department regulations.

(Amended by Ord. 113-77, App. 3/31/77)

SEC. 16.215. - MEETING AND CONFERRING IN GOOD FAITH.

- (a) Meeting and conferring in good faith between management representatives and the representatives of recognized employee organizations shall take place on all matters relating to wages, hours, and other terms and conditions of employment including any other matters agreed to by the parties as a subject of bargaining. Nothing contained herein shall be deemed to supersede the provisions of the Charter, ordinances, and rules and regulations of the City and County of San Francisco which establish and regulate the Civil Service System.
- (b) If agreement is reached by management and a recognized employee organization, or recognized employee organizations, on matters subject to approval by a determining body or official, they shall jointly prepare a written memorandum of such understanding and present it to the determining body or official for determination. If agreement is reached on matters not subject to approval by a determining

body or official, the appropriate level of management and recognized employee organizations shall jointly prepare a written memorandum of such agreement.

- (c) Management representatives and representatives of recognized employee organizations may by mutual agreement meet and confer on matters of employment for which meeting and conferring is neither required nor prohibited by this ordinance.
- (d) The parties to the meeting and conferring process shall provide timely notice of their intention to meet and confer, and shall mutually arrange a satisfactory scheduling for said meeting and conferring.
- (e) Any such memorandum of understanding shall contain the following provisions:
 - (1) Delivery of municipal services in the most efficient, effective, and courteous manner is of paramount importance to the City and County and its employees. Such achievement is recognized to be a mutual obligation of both parties within their respective roles and responsibilities.
 - (2) The recognized employee organization recognizes the City and County's right to establish and/or revise performance standards or norms notwithstanding the existence of prior performance levels, norms or standards. Such standards, developed by usual work measurement procedure may be used to determine acceptable performance levels, prepare work schedules, and to measure the performance of each employee or group of employees.
 - (3) Employees who work at less than acceptable levels of performance may be subject to disciplinary measures in accordance with the applicable Charter provisions and rules and regulations of the Civil Service Commission.
 - (4) Any Memorandum of Understanding negotiated in conformity with this ordinance shall contain a clause prohibiting strikes, slowdowns, or work stoppages as long as said Memorandum of Understanding is in full force and effect, and provided further that in the absence of any Memorandum of Understanding, employees' rights concerning concerted labor activity shall be governed by the pertinent laws of this state.

(Amended by Ord. 426-76, App. 10/29/76)

SEC. 16.216. - IMPASSE PROCEDURES.

If, after a reasonable period of time, the management representative and the representative of a recognized employee organization reach an impasse in the meeting and conferring process, either party may request the assistance of the Mayor in resolving the impasse. If the Mayor finds that the parties have not devoted sufficient time or effort to resolving the impasse, he or she may deny the request and return the matter to the parties for further consideration. If the Mayor concludes that, in fact, an impasse exists, he or she shall notify the parties of same.

- (a) After being notified by the Mayor that an impasse does exist, the parties involved shall arrange for the assistance of a mediator from any source agreeable to the parties involved. If the parties cannot agree on a mediator within three days after being notified by the Mayor that an impasse exists, the Mayor shall appoint a mediator who shall have broad experience in the field of employee relations and shall have been selected as a neutral arbitrator in at least 50 cases in Northern California in the preceding four years but shall not include any person who is an employee of the City and County of San Francisco, or who is or has been an official of a labor organization or an organization representing City and County employees. Such appointment shall be made within five days after such a request is forwarded to the Mayor. All mediation shall be private, and the mediator shall make no public recommendations nor take any public position concerning the issues. The mediator shall make his or her recommendation within 10 days after his or her designation.
- (b) If the mediator's recommendation is not acceptable to the parties, they shall within three days of the issuance of the mediator's recommendation make arrangements for the assistance of a fact finder, or a fact-finding board consisting of not more than three members. If the parties cannot agree upon a fact finder, or fact-finding board, within five days of the issuance of the mediator's recommendation, the Mayor shall appoint a fact finder, or a fact-finding board. The Mayor shall effect such appointment or appointments within five days after notification that such appointment or appointments are necessary. The fact finders will have 10 days from the date of appointment to make their recommendations and no extension of time may be requested or granted.
- (c) If fact finding is not successful and where arbitration of the subject matter is not in conflict with the Charter or existing law, the parties to meeting and conferring may agree to submit the matter to an impartial arbitrator for determination. The impartial arbitrator shall consider only the issue or issues presented, and his or her determination in the matter shall be final and binding on the parties involved. The impartial arbitrator shall be selected by the parties and shall be an individual with broad experience in the field of employee relations and shall have served as a neutral arbitrator in at least 100 cases in the previous five years.

If the parties cannot agree upon such a person within five days after the decision to arbitrate, the State Conciliation Service shall supply a list of 10 names and, after first determining by lot, the parties shall alternately

strike names from the list so supplied and the last individual who is able and willing to serve shall act as the arbitrator. Arbitration shall commence within four days after his or her designation, and his or her decision shall be rendered within 20 days after the proceedings in arbitration have commenced. His or her decision shall be observed by both parties pending any appeal contesting or challenging the award and the award shall not require Court confirmation before compliance with its terms.

- (d) In vital public services, which affect the health, safety or welfare of the general public, the issue or issues unresolved after mediation and fact finding impasse procedures have been followed, and where arbitration of the subject matter is not in conflict with the Charter or existing law, the parties shall submit the matter to an impartial arbitrator for determination. The impartial arbitrator shall consider only the issue or issues presented, and his or her determination in the matter shall be final and binding on the parties involved. For the purposes of this Section, vital public services include public health, hospitals, court and detention personnel, sanitation services, and such other services as may be designated as vital public services by the Commission. The procedure for the selection of the impartial arbitrator and the time limits shall be as set forth in Section 16.216(c).
- (e) The cost of mediation, fact finding proceedings and arbitration where applicable shall be divided equally between the City and County and the registered employee organization. No cost shall be imposed upon any employee organization that would exceed the lesser of the following:
 - (1) The daily stipend of the arbitrator or fact finder or mediator shall not exceed the suggested amount for services of arbitrators designated by the Federal Mediation and Conciliation Service.
 - (2) Costs to be paid by the employee organizations shall be limited to ½ of the daily stipend of any arbitrator, fact finder or mediator as above provided, and shall not include attorney fees, witness fees, transcripts and any other expenses. Each party shall bear its own costs for such services.
- (f) During the period of meeting and conferring between the City and County and the recognized employee organization and the period during which the impasse procedure shall be utilized, the recognized employee organization and the employees it represents shall not initiate, engage in, cause, instigate, encourage or condone work stoppages, slowdowns, mass absenteeism or any other disruptive activities which are detrimental to the conduct of City and County business and services.

(Amended by Ord. 313-76, App. 7/30/76)

SEC. 16.217. - DISPUTES CONCERNING MEMORANDUMS OF UNDERSTANDING.

- (a) Whenever a dispute arises between parties signatory to a memorandum of understanding regarding the application or interpretation of any provision of the memorandum of understanding, the following procedure shall be taken in order to resolve the dispute:
 - (1) The aggrieved party shall promptly take the matter up with the other party and both shall endeavor to resolve the dispute.
 - (2) If the parties cannot settle the dispute within 48 hours, the matter shall be submitted to an administrative law judge for determination. The decision of the administrative law judge shall be final and binding upon the parties involved; provided, however, that memorandums of understanding in effect at the time this ordinance is adopted (October 25, 1973) which specify a different method of resolving disputes concerning interpretation and application of memorandum of understanding, shall not be subject to the provisions of this Section.
- (b) The decision of the administrative law judge pursuant to this Section shall be limited to the application and interpretation of the memorandum of understanding and subject to the provisions of the Charter and existing law. The expenses incurred in utilizing the administrative law judge in this arbitration process shall be borne equally by the parties involved in the dispute.

(Amended by Ord. 313-76, App. 7/30/76)

SEC. 16.218. - GRIEVANCES.

The existing grievance procedure prescribed by Civil Service Commission Rules provides a progressive series of steps through which employees may present complaints or grievances arising out of their employment or working conditions. This procedure is designed to resolve grievances at the lowest supervisory level consistent with justice and administrative policy. It is the intent of this ordinance that the grievance procedure established by the Civil Service Commission Rules will continue to be used for the above described purposes.

(Amended by Ord. 313-76, App. 7/30/76)

SEC. 16.219. - EMPLOYEES MEETING ON CITY AND COUNTY TIME.

- (a) Official representatives of a recognized employee organization shall be allowed time off from their duties without loss of pay for the purpose of meeting and conferring in good faith or consulting with representatives of the City and County on matters within the scope of representation, provided that the number of representatives shall not exceed two without the approval of the Human Resources Director. The use of official time for this purpose shall be reasonable and shall not interfere with the performance of City and County services. Official representatives shall receive approval from their department head in advance of the proposed time away from their work station or assignment.
- (b) Official representatives of registered employee organizations shall be entitled to the same privileges and charged with the same duties as set forth in Paragraph (a) of this Section for purposes of consulting with representatives of the City and County on matters within the scope of representation.

(Amended by Ord. 313-76, App. 7/30/76; Ord. 109-94, App. 3/11/94)

SEC. 16.220. - DUES DEDUCTION.

Upon completion of the registration procedures provided in Section 16.209, registered employee organizations may exercise the privilege of dues deduction, and shall pay the reasonable costs of this service. The Controller of the City and County of San Francisco shall establish the costs and the procedures for initiating and maintaining this service.

(Amended by Ord. 313-76, App. 7/30/76)

SEC. 16.222. - SEPARABILITY.

If any provision of this ordinance, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this ordinance, 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.

(Amended by Ord. 313-76, App. 7/30/76)