

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

1 RESOLUTION NO. RES-16-0086

2
3 A RESOLUTION OF THE CITY COUNCIL OF THE
4 CITY OF LONG BEACH APPROVING THE LONG BEACH
5 SUPERVISORS EMPLOYEES ASSOCIATION AGENCY
6 SHOP AGREEMENT; AND AUTHORIZE THE CITY
7 MANAGER TO EXECUTE THE AGREEMENT
8

9 WHEREAS, the City of Long Beach recognized and certified the Long
10 Beach Supervisors Employees Association (LBSEA) on July 15, 2016, as the recognized
11 employee organization for the designated non-management employees of the City for
12 purposes of employer-employee relations under the Myers-Milias-Brown Act (MMBA),
13 Government Code Section 3500-3511 and regulations of the Public Employment
14 Relations Board (PERB). 8 Cal. Code of Regulations Section 31001-3297; and

15 WHEREAS, the MMBA expressly provides for adoption of an agency shop
16 agreement in a bargaining unit with a recognized exclusive representative; and

17 WHEREAS, the LBSEA has requested implementation of an agency shop
18 agreement and provided proof of majority support of the eligible employees in the unit
19 desire an agency shop; and

20 WHEREAS, representatives of the City and LBSEA have mutually agreed
21 to tentative terms, pending City Council approval, for the agency shop agreement.

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

24 Section 1. The Agency Shop Agreement between the City of Long Beach
25 and the Long Beach Supervisors Employees Association, a copy of which is attached
26 hereto and incorporated by reference into this resolution, is hereby approved.

27 Section 2. The Human Resources Manager of Labor Relations, as the
28 City's labor relations representative, shall implement and administer the terms of the

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1 Agency Shop Agreement on behalf of the City.

2 Section 3. This resolution shall take effect immediately upon its adoption
3 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

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5 I hereby certify that the foregoing resolution was adopted by the City
6 Council of the City of Long Beach at its meeting of September 13, 2016, by the
7 following vote:

8
9 Ayes: Councilmembers: Gonzalez, Pearce, Price,
10 Supernaw, Andrews, Uranga,
11 Austin, Richardson.

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13 Noes: Councilmembers: None.

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15 Absent: Councilmembers: Mungo.

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18 Maia de la Torre
City Clerk

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**AGENCY SHOP AGREEMENT
BETWEEN
THE CITY OF LONG BEACH
AND
THE LONG BEACH SUPERVISORS EMPLOYEES ASSOCIATION**

1. Union Dues and Service Fees:

- A. All employees in the bargaining unit listed below must, as a condition of continued employment, either be a member of the Union and pay Union dues or pay to the Union an agency fee in an amount not to exceed the standard initiation fee, periodic dues, and general assessments of the Union, but not both.

Bargaining units covered by this agreement:

Skilled and General Services – Supervisory

- B. All employees within this bargaining unit who are not Union members must, as a condition of continued employment, pay to the Union while on the active payroll, an agency fee or objector fee sufficient to cover expenses required for representation services. This fee shall be due beginning with the month following the month in which they accumulate thirty (30) calendar days' continuous service in the bargaining units since their date of hire or rehire. Employees entering the bargaining units or employees who are rehired or transferred into the bargaining units after the election who do not become Union members, or having become, do not remain Union members, must, as a condition of employment, while on the active payroll, pay such fee to the Union commencing the month following the month in which they accumulate thirty (30) calendar days' continuous service in the bargaining units.
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- C. Any employee required to pay a standard initiation fee, periodic dues, general assessment or in-lieu contribution as a condition of continued employment, who fails to tender the agency fee or periodic dues uniformly required, shall be notified in writing by the Union of their delinquency. A copy of such communication shall be mailed to the City.
- D. The employee's earnings must be sufficient, after the other legal and required deductions are made, to cover the amount of the dues or fees authorized. When an employee is in a non-pay status for an entire pay period, no withholding will be made to cover the pay period from future earnings. In the case of an employee in a non-pay status only during part of the pay period whose salary is not sufficient to cover the full withholding, no deduction shall be made.
- E. The Union agrees to pay the City a deduction charge, as provided for in the applicable Memorandum of Understanding, for each agency fee payer, or dues objector payer.

2. Objections

Any employee who is a member of a bona fide religion, body or sect that has historically held conscientious objections to joining or financially supporting public employee organizations shall not be required to join or financially support any public employee organization as a condition of employment. The employee whose conscientious objections are accepted by the Long Beach Supervisors Employees Association (LBSEA) legal counsel shall be required, in lieu of periodic dues, initiations fees, or agency fees, to pay through City payroll deduction sums equal to those fees or dues to one of the nonreligious, non-labor charitable funds exempt from taxation under Section 501 C(3) of the IRC listed below:

Guide Dogs of America
American Cancer Society
United Way

3. Challenge of Fees/Indemnification

- A. The LBSEA, its Officers and members, shall hereby indemnify, hold harmless, and defend the City of Long Beach and its officers, employees and agents against any and all claims, proceedings and liability arising, directly or indirectly, out of any actions taken or not taken by or on behalf of the City related to agency shop. In no event shall the City be required to pay from its own funds, Union dues, agency fees or charitable contributions, which the employee was obligated to pay, but failed to pay, regardless of the reasons.
- B. The Union shall file a certification with the City, indicating they have complied with all provisions of the law, including Hudson requirements with respect to the audit, determination of the fair share fee and the filing of required Hudson notices. The certification shall be filed prior to the deduction of agency fees.
- C. Prior to the deduction of agency fees, the Union shall make available to all covered employees and the City, an adequate explanation of the fee calculation so that potential objectors can determine whether the fee is fairly calculated.
- D. The Union shall make available, at its expense, an expeditious administrative appeals procedure to unit employees who object to the payment of any portion of the agency fee or claim violation of employee rights with respect to religious exemption. Such procedure may include a process for appeal to an impartial arbitrator chosen through the American Arbitration Association's (AAA) rules for Impartial Determination of Union Fees. The LBSEA shall escrow amounts reasonably in dispute while a challenge is pending. No action will be taken regarding terminating the objector's employment during the appeal process. The Union shall pay all arbitration costs associated with a challenge.
- E. The Union shall inform covered employees of the challenge and objector procedures prior to the commencement of deductions.

F. The City shall not be made a party to administrative or court proceedings except to the limited extent where such administrative body and/or court determine such to be necessary for the purpose of enforcing its order or judgment. In such event the City shall be entitled to payment of its attorney fees and costs by the Union.

4. Rescission

Agency Shop may be rescinded by a majority vote of all the employees in the unit covered provided that:

1. A request for such a vote is supported by a petition containing the signatures of at least 30 percent of the employees in the unit.
2. The vote is a majority vote in the bargaining unit by secret ballot.
3. The vote may be taken at any time during the term of the contract but in no event shall more than one vote be taken during the term of an MOU.
4. The sufficiency of petitions shall be determined by the City and the State Mediation and Conciliation Service shall conduct the rescission election.

5. Application

The agency shop arrangement shall not apply to management employees.

6. Reporting

The LBSEA shall keep an adequate itemized record of its financial transactions and shall make available annually to the City and to the employees in the bargaining units, within 60 days after the end of its fiscal year, a detailed written financial report thereof in the form of a balance sheet and an operating statement, certified as to accuracy by its President and Secretary-Treasurer.


For the LBSEA

8.9.16
Date

For the City of Long Beach

Date