RECOMMENDED ACTION AND JUSTIFICATION:
Approve this Resolution adopting the attached Employer-Employee Relations Policy.

BACKGROUND AND HISTORY OF BOARD ACTIONS:
The Board of Supervisors established an Employee Relations Policy, Resolution 70-62, August 19, 1970. The County Negotiator has duly met and consulted with Mariposa County’s three bargaining units over the last several months (Public Employees’ Association, Managerial/Confidential Organization and the Deputy Sheriffs’ Association) to develop the attached up-dated, comprehensive Employer-Employee Relations Policy. This Policy would repeal and supersede Resolution 70-62 in its entirety.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:
1) Not approve this Resolution
2) The current, out-dated employee relations policy would remain in effect.

COSTS: (X) Not Applicable
A. Budgeted current FY $__________
B. Total anticipated costs $__________
C. Required add’l funding $__________
D. Source: _______________________

SPECIAL INSTRUCTIONS:
List the attachments and number the pages consecutively:

SOURCE: ( ) 4/5ths Vote Required
A. Internal transfers $__________
B. Unanticipated revenues $__________
C. Reserve for Contingency $__________
D. Description: _______________________
Balance in Reserve for Contingency if approved: $__________

CLERK’S USE ONLY:
Res. No.: 90-299
Ord. No.: _______________________
Vote — Ayes: ______ Noes: ________
Absent: ________ Abstained: ________
Approved ( ) Denied ( )
Minutes Order Attached

The foregoing instrument is a correct copy of the original on file in this office.
Date: _______________________

ATTEST: MARGIE WILLIAMS
County of Mariposa, State of CA
By: _______________________
Deputy

ADMINISTRATIVE OFFICER’S RECOMMENDATION:
This item on agenda as:

Recommended
Not Recommended
For Policy Determination
Submitted With Comment
Returned for Further Action

Comment: _______________________

A.O. Initials: _______________________

Action Form Revised 12/89
MARIPOSA COUNTY EMPLOYER-EMPLOYEE RELATIONS POLICY
OUTLINE

SECTION 1  Purpose
SECTION 2  Definitions
SECTION 3  County Rights
SECTION 4  Employee Rights
SECTION 5  Unfair Employment Relations Practices
  5.1  Management
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SECTION 6  Employee Organization - Registration
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SECTION 10 Representation Proceedings
  10.1  Appropriate Units
  10.2  Filing Recognition Petition
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  10.6  Decertification
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MARIPOSA COUNTY EMPLOYER-EMPLOYEE RELATIONS POLICY

ADOPTED BY RESOLUTION NO.

WHEREAS, the Meyers-Millias-Brown Act provides for the establishment of uniform and orderly methods of communication between employees and the public agencies by which they are employed and for resolving disputes regarding wages, hours and other terms and conditions of employment;

WHEREAS, the Board desires to implement local rules and regulations governing employer-employee relations within the County of Mariposa and has consulted in good faith with the recognized employee organizations regarding said rules and regulations.

NOW, THEREFORE, BE IT RESOLVED that the following constitutes the employer-employee relations policies and procedures.

SECTION 1. PURPOSE

This Resolution implements Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500 et seq.) captioned "Local Public Employee Organizations", by providing orderly procedures for the administration of employer-employee relations between the County and employee organizations. However, nothing contained herein shall be deemed to supersede the provisions of State law, County ordinances, resolutions and rules which establish and regulate the personnel system, or which provide for other methods of administering employer-employee relations. This Resolution is intended, instead, to strengthen methods of administering employer-employee relations.

It is the specific purpose of this Resolution:

1.1 To establish an orderly system for conducting employer-employee relations within the County.

1.2 To establish a system to facilitate communication between management and employees and to provide for the exchange of information and ideas.

1.3 To clarify in writing the rights and obligations of employee, employee organizations, and County management in the conduct of employer-employee relations activities.

1.4 To provide a system whereby employees may make a free and unencumbered choice as to what method of representation rights and privileges they so desire to govern their working relationship with their employer.
SECTION 2. DEFINITIONS

As used in this Resolution, the following terms shall have the meaning as indicated.

2.1 "Board" - The Board of Supervisors of Mariposa County

2.2 "Confidential Employee" - means any employee who, in the regular course of his/her duties, has access to or possesses information related to his/her employer's employer-employee relations. Confidential positions shall be designated by the Board of Supervisors following a meet and consult (only) process with employee organizations.

2.3 "County" means the County of Mariposa and, where appropriate, refers to the Board of Supervisors or any duly authorized County Representative.

2.4 "Day" means calendar day unless expressly stated otherwise.

2.5 "Employee" means any person employed by the County, excepting those person elected by popular vote, appointed to fill the unexpired term of an elected office, or appointed to office by the Governor of the State of California.

2.6 "Employee Organization" means an organization which includes employees of the County and which has as one of its prime purposes representing such employees in their relations with the County. Such employee organizations include those registered in accordance with SECTION 6 or recognized in accordance with SECTION 10.

2.7 "Employer-Employee Relations" means the relationship between the County and its employees and their employee organization, or when used in a general sense, the relationship between County management and employees or employee organizations.

2.8 "Extra Help Employee" means any employee who is not a regular full-time employee and is paid on an hourly basis.

2.9 "Fact Finding" means the investigation of an impasse by impartial third party for the purpose of describing the issues, dispute, stating the positions of the parties, and making findings of fact on issues in dispute. It is advisory in nature and shall not include recommendations as to settlement of the dispute unless so specified at the time it is agreed to be used.
2.10 "Impasse" means a deadlock in negotiations between a recognized employee organization and the County concerning matters about which they are required to negotiate.

2.11 "Management Employee" means an employee having significant responsibilities in formulating and/or administering County policy. This shall include those that act on behalf of a department head in his/her absence. Management employees are designated by the Board of Supervisors without a meet and confer or meet and consult process.

2.12 "Mediation" means the effort of an impartial third party functioning as an intermediary, to assist the parties in reaching a voluntary resolution of an impasse through interpretation, suggestion, and advice.

2.13 "Meet and Confer" means the process whereby representatives of the County and of recognized employee organizations in good faith exchange information, opinions and proposals in an attempt to reach timely agreement on wages, hours and other terms and conditions of employment, as contemplated by Government Code Section 3505.

2.14 "Meet and Consult" means to communicate orally or in writing for the purposes of presenting and obtaining views or advising of intended actions and does not involve the exchange of proposals and counter-proposals in an endeavor to reach agreement.

2.15 "Recognized Employee Organization" means a registered employee organization which has the exclusive right to represent the employees in a representation unit pursuant to a vote of the employees in that unit.

2.16 "Registered Employee Organization" means an employee organization which has been acknowledged by the County as an employee organization that represents employees of the County.

2.17 "Regular Full-Time Employees" means all permanent and probationary salaried employees, excluding extra help employees.

2.18 "Representation Unit or Unit" means a unit appropriate for employee representation as established in accordance with SECTION 10.1.

SECTION 3. COUNTY RIGHTS

In order to maintain the efficiency of County operations, the County of Mariposa, through its management
representatives, shall retain the right, in accordance with applicable laws and regulations to manage and supervise its employees including but not limited to the following:

3.1 To hire, promote, transfer, assign, classify positions, retain employees, and to suspend, demote, discharge or take other disciplinary action against employees.

3.2 To lay off or demote employees from duties because of lack of work, lack of funds, in the interest of economy, or other legitimate reasons.

3.3 To determine the policies, standards, procedures, methods, means and personnel by which County operations are to be conducted.

3.4 To take whatever actions may be necessary to carry out the mission of the County in situations of emergency.

Nothing in this policy shall be construed to interfere with the County's right to manage its operations in the most economical and efficient manner consistent with the best interests of all the citizens, taxpayers, and employees of Mariposa County.

SECTION 4. EMPLOYEE RIGHTS

Except as otherwise provided by state and Federal law, employees of Mariposa County shall have the right to form, join and participate in activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations. County employees also have the right to refuse to join or participate in the activities of employee organizations, and shall have the right to represent themselves.

SECTION 5. UNFAIR EMPLOYMENT RELATIONS PRACTICES

In their dealings with each other, management and employee organizations shall be prohibited from the following practices:

5.1 Management

5.1.1 Interfering with, restraining or coercing any employee in the exercise of the rights assured by the Government Code or the Mariposa County Employer-Employee Relations Policy.
5.1.2 Encouraging or discouraging membership in any employee organization by discrimination in regard to hiring, tenure, promotions or other conditions of employment.

5.1.3 Dominating or interfering with the administration, policies and programs of an employee organization or its members' participation therein.

5.1.4 Disciplining or otherwise discriminating against any employee because he has filed a complaint or given testimony under the provisions of this Employer-Employee Relations Policy.

5.1.5 Refusing to accord appropriate recognition to an employee organization qualified for such recognition.

5.1.6 Refusing to hear, consult, or meet and confer in good faith with recognized employee organization as required by Government Code Section 3505.

5.2 Employee Organizations:

5.2.1 Interfering with, restraining, or coercing any employee in the exercise of rights assured by the Government Code, or the Mariposa County Employer-Employee Relations Policy.

5.2.2 Attempting to induce department heads to coerce any employee in the enjoyment of his rights under the Mariposa County Employer-Employee Relations Policy and/or the Government Code.

5.2.3 Coercing, attempting to coerce, or disciplining an employee which results in hindering or impeding the performance of his/her duties.

5.2.4 Discriminating against any employee with regard to the terms or conditions of membership because of race, color, creed, sex, or national origin.

5.2.5 Disruptive activities which are detrimental to the conduct of the County's affairs.

5.2.6 Unauthorized use of County facilities.

5.2.7 No organization shall engage in organization activities or distribute pamphlets or brochures or similar literature the major purpose of which is organizational in nature on County time.

(5)
5.2.8 Refusing to consult, or meet and confer in good faith with management representatives of Mariposa County as required by Government Code Section 3505.

5.2.9 All requests for information shall be directed to the County Administrative Officer or his/her designee only, except requests dealing with department matters only and not dealing with County policy matters.

SECTION 6. EMPLOYEE ORGANIZATIONS: REGISTRATION

An employee organization that desires to become a registered employee organization shall file with the Personnel Officer a written application for registration which shall include:

6.1 Name and mailing address of the organization, its local officer and/or representatives;

6.2 The names and mailing addresses of each area, state, national association, and other organizations with which it is directly affiliated.

6.3 Certified and complete copies of the Articles of Incorporation or Constitution, the By-Laws, and any other written rules or regulations governing the organization, along with all amendments thereto.

6.4 A designation of those persons, not exceeding two in number, and their addresses, to whom notices, sent by regular United States mail will be deemed sufficient notice to the organization for any purposes.

6.5 A statement that the organization has no restriction on membership based on race, religion, creed, national origin, age, sex, or marital status.

All statements and accompanying documents shall be signed and certified by the President and Secretary of the organization.

SECTION 7. REGISTERED EMPLOYEE ORGANIZATIONS: RIGHTS

7.1 Representation: Registered employee organizations may consult with the appropriate levels of County management on matters of concern to the organization and its members. The County is not, however, obligated to meet and confer in good faith or to enter into written agreement with registered employee organizations unless they are recognized pursuant to Section 10.
7.2 Copies To Be Made Available: Each registered employee organization shall, upon request to the County Administrative Officer, be provided with a copy of any negotiated agreement and of this Policy.

SECTION 8. EMPLOYEE ORGANIZATIONS: RECOGNITION

The Board shall grant exclusive recognition to employee organizations which have been certified pursuant to SECTION 10 of this Policy.

SECTION 9. RECOGNIZED EMPLOYEE ORGANIZATIONS: RIGHTS

In addition to the rights provided a registered employee organization, a recognized employee organization shall have the following rights:

9.1 The right to meet and confer in good faith with authorized management representatives of the County regarding wages, hours, and other terms and conditions of employment within the scope of representation as provided in Government Code Section 3505. If agreement is reached by the representatives of the County and a recognized employee organization, they shall prepare a written memorandum of such understanding, which shall not be binding, and present it to the Board of Supervisors for acceptance. If the Board of Supervisors adopts the written Memorandum of Understanding, it shall become binding on the parties. The County is under no obligation to meet and confer in good faith with any employee organization, unless it has been certified as a recognized employee organization.

9.2 The right to reasonable notice and appropriate information in advance of matters affecting its membership as set forth in Paragraph 9.1 above. However, in emergencies, pursuant to Government Code 3504.5, the Board of Supervisors may take action on a particular item without such advance notice provided that such notice shall be furnished as soon as practicable.

9.3 The right to be heard prior to the resolution of any matter set forth in Paragraph 9.1 above.

9.4 The right to a reasonable amount of time during regular working hours or at such other times as the Board may direct by Minute Order, to represent its members before the Board of Supervisors, or appropriate management representatives, on matters set forth in Paragraph 9.1 above; such time allowance during regular working hours to be limited to a maximum of three (3) employee members of the organization except that:
The Board of Supervisors may direct by Minute Order that additional employees be allowed to attend specific meeting on County time.

9.5 The right to the reasonable use of existing bulletin board space in each building or department at a location agreed upon by the organization and the department, under the following conditions:

9.5.1 Material shall be posted on space as designated.

9.5.2 Posted material shall bear the identity of the organization.

9.5.3 Posted material shall not be misleading, contain any deliberate misstatements or violate any Federal, State or County laws.

9.5.4 Material shall be neatly displayed and shall be removed when no longer timely.

9.6 The privilege of using County facilities for meeting purposes only provided that appropriate advance arrangement are made. A charge at the prevailing County rates may be made to offset the cost of such use.

9.7 The right to have an authorized representative contact members of his organization in County facilities and leave literature and material for distribution, provided he has first made arrangements with the department head, or his representative, to provide for a time which does not disrupt County business.

9.8 Employee organizations may adopt reasonable restrictions regarding who may join and make reasonable provisions for the dismissal of individuals from membership.

SECTION 10. REPRESENTATION PROCEEDINGS

10.1 Policy and Standard 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 County and its compatibility with the primary responsibility of the County 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 and that fragmentation and/or proliferation of units shall be avoided. Factors to be considered shall be:

10.1.1 Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions.

10.1.2 History of representation in the County 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.

10.1.3 Consistency with the organizational patterns of the County.

10.1.4 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.

10.1.5 Effect on the classification structure and impact on the stability of the employer/employee relationship of dividing a single or related classification series among two or more units.

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

The County Administrative Officer shall, after written notice to and meeting and consulting with 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 SECTION.

10.2 Filing of Recognition Petition by Employee Organization. A registered employee organization that desires to become the recognized employee organization of a representation unit shall file with the County Administrative Officer a petition for certification as a recognized employee
organization. The petition shall (1) describe the proposed representation unit in detail, (2) state the approximate number of employees in the proposed unit eligible for inclusion therein, and (3) be accompanied by a membership list of Mariposa County employees representing at least 30%.

Any list of members of any organization, either in form of an application for recognition or on file with the County, is confidential and shall not be open to public inspection.

10.3 County Response to Recognition Petition. Upon receipt of such petition, the County Administrative Officer shall determine whether;

10.3.1 There has been compliance with the requirements of SECTION 10.2, and

10.3.2 The proposed representation unit is an appropriate unit in accordance with SECTION 10.1.

If an affirmative determination is made by the County Administrative Officer on the foregoing two matters, he shall so inform all employee organizations, shall give written notice of such request for recognition to the employees in the proposed 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 County Administrative 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 this Resolution.

10.4 Open Period for Filing Intervening 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 petition to be formally acknowledged as the recognized employee organization of the employees in the same or in an overlapping unit (one which corresponds with respect to some but not all the classifications or positions set forth in the recognition petition being challenged), by filing a petition evidencing proof of employee support in the unit claimed to be appropriate of at least thirty percent (30%), and otherwise in the same form and manner as set forth in SECTION 10.2. Only signatures of employees in the proposed unit shall count toward the thirty percent (30%) required hereunder. If such intervening petition seeks establishment of an
overlapping unit, the County Administrative Officer shall call for a hearing on such overlapping petitions of the purpose of ascertaining the more appropriate unit, at which time the petitioning employee organizations shall be heard. Thereafter, the County Administrative Officer shall determine the appropriate unit or units in accordance with the standards in SECTION 10.1. The petitioning employee organizations shall have fifteen (15) days from the date of notice of such unit determination is communicated to them by the County Administrative Officer to amend their petitions to conform to such determination, or to appeal such determination pursuant to SECTION 10.8.

10.5 Election Procedures. The County Administrative Officer shall arrange for a secret ballot election. All employee organizations who have duly submitted petitions which have been determined to be in conformance with this SECTION shall be included on the ballot. The ballot shall also reserve to employees the choice of selecting no employee organization to represent them in their employment relations with the County. Employees entitled to vote in such election shall be those persons employed as regular full-time employees within the designated appropriate unit as determined by the Administrative Officer, 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 County in the same unit on the date of the election. An employee organization shall be formally acknowledged as the recognized employee organization for the designated appropriate unit as determined by the County Administrative Officer following an election or run-off election if it receives a numerical majority of all valid votes cast in the election. In an election involving three or more choices, where none of the choices receives a majority of the valid votes cast, a run-off election shall be conducted between the two choices receiving the largest number of valid votes cast, the rules governing an initial election being applicable to a run-off election.

There shall be no more than one (1) valid election under this Resolution pursuant to any petition in a twelve (12) month period affecting the same unit.

In the event that the parties are unable to agree on a third party to conduct an election, the election shall be conducted by the State Mediation and Conciliation Service.
Costs of conducting elections shall be borne in equal share by the County and by each employee organization appearing on the ballot. By way of example if there are three (3) organizations on the ballot each organization and the County would each pay twenty-five percent (25%) of the costs incurred. Arrangements for the election, such as polling places and times, shall be made with mutual consent of all parties.

Any Petitioning employee organization may withdraw its petition upon five (5) days prior notice. In the event that any other employee organization has qualified for the ballot pursuant to SECTION 10.4, the intervenor shall have the option to proceed with the election as if it were the petitioner. Withdrawal of a petition under this provision shall result in a six (6) month bar against the filing of a new petition by the withdrawing employee organization.

10.6 Procedure for Decertification of Recognized Employee Organization. A decertification petition alleging that the incumbent recognized employee organization no longer represents a majority of the employees in an established unit may be filed with the County Administrative Officer only when a contract bar is not in place. The contract bar shall be in place for the first year after recognition is granted to an organization if there is no Memorandum of Understanding in effect, or if a Memorandum of Understanding is in effect, during the thirty (30) day period commencing ninety (90) days prior to the termination date of a Memorandum of Understanding then in effect, providing that such Memorandum of Understanding has a term of no more than three (3) years, including any extension thereof. If an Memorandum of Understanding, including any extension thereof, has a term of more than three (3) years, no bar shall be in place every three years during a window period as stated above commencing at the end of the first 3-year period of the term of the Memorandum of Understanding and followed by subsequent 3-year ending periods.

10.6.1 The name, address and telephone number of petitioner and a designated representative authorized to receive notices or requests for further information;

10.6.2 The name of the established appropriate unit and of the incumbent recognized employee organization sought to be decertified as the representation of that unit;

10.6.3 An allegation that the incumbent 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
10.6.4 Proof of employee support that at least thirty percent (30%) of the employees in the established appropriate unit no longer desire to be represented by the incumbent recognized employee organization. Such proof shall be submitted by confirmation to the County Administrative 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 lieu of filing a Decertification Petition, file a Petition under this section in the form of a Recognition Petition that evidences proof of employee support of at least thirty percent (30%) and otherwise conforms to the requirements of Paragraph 1 of this SECTION.

The County Administrative Officer shall initially determine whether the Petition has been filed in compliance with the applicable provisions of SECTION 10. If his determination is in the negative, he 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 SECTION 10.8. If the determination of the Administrative Officer is in the affirmative, or if his negative determination is reversed on appeal, he shall give written notice of such Decertification or Recognition Petition to the incumbent recognized employee organization and to unit employees.

In the event that the Decertification Petition complies with the request set forth herein, the Administrative Officer shall thereupon arrange for a secret ballot election to be held on or about fifteen (15) days after such notice to determine the wishes of unit employees as to the question of decertification and, if a Recognition Petition was fully filed hereunder, the question of representation. Such election shall be conducted in conformance with SECTION 10.5.

If pursuant to this SECTION 10.6 a different employee organization is formally acknowledged as the 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.
10.7 Procedure for Modification of Established Appropriate Units. Requests by employee organizations for modifications of established appropriate units may be considered by the County Administrative Officer only during the "open period" specified in the first Paragraph SECTION 10.6. Such requests shall be submitted in the form of a Recognition Petition, and, in addition to the "open period" requirements 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 SECTION 10.1. The County Administrative Officer shall process such petitions as other Recognition Petitions in accordance with SECTION 10.

The County Administrative Officer may propose during the "open period" that an established unit be modified. Such proposal shall be based on the determination that the established unit no longer adheres to the criteria set forth in SECTION 10.1. The County Administrative 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 County Administrative Officer shall determine the composition of the appropriate unit or units in accordance with SECTION 10.1 and shall give written notice of such determination to the affected employee organizations. The County Administrative Officer's determination may be appealed as provided in SECTION 10.8.

10.8 Appeals. An employee organization aggrieved by a unit determination may appeal such determination to the Board of Supervisors for final decision, within thirty (30) days of notice of the County Administrative Officer's determination.

An employee or employee organization aggrieved by a determination of the County Administrative Officer that any Petition has not been filed in compliance with the applicable provisions of this SECTION may, within fifteen (15) days of notice of such determination, appeal the determination to the Board for final decision.

Appeals to the Board of Supervisors shall be filed in writing with the Clerk of the Board, and a copy thereof served on the County Administrative Officer. The Board shall commence to consider the matter within thirty (30) days of the filing of the appeal. The Board may, in its discretion, refer the dispute to a third party hearing process. Any decision of the Board on the use of such procedure, and/or any decision of the Board determining the substance of the dispute shall be final and binding.
SECTION 11. IMPASSE PROCEDURES

11.1 Mediation. If after a reasonable period of time, representatives of the County and the recognized employee organization fail to reach agreement on matters within the scope of representation, mediation may be invoked only by mutual agreement of the parties. In selecting a mediator who is mutually acceptable to the parties, first consideration shall be given to those available at no expense to the parties. In the event that costs are incurred for mediation they shall be divided one-half to the County and one-half to the recognized employee organization or recognized employee organizations.

11.2 Fact Finding

11.2.1 If mediation does not result in settlement of the impasse, fact-finding may be invoked by either party or by mutual agreement.

11.2.2 The fact-finder may be either an individual or a three member board.

11.2.2.1 An individual fact-finder shall be selected by mutual agreement of the parties. If the parties cannot agree upon a fact-finder, a list of five fact-finders shall be obtained from the California State Conciliation Services or other mutually agreeable source, and each party shall alternately strike one name from the list until only one name remains. The first party to strike a name shall be determined by lot.

11.2.2.2 If the parties agree upon or the Board directs the use of a fact finding panel, each party shall select one member of the panel and the two panel members thus selected will select the third who will be the chairman. If the two designated members of the fact-finding panel cannot agree upon a third member, his/her selection shall be made in accordance with Paragraph 11.2.2.1 immediately above.

11.2.3 The report of the fact-finder shall:

11.2.3.1 Be confidential unless the parties agree to make it public.

11.2.3.2 Be submitted directly to the parties.

11.2.3.3 Be limited to the issues originally referred to the fact-finder, and

11.2.3.4 Include a recommendation.
11.2.4 The report of the fact-finder shall be confidential and submitted directly to the parties concerned. The parties shall attempt to reach an agreement by negotiation on the basis of the fact-finder's report. If the parties have not reached an agreement within fifteen (15) days after receiving the fact-finder's report, they shall, within the next seven (7) days, submit in writing their positions on the unresolved issues to the Board. The County Administrative Officer shall submit a copy of the fact-finder's report to the Board along with his own recommendations. The Board shall then make the final decision which is binding on all parties. Nothing in this paragraph shall preclude the use of binding fact-finding upon mutual agreement of both parties.

11.2.5 Nothing shall preclude the fact-finder from attempting to resolve the impasse by mediation at any stage of the proceedings prior to the issuance of the fact-finding report.

11.3 Cost. The cost of mediation and fact-finding proceedings shall be divided equally between the parties.

SECTION 12. CONSTRUCTION

This resolution shall be administered and construed as follows:

12.1 Nothing in this resolution shall be construed to deny to any person, employee, organization, the County or any authorized officer, body or other representative of the County, the rights, powers and authority granted by Federal or State law.

12.2 This resolution shall be interpreted so as to carry out its purposes as set forth in SECTION 1.

12.3 Nothing in the resolution shall be construed as making the provisions of California Labor Code Section 923 applicable to County employees.

SECTION 13. SEPARABILITY

It is understood and agreed that this resolution is subject to all current and future applicable Federal and State laws and regulations and the current provisions of the County of Mariposa. If any part or provision of this resolution is in conflict or inconsistent with such applicable provisions of those Federal, State or County
enactments or is otherwise held to be invalid or unenforceable by any court of competent jurisdiction, such part of provision shall be suspended and superseded by such applicable law or regulations, and the remainder of this resolution shall not be affected thereby.

BE IT FURTHER RESOLVED that Resolution No. 70-62 is hereby repealed and superseded by this Resolution.

PASSED AND ADOPTED by the Board of Supervisors, County of Mariposa, State of California, this 12th day of June, 1990 by the following vote:

AYES: BAGGETT, PUNTE, ERICKSON, RADANOVICH, TABER

NOES: NONE

ABSENT: NONE

ABSTAINED: NONE

ARTHUR G. BAGGETT, JR., Chairman
Mariposa County Board of Supervisors

ATTEST:

MARGIE WILLIAMS, Clerk of the Board

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

JEFFREY C. GREEN, County Counsel