

RESOLUTION NO. 11- 60

EMPLOYER-EMPLOYEE RELATIONS RULES

WHEREAS, the Santa Clara Valley Water District (the "District") desires to adopt reasonable rules and regulations for the administration of employer-employee relations pursuant to the Meyers-Milias-Brown Act ("MMBA"), California Government Code section 3500, *et seq.*; and

WHEREAS, the District has provided notice of this Employer-Employee Relations Rules Resolution to all affected Exclusively Recognized Employee Organizations, and all organizations have had the opportunity to meet and consult regarding the contents of this Resolution pursuant to the MMBA; and

WHEREAS, the District intends that this Employer-Employee Relations Rules Resolution supersede and replace District Board Resolutions No. 70-35 and No. 70-36.

NOW, THEREFORE, BE IT RESOLVED that the District hereby adopts these rules and procedures governing employer-employee relations pursuant to the MMBA:

ARTICLE I—GENERAL PROVISIONS

Section 1. Statement of Purpose

The purpose of this Employer-Employee Relations Rules Resolution ("Resolution") is to implement the District's rules and regulations governing labor relations pursuant to Section 3507 of the California Government Code. This Resolution supersedes all previous employer-employee resolutions and any other written policies that conflict with this Employer-Employee Relations Rules Resolution, including without limitation, District Board Resolutions No. 70-35 (Providing a Uniform Basis for Recognizing the Right of Employees of Santa Clara Valley Water District to Join and be Represented by Organizations of their Choice) and No. 70-36 (Adopting Supplemental Rules and Regulations Governing Employee Management Relations).

Section 2. Definitions

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

- A. "Appropriate Unit" means a unit of employee classes or positions, established pursuant to this Resolution.
- B. "District" means the Santa Clara Valley Water District, and, where appropriate herein, refers to the Board of Directors or any duly authorized District representative.
- C. "Confidential Employee" means an employee who assists and acts in a confidential capacity to persons who formulate, determine, and effectuate management policies with regard to labor relations, or regularly substitutes for employees having such duties.
- D. "Consult/Consultation in Good Faith" means to communicate orally or in writing for the purpose of presenting and obtaining views or advising of intended actions;

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it does not involve an exchange of proposals and counterproposals with an Exclusively Recognized Employee Organization on negotiable subjects in an endeavor to reach agreement in the form of a Memorandum of Understanding and it is not subject to impasse and impasse-resolution procedures specified in this Resolution.

- E. "Day" means calendar day unless expressly stated otherwise.
- F. "Employee Organization" means any organization of employees that has as one of its primary purposes representing those employees in their relations with the District.
- G. "Employee Relations Officer" means the District's Chief Executive Officer or the District's Chief Executive Officer's duly authorized representative or designee.
- H. "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 unit designated pursuant to this Resolution, 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.
- I. "Grievance" shall be as defined in and shall be processed in accordance with procedures established by the District and by any Memorandum of Understanding applicable to the employee at issue. In the event of any actual conflict between such District procedures and Memoranda of Understanding, the provisions of the Memoranda of Understanding shall prevail.
- J. "Impasse" means a deadlock in negotiations concerning matters within the scope of representation.
- K. "Management Employee" means (1) an employee having responsibility for formulating, administering or managing the implementation of District policies and programs; or (2) 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 responsibility to direct them or to adjust their grievances, or to recommend any of the foregoing personnel actions if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires some use of independent judgment.
- L. "Meet and Confer" means performance by duly authorized District representatives and duly authorized representatives of an Exclusively Recognized Employee Organization recognized as the majority representative of their mutual obligation to meet at reasonable times and to confer in good faith regarding matters within the scope of representation, including wages, hours, and other terms and conditions of employment, in an effort to: (1) reach agreement on those matters within the authority of such representatives; and (2) reach agreement on what will be recommended to the District's Board of

Directors on those matters within the decision making authority of the Board. This does not require either party to agree to a proposal or to make a concession.

- M. "Memorandum of Understanding" or "MOU" means a written, negotiated agreement or contract between the District and an Exclusively Recognized Employee Organization that sets out wages, hours and fringe benefits over a stated period of time. MOUs are not binding until approved by the District Board of Directors.
- N. "Meyers-Milias-Brown Act" or "MMBA" refers to the California Government Code Sections 3500, et seq.
- O. "Professional employee" means employees engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction including, but not limited to, engineers, architects, and the various types of physical, chemical, and biological scientists.
- P. "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. The only authorization which shall be considered as proof of employee support hereunder shall be the authorization last signed by an employee. The words "recently signed" shall mean within ninety (90) days prior to the filing of a petition.
- Q. "Scope of Representation" means all matters relating to employment conditions and employer-employee relations, including, but not limited to, 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.

Section 3. Designation of Employee Relations Officer

The District Board of Directors may designate an Employee Relations Officer who shall be the District's principal representative in all matters of employer-employee relations, with authority and responsibility to meet and confer in good faith on matters within the scope of representation including wages, hours and other terms and conditions of employment. The Employee Relations Officer so designated is authorized to delegate these duties and responsibilities; provided, that any written memorandum of understanding resulting from a meeting and conferring process shall be signed by the Employee Relations Officer.

ARTICLE II—DISTRICT RIGHTS

- A. Unless specifically in conflict with any MOU, all management rights shall remain vested exclusively with the District. District management rights include but are not limited to:
 - 1. The right to determine the mission of the District, including without limitation the District's departments, divisions, institutions, boards and commissions;

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2. The right of full and exclusive control of the management of the District; supervision of all operations; determinations of methods, means, location and assignments of performing all work; and the composition, assignment, direction, location and determination of the size and mission of the workforce;
3. The right to determine the work to be done by employees, including establishment of service levels, appropriate staffing and the allocation of funds for any position(s) within the District;
4. The right to review and inspect, without notice, all District-owned facilities and equipment, including without limitation desktop computers, work areas and desks, email, computer storage drives, voicemail systems, vehicles, and filing cabinets and systems;
5. The right to change or introduce different, new or improved operations, technologies, methods or means regarding any District work, and to contract out for work;
6. The right to establish and modify qualifications for employment, including the content of any job classification, job description or job announcement, and to determine whether minimum qualifications are met;
7. The right to maintain and modify the District's job classifications;
8. The right to establish and enforce employee performance standards;
9. The right to schedule and assign work, make reassignments, and assign overtime work;
10. The right to hire, fire, promote, discipline, reassign, transfer, release, discipline, layoff, terminate, demote, suspend or reduce in step or grade, all employees;
11. The rights to establish and modify bargaining units; to assign new or amended classifications to particular bargaining units; and to designate any position confidential, management or otherwise for bargaining unit assignments pursuant to the MMBA;
12. The right to inquire and investigate regarding complaints or concerns about employee performance deficiencies or misconduct of any sort, including the right to require employees to appear, respond truthfully and cooperate in good faith regarding any District investigation;
13. The right to maintain orderly, effective, and efficient operations; and
14. The right to take any appropriate lawful measure to ensure the best delivery of services to the public in response to any work stoppage, including without limitation: (a) altering work schedules or locations to ensure coverage, and (b) investigating absences to ensure no violation of District policies.

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- B. Except in cases of emergencies as defined by the MMBA, the District shall provide advance notice to each Exclusively Recognized Employee Organization affected by any ordinance, rule, resolution, or regulation directly relating to matters within the scope of representation proposed to be adopted by the District and shall give such Exclusively Recognized Employee Organization the opportunity to meet with District representatives. In the event of emergency causing the District to immediately adopt an ordinance, rule, resolution, or regulation directly relating to matters within the scope of representation, the District shall provide notice and opportunity to meet at the earliest practicable time.

ARTICLE III—RIGHTS OF DISTRICT EMPLOYEES

Unless specifically in conflict with a MOU, all employees shall possess the following rights:

- A. 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 employer-employee relations;
- B. The right to represent themselves individually in their employment relations with the District;
- C. The right to refuse to join or participate in the activities of Employee Organizations; and
- D. The right to be free from interference, intimidation, restraint, coercion, or discrimination because of exercising rights specified in this section.

ARTICLE IV—REPRESENTATION PROCEEDINGS

Section 1. 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 Recognition 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 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

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international organization, and, if so, the name and address of each such other organization.

- F. Official 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. The job classifications or position titles of employees in the unit claimed to be appropriate and the approximate number of member employees therein.
- I. A statement that the Employee Organization has in its possession proof of employee support as herein defined to establish that at least thirty (30) percent of 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.
- J. 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.
- K. 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 2. District Response to Recognition Petition

- A. Upon receipt of the Petition, the Employee Relations Officer shall determine whether:
 - 1. There has been compliance with Article IV, Section 1, of this Resolution; and
 - 2. The proposed representation unit is an appropriate unit in accordance with this Resolution.
- B. If an affirmative determination is made by the Employee Relations Officer on the foregoing two matters, he/she shall so inform the petitioning organization, shall give written notice of such request for recognition to the employees in the unit and shall take no action on said request for thirty (30) days thereafter. If either of the foregoing matters are not affirmatively determined, the Employee Relations Officer shall offer to consult thereon with such petitioning Employee Organization and, if such determination thereafter remains unchanged, shall inform that organization of the reasons therefore in writing. The petitioning Employee

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Organization may appeal such determination in accordance with Article IV, Section 8 of this Resolution.

Section 3. Open Period for Filing Challenging Petition

Within thirty (30) days of the date written notice was given to affected employees that a valid recognition petition for an appropriate unit has been filed, any other Employee Organization may file a competing request to be formally acknowledged as the exclusively recognized Employee Organization of the employees in the same or in an overlapping unit (one which corresponds with respect to some but not all the classifications or positions set forth in the recognition petition being challenged), by filing a petition evidencing proof of employee support in the unit claimed to be appropriate of at least thirty (30) percent and otherwise in the same form and manner as set forth in Section 1 of this Article IV. 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 this Resolution. The petitioning Employee Organizations shall have fifteen (15) days from the date notice of such unit determination is communicated to them by the Employee Relations Officer to amend their petitions to conform to such determination or to appeal such determination pursuant to Article IV, Section 8 of this Resolution.

Section 4. Election Procedure

- A. 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 its rules and procedures subject to the provisions of this Resolution. If both sides cannot agree on the party to conduct the election, the election shall be conducted by the State Mediation and Conciliation Service (SMCS). All Employee Organizations that have duly submitted Recognition Petitions which have been determined to be in conformance with Section 1 of this Article IV shall be included on the ballot. All challenging Employee Organizations who have submitted written proof that they represent at least ten (10) percent of the employees in the unit found to be appropriate, and have submitted a Petition for Recognition as required by Section 1 of this Article IV, shall be included on the ballot. The choice of "no organization" shall also be included on the ballot. Employees entitled to vote in such election shall only be those persons employed in regular permanent positions within the designated appropriate unit who were employed during the pay period immediately prior to the date which ended at least fifteen (15) days before the date the election commences, including those who did not work during such period because of illness, vacation or other authorized leaves of absence, and who are employed by the District in the same unit on the date of the election.
- B. An Employee Organization shall be formally acknowledged as the Exclusively Recognized Employee Organization for the designated appropriate unit following an election if it received a numerical majority of all votes cast in the election. In

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an election involving three or more choices, where none of the choices received 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.

- C. There shall be no more than one valid election under this Resolution pursuant to any Recognition Petition in a 12-month period affecting the same unit.
- D. The District may conduct elections, with election procedures subject to consultation with those Employee Organizations on the ballot. The Employee Organizations on the ballot may observe the balloting and counting. The employees in the appropriate unit(s) shall be granted reasonable release time to vote.
- E. Costs of conducting elections shall be borne in equal shares by the District and by each Employee Organization appearing on the ballot.

Section 5. Procedure for Decertification of Exclusively Recognized Employee Organization

- A. 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 following periods: (a) during the thirty (30) day period commencing one hundred twenty (120) days prior to the expiration date of a Memorandum of Understanding then having been in effect less than three (3) years; (b) for MOUs in effect more than three (3) years, during the months of October and November of each year after the third year the MOU is in effect; and (c) when there is no MOU in effect, during the months of October and November of each year. A Decertification Petition must 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:
 - 1. The name, address and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information.
 - 2. 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.
 - 3. 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.
 - 4. Proof of employee support that at least thirty (30) percent of the employees in the established appropriate unit no longer desire to be

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represented by the incumbent Exclusively Recognized Employee Organization. Such written proof shall be dated within six months of the date upon which the Decertification Petition is filed. 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.

- B. An Employee Organization may, in satisfaction of the Decertification Petition requirements hereunder, file a Petition under this section in the form of a Recognition Petition that evidences proof of employee support of at least thirty (30) percent of the employees in the appropriate unit having designated the Employee Organization to represent them in their employment relations with the District that includes 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, and otherwise conforms to the requirements of Section 1 of this Article IV.
- C. The Employee Relations Officer shall initially determine whether the Decertification Petition has been filed in compliance with the applicable provisions of this Section 5. If this 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 Decertification 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 Article IV, section 8 of this Resolution. 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.
- D. The Employee Relations Officer shall thereupon arrange for a secret ballot election to be held on or about thirty (30) days after such notice to determine the wishes of unit employees as to the question of decertification and, if a Recognition Petition was duly filed hereunder, the question of representation. Such election shall be conducted in conformance with Section 4 of this Article IV.
- E. If a different Employee Organization is formally acknowledged as the Exclusively Recognized Employee Organization, upon such formal acknowledgment, such Employee Organization shall be bound by all the terms and conditions of any Memorandum of Understanding then in effect for its remaining term, and the incumbent Exclusively Recognized Employee Organization shall be released from all obligations to represent employees in the unit affected.
- F. There shall be no more than one valid decertification election in the same unit in any consecutive twelve-month period.

Employer-Employee Relations Rules**Section 6. Policy and Standards for Determination of Appropriate Units**

- A. The District's Employee Relations Officer shall designate and maintain a description of all current bargaining units in the District. The Employee Relations Officer shall have the management discretion to form and define reasonable bargaining units, and to modify bargaining units based on the procedures specified in this Resolution. The Employee Relations Officer may consider any lawful reasonable criteria for the determination of appropriate unit. A key criterion for unit determination is whatever grouping provides the broadest feasible grouping of positions that share an identifiable community of interest. In addition, the Employee Relations Officer may consider, but is not limited to, the following criteria:
1. Community of interest among employees, and avoiding actual or potential conflicts of interest within the bargaining unit;
 2. Historical relationships including the organizational structure and collective bargaining;
 3. The effective delivery of services;
 4. The application and consistency of wage, hour and benefit packages (including retirement benefits) within the bargaining unit;
 5. Specific legal requirements;
 6. Employee rights to freely choose labor representatives according to their preference;
 7. The confidential, management and/or supervisory status of any employee; and
 8. Efficiencies in the labor negotiations process.
- B. Management and confidential employees, as defined herein, may not represent any Employee Organization or Exclusively Recognized Employee Organization which represents employees who are non-managerial or non-confidential.
- C. The Employee Relations Officer shall, after notice to and consultation with affected Exclusively Recognized Employee Organizations, 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 Resolution.

Section 7. Procedure for Modification of Established Appropriate Units

- A. Requests by Employee Organizations or Exclusively Recognized Employee Organizations for modifications of established appropriate units may be considered by the Employee Relations Officer only during the periods specified in

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Section 5 of this Article IV. Such requests shall be submitted in the form of a Recognition Petition and, in addition to the requirements set forth in Section 1 of this Article IV, shall contain a complete statement of all relevant facts and citations in support of the proposed modified unit in terms of the procedures and standards set forth in this Resolution. The Employee Relations Officer shall process such petitions as other Recognition Petitions under this Resolution.

- B. The Employee Relations Officer may on his/her own motion propose that an established unit be modified. Such a proposal may be made during the period specified in Section 5 of this Article IV; however, this time restriction shall not apply to proposed modifications relating to Confidential Employees or Management Employees. Proposed modifications of established units relating to Confidential Employees or Management Employees may be made any time the Employee Relations Officer determines that business circumstances justify them. The Employee Relations Officer is authorized to designate Confidential Employees, and after consultation with Exclusively Recognized Employee Organizations, to designate Management Employees, and may at any time revoke such designations. Upon such designations being made, the Employee Relations Officer shall assign such Management Employees to an appropriate management representation unit and such Confidential Employees to an appropriate confidential employee unit. Upon revocation of such designation as Confidential Employee or Management Employee, the Employee Relations Manager shall assign the affected employee to an appropriate representation unit.
- C. The Employee Relations Officer may, from time to time, combine, alter or modify Confidential Employee representation units, and after consultation with recognized employee organizations concerned, combine, alter or modify Management Employee representation units.
- D. The Employee Relations Officer shall give written notice of the proposed modification(s) to any affected Exclusively Recognized Employee Organization and shall hold a meeting concerning the proposed modification(s), at which time all affected Employee Organizations and Exclusively Recognized Employee Organizations shall be heard. Thereafter the Employee Relations Officer shall determine the composition of the appropriate unit or units in accordance with this Resolution, and shall give written notice of such determination to the affected Exclusively Recognized Employee Organizations. The Employee Relations Officer's determination may be appealed as provided in Section 8 of this Article IV. 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 this Resolution.

Section 8. Appeals

- A. An Employee Organization or Exclusively Recognized Employee Organization aggrieved by an appropriate unit determination of the Employee Relations Officer may request mediation through the California State Mediation and Conciliation Service within ten (10) days of notice of the unit determination.

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- B. Determinations by the Employee Relations Officer concerning: (a) the designation or modification of an appropriate unit; (b) recognition petitions; or (c) decertification petitions may be appealed within fifteen (15) days of notice of such determination, to the District's Board of Directors for final decision.
- C. Appeals to the District's Board of Directors shall be filed in writing with the District's Clerk of the Board, and a copy thereof served on the Employee Relations Officer. The District's Board of Directors shall commence to consider the matter within thirty (30) days of the filing of the appeal. The District's Board of Directors may, in its discretion, refer the dispute to a third party hearing process. Any decision of the District's Board of Directors on the use of such procedure, and/or any decision of the District's Board of Directors determining the substance of the dispute, shall be final and binding.

ARTICLE V—ADMINISTRATION**Section 1. Submission of Current Information by Exclusively Recognized Employee Organization**

All changes in the information filed with the District by an Exclusively Recognized Employee Organization in its Recognition Petition shall be submitted in writing to the Employee Relations Officer within thirty (30) days of such change.

Section 2. Payroll Deductions on Behalf of Exclusively Recognized Employee Organizations

Upon formal acknowledgment by the District of an Exclusively Recognized Employee Organization under this Resolution, only such Recognized Employee Organization may be provided 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 approved by the District. The providing of such service to the Exclusively Recognized Employee Organization by the District shall be contingent upon and in accordance with the express provisions of Memoranda of Understanding.

Section 3. Agency Shop / Organizational Security Agreements

If adopted, agency shop arrangements between the District and any Exclusively Recognized Employee Organization shall be made in accordance with the MMBA, as amended, and other applicable law. Exclusively Recognized Employee Organizations shall fully defend and indemnify the District, to the extent permitted by law, against any liability arising from a claim, demand, or other action relating to the District's compliance with the agency shop / organizational security arrangements.

Section 4. Exclusively Recognized Employee Organization Activities—Access to Work Locations

- A. Reasonable access to employee work locations may be granted to officers of Exclusively Recognized Employee Organizations and their officially designated

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representatives, for the purpose of processing grievances or contacting members of the organization concerning business within the scope of representation. Such officers or representatives shall not enter any work location without the consent of the Employee Relations Officer. Access shall be restricted so as not to interfere with the normal operations of the department or with established safety or security requirements.

- B. Solicitation of membership and activities concerned with the internal management of an Exclusively Recognized Employee Organization, such as collecting dues, holding membership meetings, campaigning for office, conducting elections and distributing literature, shall not be conducted during working hours.

Section 5. Exclusively Recognized Employee Organization Activities—Use of District Facilities

- A. Exclusively Recognized Employee Organizations may, with the prior approval of the Employee Relations Officer, be granted the use of District facilities during non-work hours for meetings of District employees provided space is available. All such requests shall be in writing.
- B. The use of District equipment (including without limitation telephones, information technology systems, email, computers, facsimiles, photocopiers) - other than items normally used in the conduct of business meetings, such as desks, tables, chairs, blackboards - is prohibited, unless prior approval is given.

Section 6. Exclusively Recognized Employee Organization Activities—Use of Bulletin Boards

Exclusively Recognized Employee Organizations may install bulletin boards with the approval of the Employee Relations Officer under the following conditions:

- A. Postings on Exclusively Recognized Employee Organization bulletin boards will be restricted to meeting notices and materials related to organization activities. The bulletin board shall not be used to post material which endorses or supports political candidates or positions in elections.
- B. The District and the Exclusively Recognized Employee Organization will determine where bulletin boards shall be placed.
- C. An Exclusively Recognized Employee Organization that does not abide by these rules may forfeit its right to have materials posted.

Section 7. Administrative Rules and Procedures

The District's Employee Relations Officer is hereby authorized to establish such rules and procedures as appropriate to implement and administer the provisions of this Resolution after consultation with affected Exclusively Recognized Employee Organizations.

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Section 8. Availability of Data

- A. The District will make available to Exclusively Recognized Employee Organizations non-confidential information pertaining to employment relations as is contained in the records of the District, subject to the limitations and conditions set forth in this section and in the California Public Records Act.
- B. Such information shall be made available during regular office hours in accordance with the District's rules and procedures for making records available after payment of established reasonable costs, where applicable.
- C. Information which shall be made available to Exclusively Recognized Employee Organizations includes regularly published data covering subjects under discussion. Data collected on a promise to keep its source confidential may be made available in statistical summaries, but shall not be made available in such form as to disclose the source.
- D. Nothing in this section shall be construed to require the disclosure of:
 - 1. Personnel, medical and similar records, the disclosure of which would constitute an unwarranted invasion of personal privacy;
 - 2. Working papers or memorandum which are not retained in the ordinary course of business, pre-publication budget documents, or any records where the public interest served by not making the record available clearly outweighs the public interest served by disclosure of the record;
 - 3. Records pertaining to litigation to which the District is a party, or to claim or appeals which have not been settled;
 - 4. Nothing in this section shall be construed as requiring the District to do research for an inquirer or to do programming or assemble or compile data in a manner other than usually done by the District.

Section 9. Memorandum of Understanding.

When the meeting and conferring process is concluded between the District and an Exclusively Recognized Employee Organization representing a majority of the employees in an appropriate unit, all agreed upon matters shall be incorporated in a written memorandum of understanding signed by the duly authorized Management Representative and the duly authorized representative of such organization.

ARTICLE VI—IMPASSE PROCEDURES

Section 1. Initiation of Impasse Procedures

- A. Impasse procedures are applicable only to negotiations concerning a memorandum of understanding or successor memorandum of understanding.

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Impasse procedures do not apply to meet and confer issues that are not mandatory subjects of negotiation under the law, or which occur during a period when a MOU is in effect.

- B. If the meet and confer process concerning a MOU has reached impasse as defined in this Resolution, either party may initiate the impasse procedures by filing with the other party a written request for an impasse meeting, together with a statement of its position on all issues. The party not requesting the impasse meeting shall also serve a written statement with its position on the issues. An impasse meeting shall then be scheduled promptly by the Employee Relations Officer. The purpose of such meeting shall be:
1. To review the position of the parties in a final effort to reach agreement on a Memorandum of Understanding; and
 2. If the impasse is not resolved, to discuss arrangements for the use of the impasse procedures provided herein.

Section 2. Impasse Procedures

- A. After the Article VI, Section B(1) meeting, either party may request that the dispute be submitted to mediation. The costs of mediation shall be borne equally. Mediation shall be conducted by a mutually agreed upon mediator, or a mediator supplied by the California State Mediation and Conciliation service. Mediation shall be confidential. The mediation shall not make public recommendations or issue any decision concerning the issues.
- B. If the matter is not resolved after mediation, or if one party refuses to mediate, the dispute shall be resolved by the Board of Directors. In resolving an impasse, the District's Board of Directors may take such action regarding the impasse as it deems appropriate and in the public interest. Any legislative action by the District's Board of Directors on the impasse shall be final and binding.

Section 3. Costs of Impasse Procedures

The costs for the services of a mediator or any other impasse resolution processes agreed-upon by the parties shall be borne equally by the District and Exclusively Recognized Employee Organization. The cost for other separately incurred costs during impasse resolution procedures shall be borne separately by the parties.

ARTICLE VII—MISCELLANEOUS PROVISIONS

- A. Savings and Separability: This Resolution is intended to comport with all applicable state and federal laws, and it should be interpreted and applied to harmonize with all such law, reserving the broadest legal measure of authority to the District's Board of Directors. In the event a court of competent jurisdiction determines that some provision is inconsistent with applicable and binding law, then that provision shall be severed and all remaining portions of the Resolution shall continue in full force and effect. Upon request by the District, a recognized bargaining representative will meet and consult with

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the District promptly upon request in an effort to resolve any amendments that are necessary or advisable in light of changes to existing law, or interpretations of the law that impact this Resolution.

- B. Anti-Discrimination: The District is committed to ensuring that its workplaces are free from discrimination and harassment made unlawful pursuant to Title VII of the Civil Rights Act, as amended, the California Fair Employment and Housing Act, and other state and federal laws regarding discrimination. This Resolution shall be interpreted to comply with such laws. All memoranda of understanding, including side letters, adopted pursuant to the MMBA and this Resolution shall be interpreted to comply with such laws.
- C. Construction: This Resolution should be interpreted based on its plain meaning and intent of the District Board of Directors as expressed herein. No legislative intent may be implied or inferred based upon changes, if any, to draft resolutions during the meet and consult process with affected Exclusively Recognized Employee Organizations.
- D. Superseding Effect: This Resolution shall supersede and supplant all prior rules and processes governing employer-employee relations, including District Board Resolutions No. 70-35 and No. 70-36.

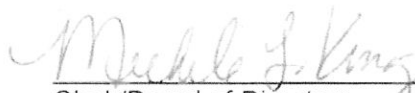
PASSED AND ADOPTED by the Board of Directors of Santa Clara Valley Water District by the following vote on August 23, 2011

AYES:	Directors	B. Schmidt, J. Judge, T. Estremera, P. Kwok, L. LeZotte, R. Santos, D. Gage
NOES:	Directors	None
ABSENT:	Directors	None
ABSTAIN:	Directors	None

SANTA CLARA VALLEY WATER DISTRICT

By: 
DONALD F. GAGE
Chair/Board of Directors

ATTEST: MICHELE L. KING


Clerk/Board of Directors