

**NB-22**

# CITY OF LONG BEACH

DEPARTMENT OF HUMAN RESOURCES

333 West Ocean Boulevard 13th Floor • Long Beach, CA 90802 • (562) 570.6621

**ALEJANDRINA BASQUEZ**  
DIRECTOR

May 21, 2019

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

**RECOMMENDATION:**

Adopt a Resolution pursuant to California Government Code Section 3505.4, authorizing the implementation of the terms of the City's Last, Best and Final Offer, described in the October 24, 2018 correspondence to the International Association of Machinists and Aerospace Workers (IAM), detailing the Scope of Service on the Airport Security Division and Long Beach Police Department Integration. (Citywide)

**DISCUSSION**

On April 23, 2019, the City Council voted to receive and file the Factfinding Report issued by the Factfinding Panel as part of the impasse process on the integration of the Long Beach Airport (Airport) Security Division and Airport Police Detail into one Section reporting to the Long Beach Police Department (Police Department) (Attachment A). A motion was made to postpone the adoption of the Resolution authorizing the implementation of the terms of the City's Last, Best and Final Offer to a later date.

Staff is requesting City Council approval to proceed with the reorganization of the Airport Security Division and the Airport Police Detail integration into one Section reporting to the Police Department. The Meyers-Milias Brown Act (MMBA, California Government Code Section 3500 et seq.) governs relationships between public agencies and labor representatives in California. The MMBA requires public agencies to meet and confer with recognized employee representatives in good faith over matters affecting employees' wages, benefits, and terms and conditions of employment. The City is required to complete the negotiation process, including impasse procedures before implementing the final decision.

City representatives met with the Police Officers Association (POA) regarding the impact of this reorganization on Police Officers and concluded these discussions favorably. City representatives also met with the International Association of Machinists and Aerospace Workers (IAM) that represent the Special Services Officers III-Armed and IV-Armed (SSOs) currently assigned to the Airport. The proposed integration would place these SSOs under the Police Department. The City and IAM have been in negotiations discussing the proposed

reorganization since February 2018. After engaging in a lengthy period of bargaining, the City and IAM are at impasse in these negotiations.

The City negotiated in good faith with IAM; however, these meetings did not result in an agreement. The City completed the required Factfinding process. The Factfinding Panel Report was received and filed by the City Council on April 23, 2019. Staff recommends that the City Council adopt the Resolution to implement the terms of the City's Last, Best and Final Offer (LBFO), to allow the City to proceed with the Airport Security Division and Police Department integration.

## **BACKGROUND**

The Airport Security Division has been providing security and public safety services at the Airport for decades. It is comprised of armed and unarmed SSOs who respond to dispatched calls for service and operate 24-hour camera surveillance and other technologies to protect Airport facilities, operations, and patrons. In response to the increased security concerns following the terrorist attacks on September 11, 2001, the Police Department assigned an Airport Police Detail to augment the Airport Security Division in 2002.

In January 2015, the City provided IAM notice of its intent to integrate the Airport Security Division SSOs and the Airport Police Detail into one Section to better align each of their respective responsibilities. Expected benefits of the integration include:

- A single structured chain of command;
- Better coordination of both resources and personnel, including supervision, training and deployment of staff;
- More effective security communications across interdepartmental and interagency public safety channels;
- Greater situational awareness of Airport security activities;
- Achieving consistency of public safety and security practices through joint training, where applicable;
- Providing joint operations to maximize Airport security efforts; and,
- Providing consistent Airport security policies and procedures.

The integration was initially scheduled to move forward on April 1, 2015, but it was delayed. On January 26, 2018, the City decided to proceed with the integration and again notified the IAM of its intent to integrate Airport Security Division personnel and the Police Department Airport Police Detail into a newly created Airport Police Section (APS). The SSO III-Armed and SSO IV-Armed positions would be integrated into the new APS, under the command and leadership of the Police Department, while unarmed SSOs of the Airport Security Division would remain with Airport to continue oversight of dispatch operations.

The IAM and City had over ten meet and confer sessions between February 22, 2018 and October 10, 2018. During these discussions, the City extended at least six proposals to IAM. As a result, the following changes were made to the integration plan: (1) Language was modified to permit the Airport Point of Contact to include SSO's based on rank/removed PD designation; (2) Modified the Scope of Service to reflect Checkpoint Officer is a shared responsibility; (3) Agreed that Airport SSO's will continue to be issued current green colored uniforms; (4) Agreed to add peace officer designation to the back of City I.D., which would allow Airport SSOs the ability to carry firearms off duty; (5) Agreed to allow current SSOs who are qualified and have shotguns to be grandfathered to keep their shotguns if they maintain qualification standards; (6) Added clarifying language to reflect SSOs may file reports based on discussions; (7) Agreed to allow current SSOs who were issued tactical gear to retain the equipment but tactical gear will not be issued to any new or transferring SSO; and, (8) Agreed to increase the number of ACT Baton training hours for new SSOs from 30 hours to 50 hours to include additional arrest and control and baton instruction.

Conversely, IAM only provided a single proposal and its position did not evolve but remained constant during the eight-and-a-half month-long meet and confer process. On October 10, 2018, during the parties' tenth meeting, IAM representatives advised the City that they had no additional proposals to provide. On October 24, 2018, in accordance with instructions issued by the City Council, the City provided IAM with a written declaration of impasse and the City's LBFO. The LBFO reflected the in-person discussions and included among other terms, items agreed upon over the course of negotiations.

### **FACTFINDING PANEL RECOMMENDATION**

On November 21, 2018, the IAM requested that the City's decision to integrate the Airport Security Division SSOs and the Airport Police Detail be submitted to a Factfinding Panel (Panel). The Panel holds a hearing and then makes findings of facts and recommends a settlement. The Panel consists of three panelists: a neutral representative, an IAM representative, and a City representative. In this case, the Panel found in favor of the City on a vote of two-to-one (2-1). The Panel found that the reorganization issue is clearly within the purview of the City's authority to assign and direct its workforce. The parties completed the Factfinding process on March 5, 2019, and the results of the Factfinding hearing are provided in this report (Attachment A to the Resolution). The Panel's recommendation is that the City is within their rights to implement its final proposal.

In 2018, the California Commission on Peace Officers Standards and Training (POST) revoked the Basic POST certificates of some SSOs because the certificates were awarded in error. One of the Panel's recommendations was that the City revisit the status of SSOs with the POST Commission. The Panel also indicated that IAM could make a proposal to expand the scope of training for SSOs. The Panel's recommendations have been assessed by staff. The POST Commission, which is a separate state agency, makes those determinations and regulates their own certifications. Additionally, regarding training, the Police Department has communicated to the IAM its intent to provide further opportunities for POST-Certified training beyond the proposed core

curriculum. Specifically, the Police Department identified the following POST-certified courses:

- Aviation Security
- Behavioral Observation Training (Basic)
- Behavioral Observation Training (Intermediate)
- Behavioral Observation Training (Advanced)
- Behavioral Threat Assessment
- Critical Incident Response for Supervisors
- De-escalation and Tactical Communication
- Bombs and Terrorism Awareness for Patrol
- Civil Liability Update
- Civilian Management Seminar
- Civilian Supervisory Course
- Conflict Management
- Crisis Intervention
- Domestic Terrorism
- Drug Trafficker Interdiction
- Drug Trends Update
- Ethics and Leadership
- Explosives Recognition for the 1st Responder
- Fraudulent Document ID
- Hazardous Materials - 1st Responder
- HazMat Awareness Update
- Homemade Explosives and IEDs
- Human Trafficking Awareness
- Leadership and Accountability
- Legal Update
- Mental Illness Awareness
- Racial Profiling
- Report Writing
- Report Writing Update
- Search and Seizure
- Tactical Communication
- International Terrorism
- Terrorism Update

Interest in enrolling for these courses will be submitted through the SSOs chain of command, consistent with Police Departmental practice, and approval will be dependent on budget and staffing considerations.

IAM submitted a dissent letter to a portion of the Factfinding Report recommendation indicating that the proposed integration plan is unlawful. The issues raised in the dissent letter were carefully reviewed by outside legal counsel and it was determined that the proposed plan does not violate state or federal laws.

Government Code Section 3505.4 (Meyers-Milias-Brown Act) authorizes the City to implement terms of its LBFO upon the conclusion of the impasse procedure, which includes Factfinding.

The City Council's adoption of the attached Resolution authorizes the implementation of the terms of the City's LBFO described in the October 24, 2018 correspondence to IAM, which details the Scope of Service on the Airport Security and Police Department.

This matter was reviewed by Principal Deputy City Attorney Gary J. Anderson on May 15, 2019 and by Budget Management Officer Rhutu Amin Gharib on May 16, 2019.

TIMING CONSIDERATIONS

City Council action is requested on May 21, 2019, to ensure timely implementation of the proposed Scope of Service.

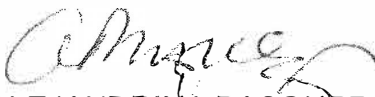
FISCAL IMPACT

This item has no fiscal impact for the implementation of the proposed Scope of Service. Sufficient budget is appropriated in the Airport Fund Group in the Airport Department (37) and in the General Fund Group in the Police Department (32) to execute an interdepartmental Memorandum of Understanding between the two departments. The requested action is not expected to require additional staff hours beyond the normal budgeted scope of duties and is consistent with existing City Council priorities. There is no local job impact associated with this recommendation.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,

  
ALEJANDRINA BASQUEZ  
DIRECTOR OF HUMAN RESOURCES

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ATTACHMENTS: A – APRIL 23, 2019 COUNCIL LETTER  
RESOLUTION

APPROVED:

  
PATRICK H. WEST  
CITY MANAGER

**CITY OF LONG BEACH**

DEPARTMENT OF HUMAN RESOURCES

**R-29**

333 West Ocean Boulevard 13th Floor • Long Beach, CA 90802 • (562) 570.6621

**ALEJANDRINA BASQUEZ**  
DIRECTOR

April 23, 2019

**HONORABLE MAYOR AND CITY COUNCIL**  
City of Long Beach  
California**RECOMMENDATION:**

Receive and file the Factfinding Report issued by the Factfinding Panel as part of the impasse process; and,

Adopt a Resolution pursuant to California Government Code Section 3505.4, authorizing the implementation of the terms of the City's Last, Best and Final Offer, described in the October 24, 2018 correspondence to the International Association of Machinists and Aerospace Workers (IAM), detailing the Scope of Service on the Airport Security Division and Long Beach Police Department Integration. (Citywide)

**DISCUSSION**

The City is proposing to reorganize the Long Beach Airport (Airport) Security function by having the Airport Security Division and the Airport Police Detail combined into one Section reporting to the Long Beach Police Department (Police Department). The Meyers-Milias Brown Act ("MMBA," California Government Code Section 3500 et seq.) governs relationships between public agencies and labor representatives in California. The MMBA requires public agencies to meet and confer with recognized employee representatives in good faith over matters affecting employees' wages, benefits, and terms and conditions of employment. The City is required to complete the negotiation process, including impasse procedures before implementing the final decision.

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HONORABLE MAYOR AND CITY COUNCIL

April 23, 2019

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The City negotiated in good faith with IAM; however, these meetings did not result in an agreement. The City completed the required Factfinding process. The Factfinding Panel Report and Recommendations are attached for City Council consideration (Attachment A to the Resolution). Staff recommends that the City Council receive and file the Factfinding Report and approve the implementation of the terms of the City's Last, Best and Final Offer (LBFO), to allow the City to proceed with the Airport Security Division and Police Department integration.

## **BACKGROUND**

The Airport Security Division has been providing security and public safety services at the Airport for decades. It is comprised of armed and unarmed SSOs who respond to dispatched calls for service and operate 24-hour camera surveillance and other technologies to protect Airport facilities, operations, and patrons. In response to the increased security concerns following the terrorist attacks on September 11, 2001, the Police Department assigned an Airport Police Detail to augment the Airport Security Division in 2002.

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## HONORABLE MAYOR AND CITY COUNCIL

April 23, 2019

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HONORABLE MAYOR AND CITY COUNCIL

April 23, 2019

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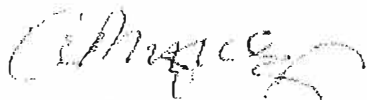
FISCAL IMPACT

This item has no fiscal impact for the implementation of the proposed Scope of Service. Sufficient budget is appropriated in the Airport Fund (EF 320) in the Airport Department (AP) and in the General Fund (GF) in the Police Department (PD) to execute an interdepartmental Memorandum of Understanding between the two departments. The requested action is not expected to require additional staff hours beyond the normal budgeted scope of duties and is consistent with existing City Council priorities. There is no local job impact associated with this recommendation.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



ALEJANDRINA BASQUEZ  
DIRECTOR OF HUMAN RESOURCES

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ATTACHMENT - RESOLUTION

APPROVED:

  
\_\_\_\_\_  
PATRICK H. WEST  
CITY MANAGER

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

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RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE  
CITY OF LONG BEACH ACCEPTING THE FACTFINDING  
REPORT AND AUTHORIZING IMPLEMENTATION OF THE  
TERMS OF THE CITY'S LAST, BEST AND FINAL OFFER  
TO THE INTERNATIONAL ASSOCIATION OF  
MACHINISTS AND AEROSPACE WORKERS PURSUANT  
TO GOVERNMENT CODE SECTION 3505.4

WHEREAS, the City of Long Beach ("City") and the International  
Association of Machinists ("IAM") have a Memorandum of Understanding ("MOU")  
governing the wages, hours and terms and conditions of employment for members of the  
IAM bargaining units; and

WHEREAS, the City is required by the Meyers-Milias-Brown Act  
(Government Code Section 3500, et seq.), to meet and confer in good faith with the IAM  
regarding wages, hours, and other terms and conditions of employment; and

WHEREAS, the City and IAM began negotiations in February of 2018  
regarding the integration of the Airport Security Division (Special Service Officers III and  
IV) and the Airport Police Detail; and

WHEREAS, the City and IAM engaged in ten bargaining sessions wherein  
City made six proposals including its last, best, final offer communicated in writing on  
October 24, 2018; and

WHEREAS, IAM rejected the City's offer and the parties were unable to  
reach agreement; and

WHEREAS, on October 24, 2018, City declared impasse; and

WHEREAS, IAM requested Factfinding and the parties participated in a  
Factfinding Hearing on February 8, 2019, and the Factfinding decision was issued on

1 March 5, 2019; and

2 WHEREAS, the Factfinding report was made available to the public on  
3 March 15, 2019; and

4 WHEREAS, the City held a public hearing regarding impasse on April 23,  
5 2019; and

6 WHEREAS, the City Council of the City of Long Beach is vested by law with  
7 the responsibility for making a final determination regarding wages, hours and other  
8 terms and conditions of employment for employees of the City and the City Council is  
9 desirous of making such final determination and resolving the impasse; and

10 WHEREAS, the City Manager has advised the City Council that the  
11 implementation of the City's last, best, and final offer may be challenged through legal or  
12 administrative proceedings; and

13 WHEREAS, if any of the terms of the City's last, best, and final offer, or the  
14 application of any provision of said last, best, and final offer to any person or group, are  
15 enjoined, stayed, restrained or suspended in any legal or administrative proceeding, then  
16 said provision(s) of the last, best, and final offer adopted by this Resolution shall be  
17 deemed immediately, automatically and completely suspended and of no further force  
18 and effect for any purpose, until such point as the matter is fully and finally adjudicated.

19 NOW, THEREFORE, the City Council of the City of Long Beach resolves as  
20 follows:

21 Section 1. The City Council finds and declares that in accordance with  
22 the Meyers-Milias-Brown Act, the City has met and negotiated in good faith with the IAM  
23 for a reasonable period on matters within the scope of representation.

24 Section 2. The City Council finds and declares that the City has  
25 completed the impasse procedures required under the MMBA; and

26 Section 3. That the terms of the City's last, best, and final offer to the  
27 IAM and unrepresented employees are hereby approved and adopted. A copy of said  
28 last, best, and final offer is attached to this Resolution labeled Attachment "A" and is

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

1 hereby incorporated herein by this reference as a part of this Resolution.

2 Section 4. The City Manager is hereby authorized to implement all  
3 matters contained in and prescribed by the City's last, best, and final offer.

4 Section 5. If any portion of the City's last, best, and final offer, approved  
5 and adopted in Section 5 of this Resolution or the application of any provision of said last,  
6 best, and final offer to any person or group is enjoined, stayed, restrained or suspended  
7 in any legal or administrative proceeding, then said provision(s) shall be deemed  
8 immediately, automatically and completely suspended and of no further force and effect  
9 for any purpose until such legal and/or administrative proceeding is concluded by a final  
10 adjudication including exhaustion of any and all appellate proceedings.

11 Section 6. This resolution shall take effect immediately upon its adoption  
12 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

13  
14 I hereby certify that the foregoing resolution was adopted by the City  
15 Council of the City of Long Beach at its meeting of \_\_\_\_\_, 2019, by the  
16 following vote:

17 Ayes: Councilmembers: \_\_\_\_\_  
18 \_\_\_\_\_  
19 \_\_\_\_\_  
20 \_\_\_\_\_

21 Noes: Councilmembers: \_\_\_\_\_  
22 \_\_\_\_\_

23 Absent: Councilmembers: \_\_\_\_\_  
24 \_\_\_\_\_

25  
26  
27 \_\_\_\_\_  
28 City Clerk

**City of Long Beach and International Association of  
Machinists, District Lodge 947, PERB Case LA-IM-269-M**

**Factfinding Report and Recommendations**

**Background**

As far back as 2015, the City of Long Beach announced their intention to reorganize SSO Officers represented by the IAM at the Long Beach Airport into the Long Beach Police Department as an Airport Security Division. The new Division would place these employees under the table of organization and span of control of the Police Department.

The parties intermittently met over the proposed changes, seriously starting in 2016, with the City finally declaring a formal impasse October 2018. The IAM filed for Factfinding, PERB certified the matter, and ultimately the parties selected Tony Butka as the Factfinding Chair for the dispute by letter of December 13, 2018.

The City designated Ken Walker as their Panel member, and the Union designated Salvador Vasquez as the Union's member. A hearing was held on February 8, 2019 at Long Beach City Hall, where all parties were represented by counsel and afforded an opportunity to introduce evidence, testimony, and argument as to their respective positions. A number of stipulations were agreed to at hearing, and post-hearing briefs were submitted by both parties.

**The Issues**

The final changes that the City intends to implement are contained in City Exhibit 10, a "Proposed Scope of Service" dated 6/16/18. That document, which is 18 pages long, lays out in detail how the integration of the SSO's at the Long Beach Airport is to work as they become a part of the Airport Security Division of the Long Beach Police Department.

The dispute is one of classic "Effects" bargaining, where the employer has the right to make decisions and changes as to how they manage their workforce, while the effects of those changes are subject to bargaining as to the impact they will have on represented employees.

The parties agreed that there are two core issues in dispute, and the Union raised an additional issue at hearing regarding badges, which we will address:

- 1) Level of Training for armed SSO III's and IV's assigned to the Airport. Specifically, whether or not they would continue to receive POST Level 1 training, or the more limited training referred to in the City's Proposed Scope of Service dated 6/16/18; and
- 2) Whether The affected SSO's would continue to exercise traffic patrol duties in City owned patrol vehicles within the Airport referred to as Traffic Patrol Duties, or Red Light-Equipped Vehicles, and

3) The Union believes there is a third issue, having to do changes being made to the badges worn by the SSOs.

### **Training**

The crux of the training issue revolves mainly around POST Training for the SSO's as opposed to a more limited regimen of trainings after the organizational changes into the Long Beach Police Departments Airport Security Division.

Generally, POST Training refers to a full-time 888-hour course for becoming a Regular Police Officer. Here the City has decided to no longer provide full POST certification, and has proposed in lieu thereof to provide a course of instruction which is significantly less than the full POST course, but enough to allow the SSO's to be peace officers within the scope of their revised duties. A list of the new training protocols are listed at page 16 of the proposed Scope of Services for SSOs.

As a practical matter the real issue has to do here with the clear lessening of the scope of duties for currently employed SSOs, many of whom have already completed POST Training as was the Airports historic practice. These changes are further exacerbated by an unfortunate situation whereby the Long Beach Police Department made a request for review to the Statewide POST Commission.

As detailed in a July 2018 letter from the Commission on Peace Officer Standards and Training, evidently "staff" from the Long Beach Police Department reached out to the POST Commission to inquire how the integration of SSOs from the Airport with POST Certificates would work as they moved under the control of the LBPd. (City Exhibit 15).

The result of this inquiry was that the POST Commission revoked the certificates of four SSOs employed at the Airport, and their first knowledge of this was when they got official Notice of Revocation from the POST Commission. This is validated by Union Exhibit 18, a copy of the "Certificate Issued in Error" letter dated May 11, 2018 to Adam Jensen from the POST Commission.

Such an unforced error clearly made it more difficult to have a positive experience during the effects bargaining.

The Union also raised an issue regarding 24/7 coverage by Long Beach Police Officers not being needed between the hours of 2300 and 0530 hours, which by implication argues that POST Certified SSOs should be used during these hours.

At hearing it appears that during these hours the airport is closed to traffic, and the integration plan provides for PD Officer staffing on an as needed basis should there be an emergency. Absent a statutory prohibition, the City is within their rights to assign staff at the Airport.

### **Statutory Issues**

Obliquely the IAM is arguing that the City's Proposed Scope of Agreement would have CSOs violating the law if they don't get POST Training. See Union's Post Hearing Brief p.4, referring to a 2000 Memorandum with the City, and a reference to FAA Regulations.

The core of the Union's assertion for POST training is at page 12 of their brief, where they argue that the elimination of POST Training violates State and Federal law. They point to such areas as Homeland Security, FAA Regulations, and a host of statutes. For a partial list, see Unions Exhibits 28 thru 32. We will not go into detail here, because in each instance the Union is claiming that the statute is or will be somehow violated by implementation of the City's proposed Scope of Service.

As I am sure counsel for the Union is aware, factfinding is not the arena to obtain a decision as to whether or not the City is proposing to violate the law. Both parties are represented by able counsel, and I have no doubt they are familiar with the judicial system.

### **Traffic Patrol Duties and Red Light-Equipped Vehicles**

At the risk of oversimplifying, it appears that the City intends to have LBPD Officers replace SSOs in the performance of these functions inside the airport, thereby eliminating the need for certain training modules to be completed by the SSO's.

. It is, as a practical matter, another lessening of the SSOs range of duties, so it is understandable that the SSOs would resist the change, particularly as it directly relates to the training required to perform the duties. However, absent some compelling reason, this seems clearly within the purview of the City's authority to assign and direct their workforce.

### **Recommendations**

Looking at other agencies (see City Exhibit 22), it is clear that a majority of other California Airports do not use SSOs, instead relying on Police Department or Sheriff's Department personnel to provide the function. Sometimes it appears that these employees are in fact retired police officers, and occasionally as in the instance of the LA World Airport they are full on police officers who are a part of LA City's Safety Retirement System. Again the evidence shows that there is no indication that the City's proposal flies in the face of any prevailing practices elsewhere.

As a result, the recommendation is necessarily that the City of Long Beach is within their rights to implement the final proposal contained in City Exhibit 10, a "Proposed Scope of Service" dated 6/16/18.

This recommendation comes with a suggestion. The first is that it would go a long way to demonstrate 'good faith' if something could be done for the four SSOs who had their POST Certificates revoked. For example, after the implementation of the new Scope of Services & their integration into the Long Beach Police Department, it might be possible



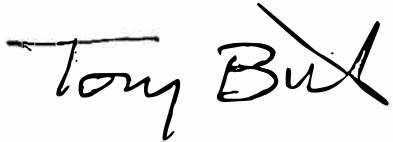
to allow these officers to request that the LBPB revisit the issue of their status with the POST Commission.

The suggestion has to do with timing. As I understand it, the collective bargaining agreement between the parties expires sometime towards the end of 2019. If you think about it, should the City implement their final offer, this would allow for some time to determine what the changes actually are as a practical matter, and to see what could be done better.

Since scope of duties are obviously a proper subject of bargaining, there is nothing to preclude the Union from making proposals which would expand the scope of training for SSOs within the ranks of the Long Beach Police Department.

Submitted March 5, 2019:

By

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Tony Butka, Chair  
Ken Walker, City Panel Member, Concurring

Sal Vasquez, IAM Panel Member, Dissent Attached



**International Association of Machinists and Aerospace Workers**  
**DISTRICT LODGE 947**

March 5, 2019

Tony Butka  
4286 Verdugo View Drive  
Los Angeles, California 90062

Re: Union's Dissent To Fact Finding Panel's Recommendation  
*City of Long Beach and International Association of Machinists, & Aerospace Workers*  
*Local Lodge 1930, District Lodge 947*  
Case No. LA-1M-269-M

Dear Mr. Butka:

As you know, I am the fact finding panel member appointed by the International Association of Machinists & Aerospace Workers, Local Lodge 1930, District Lodge 947 ("Union"). By way of this letter, I respectfully dissent to a portion of the fact finding panel's recommendation in the above captioned matter for the reasons set forth herein.

The Union agrees with the final portion of the fact finding panel's recommendation which encourages the City of Long Beach ("City") to work with the Union on reinstating certifications for Special Services Officers ("SSOs") that have been provided by the City through the California Commission on Peace Officers Standards and Training ("POST") since 2007. However, this recommendation alone does not resolve the core issues that have prevented the Union and the City from reaching an agreement over the proposed plan to integrate the SSOs into the Airport Security Division ("Integration Plan") of the Long Beach Police Department ("LBPD").

The Union dissents from the fact-finding panel's conclusion in so much as it suggests this process is not the proper venue to address potentially unlawful aspects of Integration Plan. This process is governed by Section 3505.4 of the California Government Code, which specifically states:

*In arriving at their findings and recommendations, the factfinders shall consider, weigh, and be guided by all of the following criteria: (1) State and federal laws that are applicable to the employer.*

The fact finding panel cannot make legal findings. However, they are to be guided by what the law requires. To date, the City has not provided the Union or the fact finding panel with any proof that the three disputed areas of their proposed integration plan comply with various state and federal laws regulating the manner in which LGB must be operated by the City. These disputed changes are inconsistent with Sections 1542.215 and 1542.217 of Title 9 of the United States Code of Federal Regulations which require the City to ensure the following:

1. That there are a sufficient number of law enforcement personnel "available and committed to respond" to a security incident reported by an aircraft operator<sup>1</sup>, and;
2. All law enforcement personnel employed at the airport for this purpose, must meet the following qualifications<sup>2</sup>:
  - A) Have arrest authority
  - B) Are identifiable by appropriate indicia of authority;
  - C) Are armed with a firearm and authorized to use it; and
  - D) Have completed a training program that is the equivalent to the training provided by "the local jurisdiction in which the airport is located [to] law enforcement performing comparable functions."<sup>3</sup>
3. The required training must also include any other subjects required by the Department of Homeland Security, Transportation Security Administration.

**1. Elimination of POST certification training may violate the federal regulation requiring provision of "equivalent" training.**

The clear language of the above federal regulation requires that all law enforcement personnel working at LGB (which includes SSOs) receive training that is the equivalent of training provided to by the local jurisdiction to law enforcement officers performing comparable functions.

The City's proposed integration plan will have SSOs at LGB performing functions that are comparable to those performed by officers of the LBPD. As a result, the training provided to SSOs must be the equivalent of the training provided to LBPD officers. This has historically been the level of training provided, and the ability for this training to comply with the above federal regulation has never been questioned by Homeland Security or the Federal Aviation Administration.

The City's drastically reduced training program will eliminate many essential training modules historically provided by POST to peace officers working at California airports. The elimination of some of these modules will expose the City to increased legal liability, such as the modules pertaining to "Cultural Diversity/Discrimination" and "People With Disabilities."

**2. Revocation of SSO arrest authority may violate the federal regulation requiring that law enforcement be "available and committed" to the airport.**

The City's last-best-final offer revokes any and all arrest authority from the SSOs by eliminating their ability to conduct vehicle stops. They have held this authority since, at least, 1991. This is problematic in so much as the roadways leading in and out of the LGB terminal areas are open 24 hours, seven days per week. The City intends to staff LGB only with SSOs between the hours of 2200 and 0500. By revoking SSO arrest authority, this leaves the roadways and all other areas of the airport vulnerable to vehicular and other crimes during these hours.

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<sup>1</sup> 29 C.F.R. §§ 1542.217(a)-(b)

<sup>2</sup> *Id.* at § 1542.215(a)

<sup>3</sup> *Id.* at § 1542.215(c)

This vulnerability is not only problematic from a common-sense perspective. This is also contrary to the above federal regulations require that law enforcement officers be "available and committed" to respond to security incidents occurring at the airport, without regard to the time of day.

Under the City's proposed integration plan, there will be no "committed" law enforcement assigned to LGB between 2200 and 0500 once the City eliminates the SSOs' historic arrest powers. The City's response to this concern is simply that SSOs can call "911" and request that a LBPD officer working somewhere near the airport respond to a security incident. This isn't just a likely violation of federal law – it is an irresponsible way to operate what is likely the largest terrorism target in Long Beach.

**3. Proposed modifications to the peace officer identification card may violate federal law requiring that law enforcement be "identifiable by appropriate indicia of authority."**

Since at least 2007, the City has been providing SSOs with an identification card that is worn on the outer vestige of their uniform. This card has always displayed the phrase "Peace Officer" on the front of the card, so that it is visible to LGB employees and the traveling public.

SSOs will remain peace officers under California law, even after the integration is complete. Despite this, the City's last-best-final proposal would cause this phrase to be moved to the back (non-visible) side of the identification card. This would remove their "appropriate indicia of authority" and will cause confusion among employees and the traveling public.

**Conclusion**

The above reasons are only a partial list of the concerns the Union holds with respect to the City's last-best-final proposal. The Union implores those who are considering this recommendation to review the Union's full post-fact-finding brief which raises a host of other concerns about the City's last-best-final offer, as well as the City's overall course of conduct throughout these negotiations.

Sincerely,



Sal Vásquez

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

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RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE  
CITY OF LONG BEACH AUTHORIZING  
IMPLEMENTATION OF THE TERMS OF THE CITY'S  
LAST, BEST AND FINAL OFFER TO THE  
INTERNATIONAL ASSOCIATION OF MACHINISTS AND  
AEROSPACE WORKERS PURSUANT TO GOVERNMENT  
CODE SECTION 3505.4

WHEREAS, the City of Long Beach ("City") and the International  
Association of Machinists ("IAM") have a Memorandum of Understanding ("MOU")  
governing the wages, hours and terms and conditions of employment for members of the  
IAM bargaining units; and

WHEREAS, the City is required by the Meyers-Milias-Brown Act  
(Government Code Section 3500, et seq.), to meet and confer in good faith with the IAM  
regarding wages, hours, and other terms and conditions of employment; and

WHEREAS, the City and IAM began negotiations in February of 2018  
regarding the integration of the Airport Security Division (Special Service Officers III and  
IV) and the Airport Police Detail; and

WHEREAS, the City and IAM engaged in ten bargaining sessions wherein  
City made six proposals including its last, best, final offer communicated in writing on  
October 24, 2018; and

WHEREAS, IAM rejected the City's offer and the parties were unable to  
reach agreement; and

WHEREAS, on October 24, 2018, City declared impasse; and

WHEREAS, IAM requested Factfinding and the parties participated in a  
Factfinding Hearing on February 8, 2019, and the Factfinding decision was issued on

1 March 5, 2019; and

2 WHEREAS, the Factfinding report was made available to the public on  
3 March 15, 2019 and is hereby attached to this Resolution labeled Attachment "A"; and

4 WHEREAS, the City held a public hearing regarding impasse on April 23,  
5 2019 and voted to receive and file the Factfinding report and postpone the adoption of  
6 the Resolution authorizing the implementation of the terms of the City's Last, Best and  
7 Final offer; and

8 WHEREAS, the City Council of the City of Long Beach is vested by law with  
9 the responsibility for making a final determination regarding wages, hours and other  
10 terms and conditions of employment for employees of the City and the City Council is  
11 desirous of making such final determination and resolving the impasse; and

12 WHEREAS, the City Manager has advised the City Council that the  
13 implementation of the City's last, best, and final offer may be challenged through legal or  
14 administrative proceedings; and

15 WHEREAS, if any of the terms of the City's last, best, and final offer, or the  
16 application of any provision of said last, best, and final offer to any person or group, are  
17 enjoined, stayed, restrained or suspended in any legal or administrative proceeding, then  
18 said provision(s) of the last, best, and final offer adopted by this Resolution shall be  
19 deemed immediately, automatically and completely suspended and of no further force  
20 and effect for any purpose, until such point as the matter is fully and finally adjudicated.

21 NOW, THEREFORE, the City Council of the City of Long Beach resolves as  
22 follows:

23 Section 1. The City Council finds and declares that in accordance with  
24 the Meyers-Milias-Brown Act, the City has met and negotiated in good faith with the IAM  
25 for a reasonable period on matters within the scope of representation.

26 Section 2. The City Council finds and declares that the City has  
27 completed the impasse procedures required under the MMBA; and

28 Section 3. That the terms of the City's last, best, and final offer to the

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

1 IAM and unrepresented employees are hereby approved and adopted.

2 Section 4. The City Manager is hereby authorized to implement all  
3 matters contained in and prescribed by the City's last, best, and final offer.

4 Section 5. If any portion of the City's last, best, and final offer, approved  
5 and adopted in Section 5 of this Resolution or the application of any provision of said last,  
6 best, and final offer to any person or group is enjoined, stayed, restrained or suspended  
7 in any legal or administrative proceeding, then said provision(s) shall be deemed  
8 immediately, automatically and completely suspended and of no further force and effect  
9 for any purpose until such legal and/or administrative proceeding is concluded by a final  
10 adjudication including exhaustion of any and all appellate proceedings.

11 Section 6. This resolution shall take effect immediately upon its adoption  
12 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

13 I hereby certify that the foregoing resolution was adopted by the City  
14 Council of the City of Long Beach at its meeting of \_\_\_\_\_, 2019, by the  
15 following vote:

16 Ayes: Councilmembers: \_\_\_\_\_  
17 \_\_\_\_\_  
18 \_\_\_\_\_  
19 \_\_\_\_\_

20 Noes: Councilmembers: \_\_\_\_\_  
21 \_\_\_\_\_

22 Absent: Councilmembers: \_\_\_\_\_  
23 \_\_\_\_\_

24 \_\_\_\_\_  
25 \_\_\_\_\_

26 \_\_\_\_\_  
27 City Clerk

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**City of Long Beach and International Association of  
Machinists, District Lodge 947, PERB Case LA-IM-269-M**

**Factfinding Report and Recommendations**

**Background**

As far back as 2015, the City of Long Beach announced their intention to reorganize SSO Officers represented by the IAM at the Long Beach Airport into the Long Beach Police Department as an Airport Security Division. The new Division would place these employees under the table of organization and span of control of the Police Department.

The parties intermittently met over the proposed changes, seriously starting in 2016, with the City finally declaring a formal impasse October 2018. The IAM filed for Factfinding, PERB certified the matter, and ultimately the parties selected Tony Butka as the Factfinding Chair for the dispute by letter of December 13, 2018.

The City designated Ken Walker as their Panel member, and the Union designated Salvador Vasquez as the Union's member. A hearing was held on February 8, 2019 at Long Beach City Hall, where all parties were represented by counsel and afforded an opportunity to introduce evidence, testimony, and argument as to their respective positions. A number of stipulations were agreed to at hearing, and post-hearing briefs were submitted by both parties.

**The Issues**

The final changes that the City intends to implement are contained in City Exhibit 10, a "Proposed Scope of Service" dated 6/16/18. That document, which is 18 pages long, lays out in detail how the integration of the SSO's at the Long Beach Airport is to work as they become a part of the Airport Security Division of the Long Beach Police Department.

The dispute is one of classic "Effects" bargaining, where the employer has the right to make decisions and changes as to how they manage their workforce, while the effects of those changes are subject to bargaining as to the impact they will have on represented employees.

The parties agreed that there are two core issues in dispute, and the Union raised an additional issue at hearing regarding badges, which we will address:

- 1) Level of Training for armed SSO III's and IV's assigned to the Airport. Specifically, whether or not they would continue to receive POST Level 1 training, or the more limited training referred to in the City's Proposed Scope of Service dated 6/16/18; and
- 2) Whether The affected SSO's would continue to exercise traffic patrol duties in City owned patrol vehicles within the Airport referred to as Traffic Patrol Duties, or Red Light-Equipped Vehicles, and



3) The Union believes there is a third issue, having to do changes being made to the badges worn by the SSOs.

### **Training**

The crux of the training issue revolves mainly around POST Training for the SSO's as opposed to a more limited regimen of trainings after the organizational changes into the Long Beach Police Departments Airport Security Division.

Generally, POST Training refers to a full-time 888-hour course for becoming a Regular Police Officer. Here the City has decided to no longer provide full POST certification, and has proposed in lieu thereof to provide a course of instruction which is significantly less than the full POST course, but enough to allow the SSO's to be peace officers within the scope of their revised duties. A list of the new training protocols are listed at page 16 of the proposed Scope of Services for SSOs.

As a practical matter the real issue has to do here with the clear lessening of the scope of duties for currently employed SSOs, many of whom have already completed POST Training as was the Airports historic practice. These changes are further exacerbated by an unfortunate situation whereby the Long Beach Police Department made a request for review to the Statewide POST Commission.

As detailed in a July 2018 letter from the Commission on Peace Officer Standards and Training, evidently "staff" from the Long Beach Police Department reached out to the POST Commission to inquire how the integration of SSOs from the Airport with POST Certificates would work as they moved under the control of the LBPD. (City Exhibit 15).

The result of this inquiry was that the POST Commission revoked the certificates of four SSOs employed at the Airport, and their first knowledge of this was when they got official Notice of Revocation from the POST Commission. This is validated by Union Exhibit 18, a copy of the "Certificate Issued in Error" letter dated May 11, 2018 to Adam Jensen from the POST Commission.

Such an unforced error clearly made it more difficult to have a positive experience during the effects bargaining.

The Union also raised an issue regarding 24/7 coverage by Long Beach Police Officers not being needed between the hours of 2300 and 0530 hours, which by implication argues that POST Certified SSOs should be used during these hours.

At hearing it appears that during these hours the airport is closed to traffic, and the integration plan provides for PD Officer staffing on an as needed basis should there be an emergency. Absent a statutory prohibition, the City is within their rights to assign staff at the Airport.

### **Statutory Issues**

Obliquely the IAM is arguing that the City's Proposed Scope of Agreement would have CSOs violating the law if they don't get POST Training. See Union's Post Hearing Brief p.4, referring to a 2000 Memorandum with the City, and a reference to FAA Regulations.

The core of the Union's assertion for POST training is at page 12 of their brief, where they argue that the elimination of POST Training violates State and Federal law. They point to such areas as Homeland Security, FAA Regulations, and a host of statutes. For a partial list, see Unions Exhibits 28 thru 32. We will not go into detail here, because in each instance the Union is claiming that the statute is or will be somehow violated by implementation of the City's proposed Scope of Service.

As I am sure counsel for the Union is aware, factfinding is not the arena to obtain a decision as to whether or not the City is proposing to violate the law. Both parties are represented by able counsel, and I have no doubt they are familiar with the judicial system.

### **Traffic Patrol Duties and Red Light-Equipped Vehicles**

At the risk of oversimplifying, it appears that the City intends to have LBPD Officers replace SSOs in the performance of these functions inside the airport, thereby eliminating the need for certain training modules to be completed by the SSO's.

. It is, as a practical matter, another lessening of the SSOs range of duties, so it is understandable that the SSOs would resist the change, particularly as it directly relates to the training required to perform the duties. However, absent some compelling reason, this seems clearly within the purview of the City's authority to assign and direct their workforce.

### **Recommendations**

Looking at other agencies (see City Exhibit 22), it is clear that a majority of other California Airports do not use SSOs, instead relying on Police Department or Sheriff's Department personnel to provide the function. Sometimes it appears that these employees are in fact retired police officers, and occasionally as in the instance of the LA World Airport they are full on police officers who are a part of LA City's Safety Retirement System. Again the evidence shows that there is no indication that the City's proposal flies in the face of any prevailing practices elsewhere.

As a result, the recommendation is necessarily that the City of Long Beach is within their rights to implement the final proposal contained in City Exhibit 10, a "Proposed Scope of Service" dated 6/16/18.

This recommendation comes with a suggestion. The first is that it would go a long way to demonstrate 'good faith' if something could be done for the four SSOs who had their POST Certificates revoked. For example, after the implementation of the new Scope of Services & their integration into the Long Beach Police Department, it might be possible

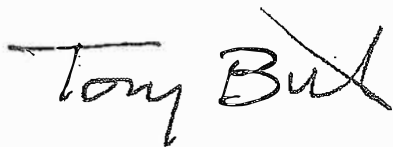
to allow these officers to request that the LBPD revisit the issue of their status with the POST Commission.

The suggestion has to do with timing. As I understand it, the collective bargaining agreement between the parties expires sometime towards the end of 2019. If you think about it, should the City implement their final offer, this would allow for some time to determine what the changes actually are as a practical matter, and to see what could be done better.

Since scope of duties are obviously a proper subject of bargaining, there is nothing to preclude the Union from making proposals which would expand the scope of training for SSOs within the ranks of the Long Beach Police Department.

Submitted March 5, 2019:

By

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Tony Butka, Chair  
Ken Walker, City Panel Member, Concurring

Sal Vasquez, IAM Panel Member, Dissent Attached



**International Association of Machinists and Aerospace Workers**  
**DISTRICT LODGE 947**

March 5, 2019

Tony Butka  
4286 Verdugo View Drive  
Los Angeles, California 90062

Re: Union's Dissent To Fact Finding Panel's Recommendation  
*City of Long Beach and International Association of Machinists, & Aerospace Workers*  
*Local Lodge 1930, District Lodge 947*  
Case No. LA-IM-269-M

Dear Mr. Butka:

As you know, I am the fact finding panel member appointed by the International Association of Machinists & Aerospace Workers, Local Lodge 1930, District Lodge 947 ("Union"). By way of this letter, I respectfully dissent to a portion of the fact finding panel's recommendation in the above captioned matter for the reasons set forth herein.

The Union agrees with the final portion of the fact finding panel's recommendation which encourages the City of Long Beach ("City") to work with the Union on reinstating certifications for Special Services Officers ("SSOs") that have been provided by the City through the California Commission on Peace Officers Standards and Training ("POST") since 2007. However, this recommendation alone does not resolve the core issues that have prevented the Union and the City from reaching an agreement over the proposed plan to integrate the SSOs into the Airport Security Division ("Integration Plan") of the Long Beach Police Department ("LBPD").

The Union dissents from the fact-finding panel's conclusion in so much as it suggests this process is not the proper venue to address potentially unlawful aspects of Integration Plan. This process is governed by Section 3505.4 of the California Government Code, which specifically states:

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1. That there are a sufficient number of law enforcement personnel "available and committed to respond" to a security incident reported by an aircraft operator<sup>1</sup>; and;
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  - A) Have arrest authority
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3. The required training must also include any other subjects required by the Department of Homeland Security, Transportation Security Administration.

**1. Elimination of POST certification training may violate the federal regulation requiring provision of "equivalent" training.**

The clear language of the above federal regulation requires that all law enforcement personnel working at LGB (which includes SSOs) receive training that is the equivalent of training provided to by the local jurisdiction to law enforcement officers performing comparable functions.

The City's proposed integration plan will have SSOs at LGB performing functions that are comparable to those performed by officers of the LBPD. As a result, the training provided to SSOs must be the equivalent of the training provided to LBPD officers. This has historically been the level of training provided, and the ability for this training to comply with the above federal regulation has never been questioned by Homeland Security or the Federal Aviation Administration.

The City's drastically reduced training program will eliminate many essential training modules historically provided by POST to peace officers working at California airports. The elimination of some of these modules will expose the City to increased legal liability, such as the modules pertaining to "Cultural Diversity/Discrimination" and "People With Disabilities."

**2. Revocation of SSO arrest authority may violate the federal regulation requiring that law enforcement be "available and committed" to the airport.**

The City's last-best-final offer revokes any and all arrest authority from the SSOs by eliminating their ability to conduct vehicle stops. They have held this authority since, at least, 1991. This is problematic in so much as the roadways leading in and out of the LGB terminal areas are open 24 hours, seven days per week. The City intends to staff LGB only with SSOs between the hours of 2200 and 0500. By revoking SSO arrest authority, this leaves the roadways and all other areas of the airport vulnerable to vehicular and other crimes during these hours.

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This vulnerability is not only problematic from a common-sense perspective. This is also contrary to the above federal regulations require that law enforcement officers be "available and committed" to respond to security incidents occurring at the airport, without regard to the time of day.

Under the City's proposed integration plan, there will be no "committed" law enforcement assigned to LGB between 2200 and 0500 once the City eliminates the SSOs' historic arrest powers. The City's response to this concern is simply that SSOs can call "911" and request that a LAPD officer working somewhere near the airport respond to a security incident. This isn't just a likely violation of federal law -- it is an irresponsible way to operate what is likely the largest terrorism target in Long Beach.

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Since at least 2007, the City has been providing SSOs with an identification card that is worn on the outer vestige of their uniform. This card has always displayed the phrase "Peace Officer" on the front of the card, so that it is visible to LGB employees and the traveling public.

SSOs will remain peace officers under California law, even after the integration is complete. Despite this, the City's last-best-final proposal would cause this phrase to be moved to the back (non-visible) side of the identification card. This would remove their "appropriate indicia of authority" and will cause confusion among employees and the traveling public.

#### Conclusion

The above reasons are only a partial list of the concerns the Union holds with respect to the City's last-best-final proposal. The Union implores those who are considering this recommendation to review the Union's full post-fact-finding brief which raises a host of other concerns about the City's last-best-final offer, as well as the City's overall course of conduct throughout these negotiations.

Sincerely,

A handwritten signature in black ink that reads "Sal Vasquez" followed by a stylized flourish or set of initials.

Sal Vasquez



**City of Long Beach Memorandum**  
*Working Together to Serve*

## REQUEST TO ADD AGENDA ITEM

**Date:** May 17, 2019

**To:** Monique De La Garza, City Clerk

**From:** Patrick H. West, City Manager *Becky*

**Subject:** Request to Add Agenda Item to Council Agenda of May 21, 2019

---

Pursuant to Municipal Code Section 2.03.070 [B], the City Councilmembers signing below request that the attached agenda item (due in the City Clerk Department by Friday, 12:00 Noon) be placed on the City Council agenda via the supplemental agenda.

The agenda title/recommendation for this item reads as follows:

**Adopt a Resolution pursuant to California Government Code Section 3505.4, authorizing the implementation of the terms of the City's Last, Best and Final Offer, described in the October 24, 2018 correspondence to the International Association of Machinists and Aerospace Workers (IAM), detailing the Scope of Service on the Airport Security Division and Long Beach Police Department Integration. (Citywide)**

Council District	Authorizing Councilmember	Signed by
CD 9	Rex Richardson	<i>[Signature]</i>
7	Roberto Urbanga	<i>[Signature]</i>
3	Suzie Price	<i>[Signature]</i>

Attachment: Staff Report dated May 21, 2019

cc: Office of the Mayor