

**Chapter 2.53**  
**EMPLOYER-EMPLOYEE ORGANIZATION RELATIONS**

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**Article I. General Provisions**

**2.53.010 Statement of purpose.**

The ordinance codified in this chapter 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," by providing orderly procedures for the administration of employer-employee relations between the city and its employee organizations. However, nothing contained herein shall be deemed to supersede the provisions of state law, city ordinances, resolutions and rules which establish and regulate the merit and civil service system, or which provide for other methods of administering employer-employee relations. This chapter is intended, instead, to strengthen the city's personnel system and other rules and procedures of administering employer-employee relations through the establishment of uniform and orderly methods of communications between employees, employee organizations and the city.

It is the purpose of this chapter to provide procedures for meeting and conferring in good faith with recognized employee organizations regarding matters that directly and significantly affect and primarily involve the wages, hours and other terms and conditions of employment of employees in appropriate units and that are not preempted by federal or state law. However, nothing herein shall be construed to restrict any legal or inherent exclusive city rights with respect to matters of general legislative or managerial policy, which include among others:

- A. The exclusive right to determine the mission of its constituent departments, commissions, and boards;
- B. To set standards of service;
- C. Determine the procedures and standards of selection for employment;
- D. To direct, discipline and discharge its employees in accordance with law and existing ordinances, rules and regulations;
- E. To relieve its employees from duty because of lack of work or for other lawful reasons;
- F. To determine the content of job classifications;
- G. To determine the methods, means, number and kind of personnel by which its operations are to be conducted, including the performance thereof by subcontract;

- H. To administer the city's personnel system;
- I. To maintain the efficiency of governmental operations;
- J. To take all necessary actions to carry out its mission in emergencies;
- K. To exercise complete control and discretion over its organization and the technology of performing its work;
- L. To determine methods of financing.

In the event that the exercise of one or more of these rights results in an impact on wages, hours or other terms and conditions of employment, as defined in California Government Code Section 3505, the city shall meet and confer with the recognized employee organization(s).

Consistent with California Government Code Section 3500 et seq. and the provisions of this chapter, employees shall have the right to form, join and participate in the activities of a recognized employee organization, free from interference and discrimination, for the purpose of representation on all matters of employer-employee relations. [Ord. 1168 § 2, 2000.]

**2.53.020 Definitions.**

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

- A. "Appropriate unit" and "bargaining unit" means a unit of employee classes or positions, established pursuant to Article II of this chapter, commencing with PMC 2.53.030.
- B. "City" means the city of Pittsburg, and, where appropriate herein, refers to the city council or any duly authorized city representative as herein defined.
- C. "Confidential employee" means an employee who, in the course of his or her duties, has access to confidential information relating to the city's administration of employer-employee relations.
- D. "Consult/consultation in good faith" means to communicate orally or in writing with any or all employee organizations, whether exclusively recognized or not, for the purpose of presenting and obtaining views or advising of intended actions.
- E. "Day" means calendar day unless expressly stated otherwise.

- F. “Employee relations officer” means the city manager or his/her duly authorized representative.
- G. “Impasse” means that the representatives of the city and a recognized employee organization have reached a point in their meeting and conferring in good faith where their differences on matters to be included in a memorandum of understanding, and concerning which they are required to meet and confer, remain so substantial and prolonged that further meeting and conferring would be futile.
- H. “Management employee” means a regular status employee having responsibility for formulating, administering or managing the implementation of city policies and programs.
- I. “Proof of employee support” means (1) an authorization card recently signed and personally dated by an employee, or (2) a verified authorization petition or petitions recently signed and personally dated by an employee, or (3) employee dues deduction authorization, using the payroll register for the period immediately prior to the date a petition is filed hereunder, except that dues deduction authorizations for more than one employee organization for the account of any one employee shall not be considered as proof of employee support for any employee organization. The only authorization which shall be considered as proof of employee support hereunder shall be the authorization last signed by an employee. The words “recently signed” shall mean within 180 days prior to the filing of a petition.
- J. “Exclusively recognized employee organization” means an employee organization which has been formally acknowledged by the city as the sole employee organization representing the employees in an appropriate representation unit pursuant to Article II of this chapter, commencing with PMC 2.53.030, 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.
- K. “Supervisory employee” means any regular employee having authority, in the interest of the city, to perform any or all of the following: to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline (with just cause) other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

- L. “Employee” means any person employed by the city whose appointment to city service was made from a certified eligibility list, following completion of a competitive recruitment process, and is considered for purposes of the Pittsburgh Municipal Code to be a regular employee. Excluded are those persons elected by popular vote, hourly, seasonal, contract and all others considered to be nonregular employees as defined under PMC 2.52.040.

[Ord. 1168 § 2, 2000.]

## **Article II. Representation Proceedings**

### **2.53.030 Filing of recognition petition by employee organization.**

Upon adoption of the ordinance codified in this chapter the employee relations officer shall have the responsibility, in consultation with employee organizations, to establish appropriate units in accordance with PMC 2.53.080. The employee relations officer shall thereafter notify the affected employees and employee organizations.

An employee organization which seeks to be formally acknowledged as an exclusively recognized employee organization representing the employees in an appropriate unit shall file a petition with the employee relations officer containing the following information and documentation:

- A. Name and address of the employee organization;
- B. Names and titles of its officers;
- C. Names of employee organization representatives who are authorized to speak on behalf of the organization;
- D. A statement that the employee organization has, as one of its primary purposes, the responsibility of representing employees in their employment relations with the city;
- E. A statement whether the employee organization is a chapter of, or affiliated directly in any manner with, a local, regional, state, national or international organization, and, if so, the name and address of each such other organization;
- F. Certified copies of the employee organization’s constitution and bylaws;
- G. A designation of those persons, not exceeding two in number, and their addresses to whom notice sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose;

- H. A statement that the employee organization has no restriction on membership based on race, color, creed, sex, national origin, age, religion, sexual orientation or physical disability;
- I. The job classifications or position titles of employees in the unit claimed to be appropriate and approximate number of member employees therein;
- J. A statement that the employee organization has in its possession proof of employee support as herein defined to establish that at least 30 percent of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the city. Such written proof shall be submitted for confirmation to the employee relations officer or to a mutually agreed upon disinterested third party;
- K. A request that the employee relations officer formally acknowledge the petitioner as the exclusively recognized employee organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith;
- L. An acknowledgment in writing, signed by a duly authorized officer of the employee organization, that the organization agrees to abide by all of the provisions of this chapter.

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. [Ord. 1168 § 2, 2000.]

**2.53.040 City response to recognition petition.**

Upon receipt of the petition, the employee relations officer shall determine whether:

- A. There has been compliance with the requirements of the recognition petition; and
- B. The proposed representation unit is an appropriate unit in accordance with PMC 2.53.080, if different from the initial unit determination.

If an affirmative determination is made by the employee relations officer on the foregoing two matters, he/she shall so inform the petitioning employee organization, shall give written notice of such request for recognition to the employees in the unit and shall take no action on such request for 30 days thereafter. If either of the foregoing matters are not affirmatively determined, the employee relations officer shall offer to consult thereon with such petitioning employee organization and, if such determination

thereafter remains unchanged, shall inform that organization of the reasons therefor in writing. The petitioning employee organization may appeal such determination in accordance with PMC 2.53.100.

Following the 30-day waiting period after an affirmative determination is made by the employee relations officer, a written confirmation that the proposed unit is appropriate will be sent to the employee organization and an election arranged. [Ord. 1168 § 2, 2000.]

#### **2.53.050 Open period for filing challenging petition.**

Within 30 days of the date written notice was given to affected employees that a valid recognition petition for an appropriate unit has been filed, any other employee organization may file a competing request to be formally acknowledged as the exclusively recognized employee organization of the employees in the same or in an overlapping unit (one which corresponds with respect to some, but not all the classifications or positions set forth in the recognition petition being challenged) by filing a petition evidencing proof of employee support in the unit claimed to be appropriate of at least 30 percent and otherwise in the same form and manner as set forth in PMC 2.53.030. 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 PMC 2.53.080. The petitioning employee organizations shall have 15 days from the date notice of such unit determination is communicated to them by the employee relations officer to amend their petition to conform to such determination or to appeal such determination pursuant to PMC 2.53.100. [Ord. 1168 § 2, 2000.]

#### **2.53.060 Election procedure.**

The employee relations officer shall arrange for a secret ballot election to be conducted by a party agreed to by the employee relations officer and the concerned employee organization(s), in accordance with such party's rules and procedures subject to the provisions of this chapter. All employee organizations who have duly submitted petitions which have been determined to be in conformance with PMC 2.53.080 shall be included on the ballot. The ballot shall also reserve to employees the choice of representing themselves individually in their employment relations with the city. Employees entitled to vote in such election shall be those persons employed in regular permanent positions within the designated appropriate unit who were employed during the pay period immediately prior to the date which ended at least 15 days before the date the election commences, including those who did not work during such period because of illness, vacation or other authorized leaves of absence, and who are employed by the city in the same unit on the date of election. An employee organization shall be formally acknowledged as the exclusively recognized employee organization for

the designated appropriate unit following an election/run-off election if it received a numerical majority (50 percent plus one) of all valid votes cast in the election. In an election involving three or more choices, where none of the choices receives a majority of the valid votes cast, a run-off election shall be conducted between the two choices receiving the largest number of valid votes cast; the rules governing an initial election being applicable to a run-off election.

There shall be no more than one valid election under this chapter pursuant to any petition in a 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 California Mediation and Conciliation Service.

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

A recognized employee organization shall thereafter annually, between December 1st and December 31st, file with the employee relations officer the statement required by PMC 2.53.030(A) through (H), inclusive, following which a confirmation of recognition will be issued by the city. [Ord. 1168 § 2, 2000.]

**2.53.070 Procedure for decertification of exclusively recognized employee organization.**

A decertification petition alleging that the incumbent exclusively recognized employee organization no longer represents a majority of the employees in an established appropriate unit may be filed with the employee relations officer only during the month of March of any year following the first full year of recognition or during the 30-day period commencing 120 days prior to the termination date of a memorandum of understanding, whichever occurs later. A decertification petition may be filed by two or more employees or their representative, or an employee organization, and shall contain the following information and documentation declared by the duly authorized signatory under penalty of perjury to be true, correct and complete:

- A. The name, address and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information;
- B. The name of the established appropriate unit and of the incumbent exclusively recognized employee organization sought to be decertified as a representative of that unit;
- C. An allegation that the incumbent exclusively recognized employee organization no longer represents a majority of the employees in the appropriate unit, and any other relevant and material facts relating thereto;

- D. Proof of employee support that at least 30 percent of the employees in the established appropriate unit no longer desire to be represented by the incumbent exclusively recognized employee organization. Such proof shall be submitted for confirmation to the employee relations officer or to a mutually agreed upon disinterested third party within the time limits specified in the first paragraph of this section.

An employee organization may, in satisfaction of the decertification petition requirements hereunder, file a petition under this section in the form of a recognition petition that evidences proof of employee support of at least 30 percent, that includes the allegation and information required under subsection (C) of this section, and otherwise conforms to the requirements of PMC 2.53.030.

The employee relations officer shall initially determine whether the petition has been filed in compliance with the applicable provisions of this section. If his/her determination is in the negative, he/she shall offer to consult thereon with the representative(s) of such petitioning employees or employee organization and, if such determination thereafter remains unchanged, shall return such petition to the employees or employee organization with a statement of the reasons therefor in writing. The petitioning employees or employee organization may appeal such determination in accordance with PMC 2.53.100. If the determination of the employee relations officer is in the affirmative, or if his/her negative determination is reversed on appeal, he/she shall give written notice of such decertification or recognition petition to the incumbent exclusively recognized employee organization and to unit employees.

The employee relations officer shall thereupon arrange for a secret ballot election to be held on or about 15 days after such notice to determine the wishes of unit employees as to the question of decertification and, if a recognition petition was duly filed hereunder, the question of representation. Such election shall be conducted in conformance with PMC 2.53.060.

If, pursuant to this section, a different employee organization is formally acknowledged as the exclusively recognized employee organization, such organization shall be bound by all the terms and conditions of any memorandum of understanding then in effect for its remaining term. [Ord. 1168 § 2, 2000.]

#### **2.53.080 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 city and its compatibility with the primary responsibility of the city and its employees to effectively and economically serve the public, and (2) providing employees with effective representation based on recognized community of interest considerations. These policy objectives require that the appropriate unit shall be the broadest feasible grouping of positions that share an identifiable community of interest. Factors to be considered shall be:

- A. Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions;
- B. History of representation in the city and similar employment; except, however, that no unit shall be deemed to be an appropriate unit solely on the basis of the extent to which employees in the proposed unit have organized;
- C. Consistency with the organizational patterns of the city;
- D. 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;
- E. Effect on the classification structure and impact on the stability of the employer-employee relationship of dividing a single or related classifications among two or more units.

Notwithstanding the foregoing provisions of this section, managerial and confidential responsibilities, as defined in PMC 2.53.020, are determining factors in establishing appropriate units hereunder, and therefore managerial and confidential employees may only be included in a unit consisting solely of managerial or confidential employees respectively. Consistent with Government Code Section 3507.5, managerial and confidential employees may not represent any employee organization which represents other employees, on matters within the scope of representation.

In accordance with Government Code Section 3508, peace officers may join, participate in, and be represented by separate units composed solely of such peace officers. These units shall not be subordinate to any other employee organization. These units may include managerial and supervisory employees.

After notice to and consultation with affected employee organizations, the employee relations officer shall allocate new classifications or positions, delete eliminated classifications or positions, and retain, reallocate or delete modified classifications or positions from units in accordance with the provisions of this section. The decision of the employee relations officer shall be final. [Ord. 1168 § 2, 2000.]

### **2.53.090 Procedure for modification of established appropriate units.**

Requests by employee organizations for modifications of established appropriate units may be considered by the employee relations officer only during the period specified in PMC 2.53.070 of this article. Such requests shall be submitted in the form of a recognition petition and, in addition to the requirements set forth in PMC 2.53.030, shall contain a complete statement of all relevant facts and citations in support of the proposed modified unit in terms of the policies and standards set forth in PMC 2.53.080.

The employee relations officer shall process such petitions as other recognition petitions under PMC 2.53.040.

The employee relations officer may at the request of any employee or group of employees propose that an established unit be modified. Such requests shall be submitted in the form of a recognition petition and, in addition to the requirements set forth in PMC 2.53.030, shall contain a complete statement of all relevant facts and citations in support of the proposed modified unit. The employee relations officer shall give written notice of the proposed modification(s) to any affected employee organization and shall hold a meeting concerning the proposed modification(s), at which time all affected employee organizations shall be heard. Thereafter the employee relations officer shall determine the composition of the appropriate unit or units in accordance with PMC 2.53.080, and shall give written notice of such determination to the affected employee organizations. The employee relations officer's determination may be appealed as provided in PMC 2.53.100. If a unit is modified pursuant to the motion of the employee relations officer hereunder, employee organizations may thereafter file recognition petitions seeking to become the exclusively recognized employee organization for such new appropriate unit or units pursuant to PMC 2.53.030. [Ord. 1168 § 2, 2000.]

#### **2.53.100 Appeals.**

An employee organization aggrieved by an appropriate unit determination of the employee relations officer under PMC 2.53.090, within 10 days of notice thereof, may request the intervention of the California State Mediation and Conciliation Service pursuant to Government Code Sections 3507.1 and 3507.3, or may in lieu thereof or thereafter appeal such determination to the city council for final decision within 15 days of notice of the employee relations officer's determination or the termination of proceedings pursuant to Government Code Sections 3507.1 and 3507.3, whichever is later.

An employee organization aggrieved by a determination of the employee relations officer that a recognition petition (PMC 2.53.030), challenging petition (PMC 2.53.050) or decertification of recognition petition (PMC 2.53.070), or employees aggrieved by a determination of the employee relations officer that a decertification petition (PMC 2.53.070), has not been filed in compliance with the applicable provisions of this article may, within 15 days of notice of such determination, appeal the determination to the city council for final decision.

Appeals to the city council shall be filed in writing with the city clerk, and a copy thereof served on the employee relations officer. The city council shall commence to consider the matter within 30 days of the filing of the appeal. The city council may, in its discretion, refer the dispute to a third party hearing process. Any decision of the city council on the use of such procedure, and/or any decision of the city council determining the substance of the dispute, shall be final and binding. [Ord. 1168 § 2, 2000.]

### **Article III. Administration**

#### **2.53.110 Submission of current information by recognized employee organizations.**

All changes in the information filed with the city by an exclusively recognized employee organization under subsections (A) through (H) of its recognized petition under PMC 2.53.030 shall be submitted in writing to the employee relations officer within 14 days of such change. [Ord. 1168 § 2, 2000.]

#### **2.53.120 Payroll deduction on behalf of employee organizations.**

Upon formal acknowledgment by the city of an exclusively recognized employee organization under this chapter, only such recognized employee organization shall be eligible for payroll deductions of membership dues and insurance premiums for plans sponsored by such organization upon the written authorization of employees in the unit represented by the exclusively recognized employee organization on forms provided therefor by the city. The providing of such service to the exclusively recognized employee organization by the city shall be contingent upon and in accordance with the provisions of memoranda of understanding and/or applicable administrative procedures. [Ord. 1168 § 2, 2000.]

#### **2.53.130 Employee organization activities – Use of city resources.**

Access to city work locations and the use of city unpaid 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, and shall be limited to lawful activities consistent with the provisions of this chapter that pertain directly to the employer-employee relationship, including general business meetings. These meetings shall not include such internal employee organization business as soliciting membership, campaigning for office, and organizing meetings and elections, and shall not interfere with the efficiency, safety and security of city operations. Requests for use of city facilities by an employee organization shall follow the same procedure as required of any organization. [Ord. 1168 § 2, 2000.]

#### **2.53.140 Administrative rules and procedures.**

The city manager is authorized to establish such rules and procedures as appropriate to implement and administer the provisions of this chapter after consultation with affected employee organizations. [Ord. 1168 § 2, 2000.]

## **Article IV. Impasse Procedure**

### **2.53.150 Applicability**

The provisions of this Article shall apply to disputes between the City and an employee organization pertaining to matters within the scope of representation under the MMBA regarding matters contained in or proposed for a MOU, which remain unresolved following good faith negotiations. This Article also shall apply to any other disputes that are required by law to be submitted to mandatory non-binding factfinding under California Government Code section 3505.4 et seq.

### **2.53.160 Declaration of impasse and Scheduling of Impasse Meeting.**

If the meet and confer process has reached an impasse as defined in this Resolution, either party may declare impasse and invoke impasse procedures by submitting to the other a written declaration of impasse, together with a statement in detail of its position on all disputed issues. An impasse meeting shall then be scheduled by the Employee Relations Officer. The purpose of such impasse meeting shall be:

- A. To identify and specify in writing the issue or issues that remain in dispute;
- B. To review the positions of the parties in a final effort to resolve such disputed issue or issues; and
- C. If the dispute is not resolved, to discuss arrangements for the utilization of the impasse procedures provided herein.

### **2.53.170 Option for Mediation.**

If the parties agree to submit the dispute to mediation, and agree on selection of a mediator, the dispute shall be submitted to mediation. All mediation proceedings shall be private. The mediator shall make no public recommendation, nor take any public position at any time concerning the issues. If the parties do not agree to utilize mediation and agree on a mediator within ten (10) days following the date that either party provided the other with a written notice of a declaration of impasse, the dispute shall not be submitted to mediation.

### **2.53.180 Request for Fact-finding.**

An exclusive representative may request that the parties' differences be submitted to a fact-finding panel pursuant to California Government Code section 3505.4. Such a request may be filed with the California Public Employment Relations Board (PERB):

- A. Not sooner than thirty (30) days, but not more than forty-five (45) days, following the appointment or selection of a mediator pursuant to the parties' agreement; or
- B. If the parties' dispute is not submitted to mediation, not later than thirty (30) days following the date that either party provides the other with a written notice of a declaration of impasse.

**2.53.190 Selection of the Members of the Fact-finding Panel.**

- A. *Unilaterally Selected Members.* The City and the employee organization shall each unilaterally designate one (1) panel member. In accordance with Government Code section 3505.4(a), these selections shall be made within five (5) days of the City receiving an employee organization's written request for fact-finding.
- B. *Chairperson.* In accordance with PERB Regulation 32804, PERB will, within five (5) days of determining that a request for fact-finding is sufficient, provide the parties with a list of seven (7) neutral fact-finders (the "PERB List").

1. Mutual Agreement on a Chairperson

- a. *Use of a Binding Strike Process.* The parties may agree at any time, either before or after receiving the list, to reach mutual agreement on a chairperson by using the PERB List (or any other agreed upon list) to participate in a strike process, the results of which will be binding upon the parties. Should the parties agree to use a binding strike process, the individual selected as a result of this process shall be considered by both parties to be "mutually agreed upon" under Government Code section 3505.4(b) and PERB Regulation 32804.
- b. *Agreement Through Other Means.* If the parties do not agree to use a binding strike process, the parties may otherwise mutually agree to designate as chairperson any individual from the PERB List; or any other individual.

2. *Default Designation of a Chairperson by PERB.* In the event the parties do not notify PERB within five (5) working days (days on which PERB is officially open for business) that they have mutually agreed upon a person to chair the panel (either by using a binding strike process or otherwise), PERB will designate one of the seven persons on the PERB list.

**Mutual Agreement May Override PERB Designation.** In accordance with Government Code section 3505.4(b), the parties may, within five (5) days of PERB's designation of a

chairperson, notify PERB that the parties have mutually agreed on a chairperson (either by using a binding strike process or otherwise) in lieu of the individual previously selected by PERB.

**2.53.200 Confidential Hearings and Deliberations of Fact-finding Panel.**

Unless otherwise mandated by state law, hearings before the fact-finding panel and deliberations of the fact-finding panel shall be confidential and closed to the public.

**2.53.210 Considerations for Fact-finding Panel.**

In addition to specific criteria that the fact-finding panel must consider by law, the panel shall consider, weigh, and be guided by the following additional criteria:

- A. The City's ability to meet the total cost of the proposals from current and projected on-going City revenues;
- B. The costs to the City of funding all City services, programs and activities, including but not limited to costs related to personnel, contracts, liabilities, debt service, supplies and materials, maintenance of appropriate reserves as provided by City policy, and infrastructure maintenance and improvements as determined by the Board;
- C. The City's ability to recruit and retain employees;
- D. The economic climate and fiscal health of the region, the State of California and the nation as a whole.

**2.53.220 Fact-finding Report and Recommended Terms of Settlement.**

The fact-finding panel shall limit its findings and recommendations to matters within the scope of representation, unless the parties mutually agree in writing to submit additional issues to the panel that are non-mandatory subjects. The City shall make the Panel's findings and recommendations publicly available within ten (10) days of receiving them.

**2.53.230 Implementation of Last, Best and Final Offer.**

Upon the exhaustion of the impasse procedures described herein, and after the City has held a public hearing regarding the impasse, but no earlier than ten (10) days after the issuance of the Fact-finding Panel's issuance of its written findings and recommended terms for settlement, the City may implement its last, best and final offer.

**2.53.240 Severability.**

If any section, subsection, sentence, clause, or phrase of this Article is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Article. The Board declares that it would have approved this Article and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Article would be subsequently declared invalid or unconstitutional.

**2.53.250 Operative Date; Expiration; Transition.**

This Article shall be operative February 19, 2013. It shall remain operative only so long as mandatory non-binding fact-finding under Government Code section 3504.5 et seq. (or any subsequent applicable law or regulation) is required for the City. If at any time and for any reason the City is no longer subject to mandatory fact-finding, this Article shall expire immediately and automatically and shall have no further force and effect.

**2.53.260 Costs of impasse procedures.**

Each party shall bear its own costs for mediation and fact-finding, including the costs of their advocates. Any costs for the mediator, neutral fact-finder, facilities, court reporters, or similar costs shall be borne equally by the employer and the recognized employee organization.

**Article V. Miscellaneous Provisions**

**2.53.270 Construction.**

This chapter shall be administered and construed as follows:

- A. Nothing in this chapter shall be construed to deny to any person, employee, organization, the city, or any authorized officer, body or other representative of the city, the rights, powers and authority granted by federal or state law.
- B. This chapter shall be interpreted so as to carry out its purpose as set forth in Article I of this chapter.
- C. In accordance with Government Code Section 3509, the enactment of this chapter shall not be construed as making the provisions of Section 923 of the Labor Code applicable to public employees.

[Ord. 1168 § 2, 2013.]