

December 6, 2022

R-47

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Adopt a Resolution amending the Employer-Employee Relations Resolution. (Citywide)

DISCUSSION

The Meyers-Milias Brown Act authorizes the City of Long Beach (City) to adopt reasonable rules and regulations for the administration of employer-employee relations between the City and its recognized employee organizations. The City Council adopted its Employer-Employee Relations Resolution (EERR) in 1977. In July 2021, the City noticed all of the employee organizations to meet and consult regarding an update to the current EERR.

The new EERR is a comprehensive Resolution providing for orderly procedures for the administration of employer-employee relations. The Resolution clarifies in writing the rights and obligations of employees, recognized employee organizations and City management in the conduct of employer-employee relations activities, consistent with the provisions of Sections 3500 et seq., of the Government Code. It also incorporates the current Public Employee Relations Board (PERB) rules, regulations, and applicable case law.

The City met and consulted with the employee organizations impacted by the amended rules and regulations. In accordance with Government Code Section 3505, the impacted employee groups have provided their feedback and agreed to move forward with the new EERR.

This matter was reviewed by Assistant City Attorney Gary J. Anderson and Budget Management Officer Nader Kaamoush on November 14, 2022.

TIMING CONSIDERATIONS

City Council action is requested on December 6, 2022.

FISCAL IMPACT

There is no fiscal impact associated with this Resolution. This recommendation has no staffing impact 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,



JOE AMBROSINI
HUMAN RESOURCES DIRECTOR

Attachment – Resolution

APPROVED:



THOMAS B. MODICA
CITY MANAGER

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RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH ESTABLISHING EMPLOYER-EMPLOYEE RELATIONS PROCEDURES, RULES AND POLICIES UNDER CHAPTER 10, DIVISION 4, TITLE 1 OF THE GOVERNMENT CODE OF THE STATE OF CALIFORNIA (SECTIONS 3500 ET SEQ.)

WHEREAS, many of the City's employees are members of employee organizations; and

WHEREAS, section 3507 of the California Government Code authorizes a public agency to adopt reasonable rules and regulations for the administration of employer-employee relations;

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

SECTIONS:

- 1 Purpose.
- 2 Definition of Terms.
- 3 Employee Rights.
- 4 Employee Organization Rights.
- 5 City Rights.
- 6 Duties of City Employee Relations Officer.
- 7 Representation Proceedings.
- 8 Bargaining Unit Composition.
- 9 Collective Bargaining.
- 10 Consultation Process.
- 11 Administration.

1 12 Construction.

2 Section 1. PURPOSE. The purpose of this Resolution is to implement
3 local rules pursuant to Section 3507 of the Government Code in order to:

4 A. Provide orderly procedures for the administration of employer-
5 employee relations between the City and its recognized employee
6 organization(s);

7 B. Establish a system to resolve disputes regarding wages,
8 hours, and other terms of employment; and

9 C. Clarify in writing the rights and obligations of employees,
10 recognized employee organizations, and City management in the conduct
11 of employer-employee relations activities, consistent with the provisions of
12 Sections 3500 et seq. of the Government Code.

13 Section 2. DEFINITION OF TERMS. As used in this Resolution, the
14 following terms shall have the meanings indicated:

15 A. The words “authorized employee bargaining unit” shall mean
16 a unit established pursuant to Section 8 of this Resolution.

17 B. The word “Council” shall mean the City Council of the City of
18 Long Beach.

19 C. The word “certify” shall mean the process by which the City
20 formally acknowledges an employee organization as the exclusive
21 recognized employee organization that represents City employees in an
22 authorized employee bargaining unit.

23 D. The words “consult” or “consult in good faith” shall mean to
24 communicate for the purpose of presenting and obtaining views or advising
25 of intended actions on matters subject to consultation pursuant to Section
26 3507 and 3507.5 of the Government Code.

27 E. The word “days” shall mean calendar days unless stated
28 otherwise.

- 1 F. The word “City” shall mean the City of Long Beach, organized
- 2 and operated pursuant to the provisions of the City Charter, and shall
- 3 include all those departments administered by the City Manager, overseen
- 4 by the City Council, and/or established under the City Charter.
- 5 G. The words “City Employee Relations Officer” shall mean the
- 6 City Manager, or his/her designee, who shall be the City of Long Beach’s
- 7 principal representative in all matters of employer-employee relations with
- 8 the authority to enforce and apply the provisions of this Resolution.
- 9 H. The words “City Manager” shall mean the City Manager of the
- 10 City of Long Beach.
- 11 I. The words “Director of Human Resources” shall mean the
- 12 City’s Director of the Human Resources Department, who is appointed by
- 13 the City Manager.
- 14 J. The word “employee” shall mean any person employed by the
- 15 City except those persons elected or appointed to City Commissions.
- 16 K. The words “employee, confidential” shall mean an employee
- 17 as designated by the Director of Human Resources who has access to or
- 18 possesses information relating to employer-employee relations or who is
- 19 required to develop or present City management decisions with respect to
- 20 meeting and conferring or whose duties normally require access to
- 21 confidential information which contributes significantly to the development
- 22 of those management decisions.
- 23 L. The words “employee, management” shall mean any
- 24 employee as designated by the Director of Human Resource having
- 25 significant responsibilities for formulating and administering City policies
- 26 and program, including but not limited to the City Manager, department
- 27 heads, bureau managers, and division officers; or
- 28 M. The words “employee, professional” shall mean employees as

1 designated by the Director of Human Resources who are engaged in work
2 requiring specialized knowledge and skills attained through completion of a
3 recognized course of instruction or equivalent experience, including but not
4 limited to attorneys, physicians, registered nurses, engineers, architects,
5 teachers, and various types of physical, chemical, and biological scientists.

6 N. The words “employee, supervisory” shall mean employees as
7 designated by the Director of Human Resources who hold authority in the
8 interest of the City to hire, transfer, suspend, layoff, recall, promote,
9 discharge, assign, reward, or discipline other employees, or having the
10 responsibility to direct them, adjust their grievances, or to effectively
11 recommend such action if the exercise of such authority is not merely
12 clerical in nature, but requires the use of independent judgment.

13 O. The words “employee organization(s)” shall mean any
14 organization which includes employees of the City, which has as one of its
15 primary purposes representing employees of the City in their labor relations
16 with the City, and which is designated by the City Employee Relations
17 Officer pursuant to Section 6 of this Resolution.

18 P. The words “recognized employee organization” shall mean an
19 employee organization, or its duly authorized representative, that has been
20 granted formal recognition by the City Employee Relations Officer as
21 representing the majority of employees in an authorized employee
22 bargaining unit, or has been certified as the employee organization which
23 received the majority of votes in a valid representation election for an
24 authorized bargaining unit (or units).

25 Q. The word “impasse” shall mean a point in collective
26 bargaining when the duly authorized representatives of the City and the
27 recognized employee organization have considered each other’s proposals
28 and counterproposals in good faith, attempted to narrow the gap of

1 disagreement and have reached a point where their differences on matters,
2 over which they are required to meet and confer, remain so substantial and
3 prolonged that further negotiations would be futile.

4 R. The words “labor relations” shall mean the relationship
5 between the City and its employees or their recognized employee
6 organization(s) with respect to engaging in the collective bargaining process
7 and other processes mandated by law.

8 S. The words “mediation” or “conciliation” shall mean the efforts
9 of an impartial third person, or persons, functioning as intermediaries to
10 assist the parties in reaching a voluntary resolution to an impasse through
11 interpretation, suggestion, or advice. “Mediation” and “conciliation” are
12 interchangeable terms.

13 T. The words “meet and confer in good faith” (sometimes
14 referred to herein as “meet and confer” or “meeting and conferring”) shall
15 mean that the duly authorized representatives of the City and the
16 recognized employee organization have the mutual obligation to personally
17 meet and confer upon request by either party, at reasonable times and in
18 good faith, in order to exchange information, opinions, and proposals
19 regarding matters within the scope of representation in an effort to reach
20 agreement on those matters. This does not require either party to agree to
21 a proposal or to make a concession. The process shall include adequate
22 time for the resolution of impasses.

23 U. The words “memorandum of understanding” shall mean a
24 written document, prepared by the duly authorized representatives of the
25 City and recognized employee organization, which sets forth those matters
26 upon which both parties have agreed.

27 V. The word “Resolution” shall mean, unless the context
28 indicates otherwise, the Employer-Employee Relations Resolution of the

1 City of Long Beach.

2 W. The words “scope of representation” shall mean all matters
3 relating to employment conditions, including but not limited to wages, hours,
4 and other terms and conditions of employment.

5 X. The words “window period” shall mean one of the following: (i)
6 if a lawful memorandum of understanding between the City and a
7 recognized employee organization remains in effect with a term of less than
8 three years, the 29-day period which is less than 120 days but more than
9 90 days prior to the expiration date of the MOU; (ii) if a lawful memorandum
10 of understanding between the City and a recognized employee organization
11 remains in effect with a term longer than three years, the 29-day period
12 which is less than 120 days but more than 90 days before the third
13 anniversary or any subsequent annual anniversary of the effective date of
14 the memorandum of understanding. If a memorandum of understanding for
15 the bargaining unit has expired or is otherwise not in effect, a petition may
16 be filed at any time, consistent with the other requirements contained in this
17 Resolution.

18 Y. The words “Effective Date” shall mean the date that the
19 Memorandum of Understanding identifies as the initial start date for the
20 MOU.

21 Section 3. EMPLOYEE RIGHTS. All employees shall have the following
22 rights which may be exercised in accordance with state law and applicable resolutions,
23 rules, and regulations, or as provided in a current memorandum of understanding that is
24 in full force and effect:

25 A. The right to form, join, and participate in the activities of
26 employee organizations of their own choosing for the purpose of
27 representation on all matters of employer-employee relations.

28 B. The right to refuse to join or participate in the activities of

1 employee organizations.

2 C. The right to be free from interference, intimidation, restraint,
3 coercion, discrimination, or reprisal on the part of a management employee,
4 supervisor, other employee, or employee organization as the result of their
5 exercise of these rights.

6 Section 4. EMPLOYEE ORGANIZATION RIGHTS.

7 A. Status of Recognized Employee Organization as Exclusive
8 Representative. An employee organization shall be certified or recognized
9 as the exclusive representative for an authorized bargaining unit (or units),
10 pursuant to the provisions of Section 7.

11 B. Bargaining Rights of Recognized Employee Organizations.

12 1. A recognized employee organization shall have the
13 right to meet and confer in good faith, and meet and consult in good faith,
14 with authorized representatives of the City. The City is under no obligation
15 to meet and confer or meet and consult with any employee organization,
16 unless it has been certified and/or recognized as an exclusive recognized
17 employee organization. If an employee organization is decertified pursuant
18 to the decertification process conducted by the Public Employment
19 Relations Board, the City is under no obligation to meet and confer, or meet
20 and consult, with such employee organization.

21 2. A recognized employee organization shall have the
22 right to represent their members in matters concerning their terms and
23 conditions of employment with the City. However, the scope of
24 representation shall not include consideration of the merits, necessity, or
25 organization of any service or activity provided by law or executive order.
26 Employee organizations may establish reasonable restrictions regarding
27 who may join and may make reasonable provisions for dismissal of
28 individuals from membership.

1 C. Access to Work Locations.

2 1. Access to Work Locations for Recognized Employee
3 Organizations.

4 a. Subject to the provisions of any current and
5 effective memorandum of understanding which would control, authorized
6 representatives of recognized employee organizations, including non-
7 employee representatives, shall be given access to locations in the
8 workplace during hours in which unit members are working to conduct
9 grievances, to conduct investigations in connection with grievances, and to
10 observe working conditions in connection with grievances, so long as it is
11 not unreasonably disruptive of normal working processes.

12 b. An authorized representative of a recognized
13 employee organization who desires access to a work location shall state the
14 purpose of the visit and request authorization from the appropriate
15 department head or designee(s) a reasonable amount of time before the
16 intended visit unless the parties agree to waive notice. For purposes of this
17 section, "reasonable notice" shall be defined as 24 hours in advance
18 whenever possible. Reasonable notice may also include notice that is less
19 than 24 hours prior to the intended visit if circumstances permit. The
20 appropriate department head or designee(s) may deny access if he/she
21 feels it will unreasonably interfere with normal working processes and state
22 the reason(s) for the denial. The authorized representative of a recognized
23 employee organization must advise the appropriate department head,
24 his/her designee(s), and/or the City Employee Relations Officer when
25 he/she has arrived on site. While at City facilities, the authorized
26 representative agrees to observe the security, conduct, and safety rules
27 and regulations of the City and shall not purposefully interfere with the
28 operations of departments or any facility thereof, or attempt to access work

1 areas or facilities that were not authorized.

2 c. Access to work locations will only be granted to
3 authorized representatives of recognized employee organizations on the
4 current list. Solicitation of membership, as well as activities concerned with
5 the internal management of an employee organization such as collecting
6 dues, holding membership meetings, campaigning for office, conducting
7 employee organization elections, and distributing literature, will not be
8 permitted during working hours or in work locations unless the employee
9 organization has the City's prior approval or the MOU provides otherwise.

10 2. Access to Work Locations for Non-recognized
11 Employee Organizations.

12 a. Authorized representatives of employee
13 organizations who have not been recognized as the exclusive
14 representative of a bargaining unit (or units) shall be given access to non-
15 work locations during hours in which unit members are not working. Such
16 non-recognized employee organizations must provide the City Employee
17 Relations Officer with a list of authorized representatives for purposes of
18 workplace access. Access to non-work locations will only be granted to
19 authorized representatives of such non-recognized employee organizations
20 on the current list.

21 b. Solicitation of membership, as well as activities
22 concerned with the internal management of an employee organization such
23 as campaigning for office, conducting employee organization elections, and
24 distributing literature, will not be permitted during working hours or in work
25 locations.

26 3. Use of City Facilities for Recognized Employee
27 Organizations.

28 a. Recognized employee organizations may, with

1 the prior approval of the City Employee Relations Officer, or as provided for
2 in the applicable Memoranda of Understanding, be granted the use of City
3 facilities during non-work hours for meetings of employees, provided space
4 is available. Recognized employee organizations shall submit all such
5 requests in writing, stating the purpose(s) of the meeting. A copy of the
6 request shall be provided to the City Employee Relations Officer as soon as
7 it is available, but in no event less than 24 hours prior to such meeting. The
8 use of City equipment, other than items normally used in the conduct of
9 such meetings such as internet, video and phone conferencing tools, desks,
10 chairs, and blackboards, is strictly prohibited, the presence of such
11 equipment in approved City facilities notwithstanding.

12 Section 5. CITY RIGHTS. Subject to the provisions of any current and
13 effective memorandum of understanding, all management rights and functions shall
14 remain vested exclusively with the City, except those which are clearly and expressly
15 limited in this resolution. It is recognized merely by way of illustration that such
16 management rights and functions include but are not limited to:

17 A. The right to determine the necessity, organization, and
18 standards to implement any service or activity conducted by the City;

19 B. The right to determine and/or change the size and
20 composition of the City work force and assign work to employees, and to
21 determine and/or change the City's methods, equipment, apparatus, and
22 technology;

23 C. The right to hire, promote, evaluate, discipline, and lay-off
24 employees, as well as to set and enforce performance standards;

25 D. The right to direct its employees and schedule and assign
26 work and overtime; and

27 E. The right to maintain the efficiency of governmental
28 operations, and to determine the methods, means, and personnel by which

1 government operations are to be conducted.

2 Section 6. DUTIES OF CITY EMPLOYEE RELATIONS OFFICER. The
3 City Employee Relations Officer shall be the City's principal representative in all matters
4 of employer-employee relations with the authority to enforce and apply the provisions of
5 this Resolution. The City Employee Relations Officer is authorized to delegate these
6 duties and responsibilities to other agents or parties.

7 Section 7. REPRESENTATION PROCEEDINGS. Representation
8 proceedings are administered by the City Employee Relations Officer. Representation
9 proceedings are used to resolve questions concerning representation and recognition of
10 exclusive employee organizations and to determine the appropriateness of bargaining
11 units.

12 A. Representation Requests and Petitions. An employee
13 organization seeking to become the recognized employee organization of a
14 group of unrepresented employees may file a voluntary recognition request
15 and/or a petition for recognition.

16 1. Request for Voluntary Recognition.

17 a. Content and Timing of Voluntary Request for
18 Recognition.

19 An employee organization may file a petition at any time with the City
20 Employee Relations Officer, seeking voluntary recognition as the exclusive
21 representative of a group of unrepresented employees .

22 An employee organization must serve this petition on the City
23 Employee Relations Officer through one of the following methods: (i) the delivery
24 of physical copies of documents containing the information described below at the
25 Human Resources Department located at City Hall; or (ii) electronically serving
26 digital copies of documents containing the information described below at the
27 following email address, EROCLB@longbeach.gov. This recognition request shall
28 contain the following information and documentation:

- 1 (i) The name and address of the employee
2 organization.
- 3 (ii) The names, titles, mailing address, and
4 business telephone numbers of the employee organization's officers.
- 5 (iii) The names of the employee
6 organization's representatives who are authorized to speak on behalf of its
7 members, including representatives who are not employees of the City.
- 8 (iv) A statement that the primary purpose of
9 the employee organization is to represent employees on matters
10 concerning wages, hours, and other terms and conditions of employment.
- 11 (v) A statement that the employee
12 organization has no restriction on membership based on race, color,
13 religion, national origin, ancestry, sex, gender, gender identity, gender
14 expression, age, physical disability, mental disability, medical condition,
15 genetic information, military and veteran status, sexual orientation, marital
16 status, or any other basis protected by law.
- 17 (vi) A statement as to whether the employee
18 organization is a chapter of, or affiliated directly or indirectly in any manner,
19 with a local, regional, state, national or international organization, and if so,
20 the name and address of each such organization.
- 21 (vii) Certified copies of the employee
22 organization's constitution and by-laws.
- 23 (viii) A designation of those persons, not to
24 exceed two in number, and their addresses to whom notice, sent by regular
25 United States mail, will be deemed sufficient notice on the employee
26 organization for any purpose.
- 27 (ix) The job classification of employees in the
28 unit claimed to be appropriate and the approximate number of member

1 employees therein.

2 (x) Materials, dated within 120 days of the
3 date upon which the petition is filed, which show proof of support of a
4 majority (50% plus one) of the employees within the proposed new
5 bargaining unit.

6 1) The signature petition or
7 authorization cards shall clearly set forth the intent of the employee with
8 respect to representation by the employee organization. The signature
9 petition or authorization cards shall remain confidential and not be disclosed
10 by the City Employee Relations Officer or his/her designee(s) to any other
11 party other than the petitioning employee organization, except to indicate
12 whether the proof of support was sufficient consistent with Section 7(A)(1).

13 2) Proof of support may consist of
14 any one of the following or a combination thereof: (i) original authorization
15 cards individually signed by employees; (ii) an original signature petition
16 containing employee signatures; and/or (iii) a list of employees who have
17 electronically signed authorization cards and/or a signature petition, or
18 provided a pdf, screenshot, or image demonstrating their signatures on
19 authorization cards or a signature petition. Proof of support accompanying
20 the petition will be verified using the payroll for the period immediately prior
21 to the date the petition is filed.

22 3) In order for the employee
23 organization to validate electronic proof of support materials under this
24 subsection, the employee organization must submit to the City a sworn
25 declaration that for all employees listed on the petition, the employee
26 organization maintains either: (i) an original signed authorization card or
27 signature petition; or (ii) records showing that the employee organization
28 obtained an electronic signature of proof of support in compliance with

1 applicable state laws, including applicable PERB regulations .

2 b. Processing Initial Request for Voluntary
3 Recognition.

4 (i) Within thirty (30) days of receipt of the
5 request for voluntary recognition, the City Employee Relations Officer shall
6 determine whether or not there has been compliance with the requirements
7 of sections 7. The City Employee Relations Officer, or Director of Human
8 Resources, shall notify the petitioning employee organization in writing of its
9 determination and the reasons therefore.

10 (ii) The City Employee Relations Officer, or
11 Director of Human Resources, shall also determine whether the proposed
12 bargaining unit is appropriate in accordance with Section 8. The City shall
13 notify the petitioning employee organization in writing within the 30 days as
14 to its unit determination and the reasons therefore. If the City determines
15 that the proposed bargaining unit is appropriate, the City shall then
16 determine whether the petitioning employee organization has majority
17 support of the employees in the approved unit as set forth below. If the City
18 approves a modified unit, the City shall inform the petitioning employee
19 organization, and if such organization desires to proceed with the petition
20 using a modified unit, the City shall then determine whether the petitioning
21 employee organization has majority support of the employees in the
22 modified unit as set forth below. If the City rejects the proposed unit with no
23 modifications, the City shall provide the petitioning employee organization
24 with the reasons therefore in writing and cease any further processing of
25 that petition.

26 c. Voluntary Recognition of Employee
27 Organization. If the City Employee Relations Officer, or Director of Human
28 Resources, determines, based on the signed request and signature petition

1 or authorization cards, that the petitioning employee organization has the
2 majority support (50% plus one) of the employees in the new approved
3 bargaining unit, it shall be certified as the exclusive recognized employee
4 organization of that bargaining unit.

5 d. Absence of Majority Support in Recognition
6 Request. If the City Employee Relations Officer, or Director of Human
7 Resources, determines, based on the signed request and signature petition
8 or authorization cards, that the petitioning employee organization does not
9 have majority support, but has support of at least 30% of the employees in
10 the approved unit, the City Employee Relations Officer shall process the
11 request as a petition for recognition pursuant to the requirements set forth
12 below. If the City Employee Relations Officer, or Director of Human
13 Resources, determines, based on the signed request and signature petition
14 or authorization cards, that the petitioning employee organization does not
15 have support of at least 30% of employees in the approved unit, the City
16 shall reject the petition and provide the petitioning employee organization
17 with the reasons therefore in writing.

18 B. Petition for Recognition.

19 1. Content and Timing of Petition for Recognition.

20 An employee organization may file a petition for recognition with the
21 City Employee Relations Officer during the applicable window period, seeking to
22 become the recognized employee organization of an existing bargaining unit. If a
23 memorandum of understanding for the bargaining unit has expired or is otherwise
24 not in effect, a petition may be filed with the City Employee Relations Officer at any
25 time, consistent with the other requirements contained in this Resolution.

26 An employee organization must serve this petition on the City
27 Employee Relations Officer through one of the following methods: (i) the delivery
28 of physical copies of documents containing the information described below at the

1 Human Resources Department located at City Hall; or (ii) electronically serving
2 digital copies of documents containing the information described below at the
3 following email address, EROCLB@longbeach.gov. A petition for recognition shall
4 contain the following information and documentation:

5 a. The name and address of the employee
6 organization.

7 b. The names, titles, mailing address, and
8 business telephone numbers of the employee organization's officers.

9 c. The names of the employee organization's
10 representatives who are authorized to speak on behalf of its members,
11 including representatives who are not employees of the City.

12 d. A statement that the primary purpose of the
13 employee organization is to represent employees on matters concerning
14 wages, hours, and other terms and conditions of employment.

15 e. A statement that the employee organization has
16 no restriction on membership based on race, color, religion, national origin,
17 ancestry, sex, gender, gender identity, gender expression, age, physical
18 disability, mental disability, medical condition, genetic information, military
19 and veteran status, sexual orientation, marital status, or any other basis
20 protected by law.

21 f. A statement as to whether the employee
22 organization is a chapter of, or affiliated directly or indirectly in any manner,
23 with a local, regional, state, national or international organization, and if so,
24 the name and address of each such organization.

25 g. Certified copies of the employee organization's
26 constitution and by-laws.

27 h. A designation of those persons, not to exceed
28 two in number, and their addresses to whom notice, sent by regular United

1 States mail, will be deemed sufficient notice on the employee organization
2 for any purpose.

3 i. The job classification of employees in the unit
4 claimed to be appropriate and the approximate number of member
5 employees therein.

6 j. A signature petition or individually signed
7 employee authorization cards, dated within 120 days of the date upon
8 which the petition is filed, which show proof of support of at least 30% of the
9 employees within the proposed new bargaining unit.

10 (i) Such a signature petition or authorization
11 cards shall clearly set forth the intent of the employee with respect to
12 representation by the employee organization. The signature petition or
13 authorization cards shall remain confidential and not be disclosed by the
14 City Employee Relations Officer or his/her designee(s) to any other party
15 other than the petitioning employee organization, except to indicate whether
16 the proof of support was sufficient consistent with Section 7(A).

17 (ii) Proof of support may consist of any one
18 of the following or a combination thereof: (i) original authorization cards
19 individually signed by employees; (ii) an original signature petition
20 containing employee signatures; and/or (iii) a list of employees who have
21 electronically signed authorization cards and/or a signature petition, or
22 provided a pdf, screenshot, or image demonstrating their signatures on
23 authorization cards or a signature petition. Proof of support for petitions will
24 be verified using the payroll for the period immediately prior to the date the
25 petition is filed. In the event of multiple proof of support petitions are
26 submitted by the same employee(s), the City will supply to each employee
27 organization affected, a listing of employees that submitted multiple proof of
28 support petitions. Each employee organization will be allowed no more

1 than ten (10) days from the date of receipt to provide the City with a
2 corrected employee petition(s) indicating choice for representation for those
3 employees. If no response is provided, the City shall count the most recent
4 dated petition(s) within the applicable window period.

5 (iii) In order for the employee organization to
6 validate electronic proof of support materials under this subsection, the
7 employee organization must submit to the City a sworn declaration that for
8 all employees listed on the petition, the employee organization maintains
9 either: (i) an original signed authorization card or signature petition; or (ii)
10 records showing that the employee organization obtained an electronic
11 signature on proof of support in compliance with applicable state law.

12 2. Processing Initial Petition for Recognition.

13 a. Within thirty (30) days of receipt of the petition
14 for recognition, the City Employee Relations Officer shall determine whether
15 or not there has been compliance with the requirements of sections 7. The
16 City Employee Relations Officer, or Director of Human Resources, shall
17 notify the petitioning employee organization in writing of its determination
18 and the reasons therefore.

19 b. The City Employee Relations Officer, or Director
20 of Human Resources, shall also determine whether the proposed
21 bargaining unit is appropriate in accordance with Section 8. The City shall
22 notify the petitioning employee organization in writing within the 30 days as
23 to its unit determination and the reasons therefore. If the City determines
24 that the proposed bargaining unit is appropriate, the City shall then
25 determine whether the petitioning employee organization has majority
26 support of the employees in the approved unit as set forth below. If the City
27 approves a modified unit, the City shall inform the petitioning employee
28 organization, and if such organization desires to proceed with the petition

1 using a modified unit, the City shall then determine whether the petitioning
2 employee organization has majority support of the employees in the
3 modified unit as set forth below. If the City rejects the proposed unit with no
4 modifications, the City shall provide the petitioning employee organization
5 with the reasons therefore in writing and cease any further processing of
6 that petition.

7 3. Posting Notice of Petition for Recognition. If the City
8 Employee Relations Officer determines that the petition is in compliance
9 with these rules, he/she shall so advise the petitioning employee
10 organization and also post notice at appropriate work locations for 10 days.

11 4. Processing Intervenor Petitions. Within 10 days of the
12 date the written notice was posted, any other employee organization
13 (intervenor) may file with the City Employee Relations Officer a competing
14 request to be certified as the recognized employee organization of the
15 proposed bargaining unit. Any such intervenor recognition petition shall
16 conform to the requirements set forth in section 7(B), except that the
17 petition shall contain materials showing proof of support of at least 10% of
18 the employees within the proposed bargaining unit. In the event the initial
19 petition for recognition includes proof of majority support (50% plus one),
20 any such intervenor recognition petition shall contain materials showing
21 proof of support of at least 30% of the employees within the bargaining unit.
22 Upon receiving an intervenor recognition petition (or petitions), the City
23 Employee Relations Officer shall determine whether or not there has been
24 compliance with the requirements of sections 7(A). Petitions will be verified
25 using the payroll for the period immediately prior to the date the petition is
26 filed.

27 5. Proceeding to Certification Election or Dismissal. If the
28 City Employee Relations Officer determines that the recognition petition(s)

1 and/or any intervenor recognition petition(s) comply with the requirements
2 of sections 7(A), shall direct a secret ballot election to be held to resolve the
3 question of representation, pursuant to the requirements of section 7(D).
4 The ballot shall consist of the petitioning employee organization, any valid
5 intervenor employee organizations, and the choice of no representation. If
6 the City Employee Relations Officer determines that none of the intervenor
7 petitions are in compliance, they shall dismiss all intervenor petitions and
8 proceed to an election with respect to the recognition petition. In such
9 case, the ballot shall consist of the petitioning employee organization and
10 the choice of no representation.

11 C. City Does Not Process Decertification or Unit Modification
12 Petitions.

13 1. The City will defer the entirety of the decertification or
14 unit modification process, including the filing of the petition, and the
15 election, to be conducted by the Public Employment Relations Board
16 (Board), pursuant to its regulations. In the event an employee organization
17 submits a petition for decertification or unit modification to the City
18 Employee Relations Officer or his/her designee(s), the City Employee
19 Relations Officer will notify the employee organization in writing that the City
20 will not process the petition and advise that such petitions must be filed with
21 the Board.

22 D. Impact of Decertification Petition on Petition for Recognition.

23 1. If an employee organization files a petition (or petitions)
24 for recognition while a petition (or petitions) for decertification affecting the
25 same bargaining unit(s) is pending with the Board, the City Employee
26 Relations Officer will hold the petition(s) for recognition in abeyance until
27 the decertification process conducted by the Board concludes.

28 2. If the decertification process conducted by the Board

1 does not result in the decertification of the incumbent exclusive
2 representative of the affected bargaining unit(s), the City Employee
3 Relations Officer will dismiss the recognition petition(s) no later than ten
4 (10) business days after receipt of the Board's decision. In the event the
5 decertification process conducted by the Board results in the decertification
6 of the incumbent exclusive representative of the affected bargaining unit(s),
7 the City Employee Relations Officer will process the recognition petition(s)
8 in accordance with Section 7(B) beginning on the date decertification is
9 effective.

10 E. Procedures for Revocation of Proof of Support Materials as to
11 Pending Representation Petition.

12 1. Employees may revoke support previously provided to
13 a petitioning employee organization, in connection with a pending
14 representation petition (including but not limited to a voluntary recognition
15 petition, a representation petition, unit modification petition, or a severance
16 petition), by submitting a statement (in physical or electronic form)
17 withdrawing support for the previously signed petition to the Employee
18 Relations Officer.

19 2. Employees must provide any revocation statement to
20 the City at any time prior to the posting of notice by the City. The
21 revocation statement must clearly set forth the intent of the employee with
22 respect to no longer seeking to be represented by the employee
23 organization, to whom the employee had previously submitted signed proof
24 of support materials.

25 3. Any revocation materials shall remain confidential and
26 not be disclosed by the City, except to indicate whether the materials
27 constituted sufficient revocation of the employee's previous support for the
28 petitioning employee organization. The City shall not include the

1 employee(s)' original authorization in the tabulation of the initial petition for
2 recognition or intervenor petition.

3 F. Election Procedures. Elections shall be conducted to
4 determine which, if any, employee organization shall be certified as the
5 recognized employee organization of an authorized employee bargaining
6 unit. The City Employee Relations Officer shall arrange for secret ballot
7 elections for this purpose. All intervenor petitioners, who have complied with
8 the requirements of sections 7(A) and 7(B), shall be included on the ballot.

9 1. Consent Election Agreement. Upon directing an
10 election, the City Employee Relations Officer, any employee organizations
11 that will appear on the ballot, and other involved parties shall attempt to
12 agree on procedural matters related to the conduct of the election. Such
13 procedural matters may include the method of the election, dates, hours,
14 locations, and the order and wording of ballots. At the request of the
15 incumbent recognized organization, petitioning employee organization, an
16 intervenor employee organization, or at his/her own discretion, the City
17 Employee Relations Officer shall request that the California State Mediation
18 and Conciliation Service (SMCS) conduct a meeting with all involved parties
19 to address procedural matters related to the conduct of the election. In the
20 event all involved parties failed to reach an agreement on procedural
21 matters related to the conduct of the election, the City Employee Relations
22 Officer will use the City's procurement process to select a neutral third party
23 to conduct the election.

24 2. Ballot. Provided that the employee organizations have
25 established proof of support as required in section 7(A) and/or section 7(B),
26 there shall be on the ballot: (i) the name(s) of the petitioning employee
27 organization(s); (ii) the name(s) of any intervenor or challenging employee
28 organization(s); and (iii) a provision for "no organization", as applicable.

1 3. Eligible Voters. Eligible voters shall be defined as
2 those employees in the same authorized bargaining unit who are employed
3 by the City within the unit and who were employed during the pay period
4 immediately prior to the date on which the petition was delivered to the City.
5 This shall include those on authorized leave of absence, sick leave, or
6 vacation, and who remain employed by the City in the same bargaining unit
7 on the date of the election.

8 4. Voting Results. The City Employee Relations Officer
9 shall declare the results of an election, and then: (i) certify as the
10 recognized employee organization of the authorized bargaining unit, the
11 employee organization receiving the majority (50% plus one) of the votes
12 cast; or (ii) declare that no employee organization is the recognized
13 employee organization of the unit, if either (iii) the choice “no organization”
14 received a majority of the votes cast, or (iv) no employee organization
15 received a majority of the votes cast. In the event of this final possibility, a
16 runoff election shall be conducted pursuant to the requirements of the next
17 Section.

18 5. Runoff Election. If the ballot included three or more
19 choices, and neither the choice “no organization” or an employee
20 organization, receive a majority of the votes cast, a runoff election shall be
21 held as soon as practicable between the two choices receiving the largest
22 number of votes. The rules governing an initial election, as provided in the
23 Sections above, shall apply to a runoff election.

24 6. Election Bar. For a period of one year after an
25 employee organization is certified as the recognized employee
26 organization, any employee organization may not file a modification,
27 recognition, or decertification petition for that bargaining unit or any
28 subdivisions thereof.

1 7. Appeals. An employee organization aggrieved by a
2 determination of the City Employee Relations Officer concerning the
3 processing of any Petitions allowed for under these rules may submit a
4 written request to the Director of Human Resources within 10 days of
5 receipt of the City Employee Relations Officer’s final decision, requesting to
6 submit the matter to a third-party hearing officer. The hearing officer shall
7 be selected from a list submitted by SMCS. The hearing officer shall issue
8 a proposed decision on the matter within 30 days of the filing of the appeal,
9 which shall be advisory to the City Council. The City Council shall issue a
10 final and binding decision on the matter within 30 days of receipt of the
11 hearing officer’s proposed decision. The cost of the hearing shall be
12 equally born by both parties.

13 Section 8. BARGAINING UNIT COMPOSITION.

14 A. Creation of New Bargaining Unit.

15 1. Content and Timing of Petition. An employee
16 organization may at any time propose that a bargaining unit, comprised of
17 unrepresented classifications, be created by filing a request for voluntary
18 recognition or a petition for recognition pursuant to Section 7 by filing this
19 request or petition with the City Employee Relations Officer. A petition for a
20 new bargaining unit shall include information sufficient to satisfy the
21 requirements of Sections 7(A) or 7(B), describe the proposed bargaining
22 unit, and identify the unrepresented classification(s) to be included in the
23 proposed unit.

24 2. Factors. The City Employee Relations Officer shall
25 review the request filed by an employee organization seeking formal
26 recognition as the exclusive representative of a proposed bargaining unit,
27 and shall determine whether the proposed unit is an appropriate and
28 authorized unit. The principal criterion in making this determination is

1 whether employees in the proposed unit have a community of interest. The
2 City Employee Relations Officer shall also consider the following factors in
3 making such determination:

4 a. The unit, if any, that will assure employees the
5 fullest freedom in the exercise of rights set forth under this Resolution.

6 b. The history of employee relations (a) in the unit,
7 (b) among other employees of the City, and (c) in similar public employment
8 units.

9 c. The effect of the unit on the efficient operation of
10 the City and sound employer-employee relations.

11 d. The extent to which employees have common
12 skills, working conditions, job duties, performance rating standards,
13 educational requirements, and/or supervision as well as interchangeability
14 of skills.

15 e. The effect on the existing classification structure
16 of dividing a single classification among two or more units.

17 f. Professional employees, management
18 employees, and confidential employees shall not be included in the same
19 bargaining unit.

20 3. Response and Notice of Filing of Petition. Upon receipt
21 of the petition, the City Employee Relations Officer shall determine (1)
22 whether or not the proposed creation of a new bargaining unit is
23 appropriate, and (2) whether there has been compliance with the
24 requirements of Sections 7(A) or 7(B). If both criteria are met, the Employee
25 Relations Officer shall (1) advise all employees in the proposed new
26 authorized employee bargaining unit by posting notice at appropriate work
27 locations for 10 days; and (2) shall serve notice of the filing on all exclusive
28 recognized employee organizations.

1 4. Contest to the City’s Unit Determination. If the City
2 Employee Relations Officer determines that the petition is not in compliance
3 with the requirements of this Section, the petitioning employee organization
4 may file an appeal in accordance with the appeal provision provided for in
5 Section 7 above.

6 B. Assignment of New Job Classifications to an Existing
7 Authorized Bargaining Unit. The unit accretion process is used to
8 determine the placement of a newly created or formerly unrepresented
9 classification in an existing authorized employee bargaining unit, based
10 upon the unit descriptions and duties of the classification and factors
11 enumerated in Section 8.A.2. The City Employee Relations Officer shall
12 review the duties of any new job classification , or formerly unrepresented
13 classification, in relation to the existing unit descriptions. Upon review, the
14 City Employee Relations Officer shall propose to place the new or formerly
15 unrepresented classification (or classifications) in an appropriate bargaining
16 unit. The City shall notify all recognized employee organizations of the
17 City’s determination as to the initial placement of a new job classification.
18 An employee organization may submit a written response to the City
19 Employee Relations Officer’s proposal within 20 days of receipt. The City
20 and any affected recognized employee organizations shall meet and
21 consult over the proposed placement. The City Employee Relations
22 Officer’s placement decision may be appealed to the City Council. In the
23 event of an appeal, the City Council’s decision shall be considered final and
24 not subject to further appeal.

25 C. Petition for Severance.

26 The severance process is appropriate where an employee
27 organization desires to represent classifications within an existing bargaining unit,
28 which is already represented by another employee organization.

1 An employee organization that desires severance shall file a
2 severance petition with the City. An employee organization shall serve this petition
3 on the City Employee Relations Officer through: (i) the delivery of physical copies
4 of documents containing the information described below at the Human Resources
5 Department located at City Hall; or (ii) electronically serving digital copies of
6 documents containing the information described below at the following email
7 address, EROCLB@longbeach.gov.

8 1. Content and Timing of Petition. Such petition shall be
9 filed during the window period as set forth in Section 2(X) above if a valid
10 Memorandum of Understanding is currently in effect for the recognized
11 employee organization that represents the job classifications proposed to
12 be severed. If a Memorandum of Understanding has expired or if otherwise
13 not in effect, a petition for severance may be filed with the City Employee
14 Relations Officer at any time, consistent with the other requirements
15 contained in this Resolution. A petition for severance must contain the
16 information set forth in Section 7 above for Petitions for Recognition,
17 including a description of the proposed unit and why that proposed unit is
18 appropriate in accordance with Section 8 above, as well as valid timely
19 proof of employee support of at least 50% of the employees in the proposed
20 unit.

21 2. Response and Notice of Filing of Petition. Upon receipt
22 of the petition, the City Employee Relations Officer shall provide notice of
23 such petition to the recognized employee organization and process the
24 severance petition in accordance with Section 7 above. This includes
25 determining whether such petition has been timely filed, whether there has
26 been compliance with the requirements of Section 7 concerning Petitions
27 for Recognition, whether there is proof of support of at least fifty percent
28 (50%) of employees in the proposed unit, and whether the proposed unit is

1 appropriate. Such determination shall be made within 30 days of the date
2 of the filing of the severance petition.

3 a. If the City Employee Relations Officer
4 determines that the petition is not in compliance, the City Employee
5 Relations Officer shall notify the petitioning employee organization and the
6 recognized employee organization in writing of its determination and the
7 reasons therefore. The petitioning employee organization may file an
8 appeal in accordance with the appeal provision provided for in Section 7
9 above.

10 b. If the City Employee Relations Officer
11 determines that the severance petition is compliant, the City Employee
12 Relations Officer shall so advise the petitioning employee organization and
13 the recognized employee organization. The recognized employee
14 organization may file an appeal in accordance with the appeal provision
15 provided for in Section 7 above. After ten (10) business days have elapsed,
16 if no appeal has been filed, the City Employee Relations Officer shall then
17 (a) advise all employees in the proposed unit by posting notice at
18 appropriate work locations for ten (10) business days, and (b) shall serve
19 notice of the filing to all exclusively recognized employee organizations.
20 During such time, any other employee organization may file an intervenor
21 petition in accordance with Section 7 above.

22 c. After the ten (10) business days notification
23 period has elapsed, the City Employee Relations Officer shall then direct a
24 secret ballot election to be held to resolve the question of representation in
25 accordance with Section 7 above. Both the petitioning organization and the
26 recognized employee organization shall appear on the ballot, along with
27 any other employee organization who has filed a valid intervenor petition
28 with proof of support of at least 10% of the employees in the appropriate

1 unit. The choice of no representation shall also appear on the ballot.

2 D. Severance Initiated by City. The City Employee Relations
3 Officer may remove a classification (or classifications) from an authorized
4 and existing bargaining unit. While not an exclusive list, severance by the
5 City Employee Relations Officer is appropriate in the following
6 circumstances:

7 1. When a classification is obsolete, unused and/or
8 vacant; or

9 2. When the Director of Human Resources designates a
10 position as a management, professional, supervisory, or confidential
11 position.

12 3. When the City Employee Relations Officer determines
13 that there is no longer a community of interest between at least one
14 classification and the remaining classifications in a bargaining unit.

15 An employee organization may submit a written response to the City
16 Employee Relations Officer's proposal within twenty (20) days of receipt of the
17 notice of the City Employee Relations Officer's remove decision. The parties shall
18 meet and consult over the proposed removal. The City Employee Relations
19 Officer's removal decision may be appealed to the City Council. The City
20 Council's decision shall be final and not subject to further appeal.

21 Section 9. COLLECTIVE BARGAINING.

22 A. Employer-Employee Bargaining Obligations. The collective
23 bargaining process begins when both parties meet and confer on matters
24 within the scope of representation.

25 1. Meet and Confer. The City Employee Relations
26 Officer, and other City representatives, and the representative of the
27 exclusive recognized employee organization for each authorized employee
28 bargaining unit shall meet and confer in good faith in an attempt to reach

1 agreement on all matters within the scope of representation. Meet and
2 confer sessions shall be conducted in person, unless both parties agree
3 otherwise.

4 2. Impasse Procedures. When agreement is not reached
5 through the meet and confer process, dispute settlement procedures have
6 been established to facilitate resolution of unresolved negotiation items at
7 impasse. Either party may initiate the impasse procedures by filing with the
8 other party a written declaration of impasse, which shall identify all
9 mandatory subjects of bargaining which remain in dispute.

10 a. Mediation. Upon written declaration of impasse,
11 or at any other time during a meet and confer process, either party may
12 request mediation within 10 days. The parties shall only proceed to
13 mediation upon mutual agreement. All mediation proceedings shall be
14 private. The Mediator shall make no public recommendations nor take any
15 public position concerning the issues. If the parties are unable to agree on a
16 mediator after a reasonable period of time, they shall select the mediator
17 from a list of seven names to be provided by the California State Mediation
18 and Conciliation Service, or if that body for any reason shall fail to provide
19 such list, by the American Arbitration Association. The parties shall
20 alternatively strike one name, beginning with the recognized employee
21 organization, until there is one remaining name on the list who shall be the
22 mediator.

23 b. Fact-Finding. A recognized employee
24 organization may request that the disputed issues identified in the written
25 declaration of impasse be submitted to fact-finding. If the matter was
26 submitted to mediation, the request to proceed to fact-finding must be filed
27 no earlier than 30 days, but no later than 45 days, after the mediator was
28 appointed. If the matter was not submitted to mediation, the request to

1 proceed to fact-finding must be made within 30 days after the written
2 declaration of impasse. If the matter is submitted to fact-finding, the parties
3 will comply with the provisions of the Meyers-Milias-Brown Act and the
4 Public Employment Relations Board's regulations concerning factfinding.

5 c. Implementation of Terms. If the recognized
6 employee organization fails to submit a timely request for mediation or fact-
7 finding, the City may implement its last, best, and final offer as authorized
8 by the Meyers-Milias-Brown Act.

9 Section 10. CONSULTATION PROCESS. The City Employee Relations
10 Officer, and other City representatives, and the representative of the exclusive
11 recognized employee organization for each authorized employee bargaining unit shall
12 meet and consult in good faith on all rules and regulations pursuant to Section 3507 of
13 the Government Code, including as to any changes to any provisions of this Employer-
14 Employee Relations Resolution. Consultation sessions shall be conducted in person,
15 unless both parties agree otherwise.

16 Section 11. ADMINISTRATION.

17 A. Submission of Current Information by Exclusive Recognized
18 Employee Organization. An exclusive recognized employee organization
19 must submit to the City Employee Relations Officer revised information
20 whenever there has been a change in any of the following terms:

- 21 1. The name and street address of the organization.
- 22 2. The names, titles, mailing address, and home and
23 business telephone numbers of its officers.
- 24 3. The names of employee organization representatives
25 who are authorized to speak on behalf of the organization.
- 26 4. A designation of two (2) persons and their addresses to
27 whom notice sent by regular United States mail shall be deemed full and
28 sufficient notice on the organization for any purpose.

1 5. A statement whether the exclusive recognized
2 employee organization is a chapter of, or affiliated directly or indirectly in
3 any manner, with a local, regional, state, national or international
4 organization, and, if so, the name and address of each such organization.

5 6. Certified copies of any changes to the exclusive
6 recognized employee organization's constitution and by-laws.

7 B. Advance Notice. Reasonable prior written notice shall be
8 given by the City to each recognized employee organization of any
9 resolution, rule, or regulation directly relating to matters within the scope of
10 representation, or pertaining to rules and regulations subject to Section
11 3507 of the Government Code, proposed to be adopted by the Council. As
12 to matters within the scope of representation, each recognized employee
13 organization shall be given the opportunity to meet and confer with the City
14 prior to adoption. As to matters subject to Section 3507 of the Government
15 Code, each exclusive recognized employee organization shall be given the
16 opportunity to meet and consult with the City prior to adoption.

17 Section 12. CONSTRUCTION.

18 A. Nothing in this Resolution shall be construed to deny any
19 person or employee the rights granted by federal or state laws. The
20 provisions of this Resolution shall not be construed to conflict with the
21 provisions of the Meyers-Milias-Brown Act (Sections 3500 et seq. of the
22 Government Code).

23 B. The rights, powers, and authority of the City's Council in all
24 matters shall not be modified or restricted by this Resolution, including the
25 right to maintain any legal action.

26 C. Nothing contained in this Resolution shall abrogate any
27 written memorandum of understanding or agreement between any
28 employee organization and the City in effect on the effective date of this

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

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I hereby certify that the foregoing Resolution was adopted by the City Council of the City of Long Beach at its meeting of _____, 2022, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Recusal(s): Councilmembers: _____

City Clerk

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