

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

RESOLUTION NO. RES-11-0012

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF LONG BEACH DECLARING IMPASSE AND
AUTHORIZING IMPLEMENTATION OF THE TERMS OF
THE CITY'S LAST, BEST AND FINAL OFFER TO THE
LONG BEACH ASSOCIATION OF ENGINEERING
EMPLOYEES (LBAEE), PURSUANT TO GOVERNMENT
CODE SECTION 3505.4

WHEREAS, the City of Long Beach and the Long Beach Association of
Engineering Employees ("LBAEE") have a Memorandum of Understanding ("MOU")
governing the wages, hours and terms and conditions of employment for members of the
LBAEE bargaining unit; and

WHEREAS, the MOU expired on September 30, 2008; 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
LBAEE regarding wages, hours, and other terms and conditions of employment; and

WHEREAS, the City's negotiation team representatives began meeting and
conferring with the LBAEE in July 2008 in an attempt to negotiate a successor MOU and
did so in good faith; and

WHEREAS, the representatives of the City and the LBAEE have negotiated
for a reasonable period on matters with the scope of representation but have not reached
agreement on several issues of substantial interest to the parties; and

WHEREAS, on October 6, 2010, the City's designated negotiations
representatives presented the City's last, best, and final offer to the LBAEE; and

WHEREAS, on October 29, 2010, the LBAEE rejected the City's last, best,
and final offer and presented their counterproposal to the City's designated negotiation

1 team representatives; and

2 WHEREAS, the City's designated representatives advised the LBAEE that
3 the LBAEE's counterproposal was unacceptable as it had previously presented its last,
4 best, and final offer to the LBAEE; and

5 WHEREAS, the City Council finds and declares that the City of Long Beach
6 and the Long Beach Association of Engineering Employees are at impasse in these
7 negotiations; 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
25 LBAEE for a reasonable period on matters within the scope of representation.

26 Section 2. The City Council finds and declares that the City presented
27 the Long Beach Association of Engineering Employees with the City's last, best, and final
28 offer.

1 Section 3. The City Council finds and declares that the Long Beach
2 Association of Engineering Employees rejected the City's last, best, and final offer.

3 Section 4. The City Council finds and declares that the City and the Long
4 Beach Association of Engineering Employees are at impasse in these negotiations.

5 Section 5. That the terms of the City's last, best, and final offer to the
6 Long Beach Association of Engineering Employees are hereby approved and adopted
7 insofar as these terms alter the terms of the previous MOU. To the extent that the last,
8 best, and final offer does not alter the terms of the previous MOU, the unaltered terms
9 shall remain in effect. A copy of said last, best, and final offer is attached to this
10 Resolution labeled Attachment "A" and is hereby incorporated herein by this reference as
11 a part of this Resolution.

12 Section 6. The City Manager is hereby authorized to implement all
13 matters contained in and prescribed by the City's last, best, and final offer.

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

21 Section 8. This resolution shall take effect immediately upon its adoption
22 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

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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 February 1, 2011 by the following vote:

Ayes: Councilmembers: Garcia, Lowenthal, DeLong, O'Donnell,
Schipske, Andrews, Johnson, Gabelich,
Neal.

Noes: Councilmembers: None.

Absent: Councilmembers: None.



City Clerk

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ATTACHMENT A

CITY OF LONG BEACH
LAST BEST AND FINAL
PROPOSAL

**CITY OF LONG BEACH
LAST, BEST AND FINAL OFFER TO
LONG BEACH ASSOCIATION OF ENGINEERING EMPLOYEES
OCTOBER 6, 2010**

- Three year agreement retroactive to October 1, 2008
(Term of agreement October 1, 2008 through September 30, 2011)
- No salary adjustments
- Reduce CalPERS pension formula to 2% at 60, 36 month final comp
for new hires (when mutually agreed to by other groups)
- New hires from outside the City will pay entire member contribution
(after Council approves Resolution to revise the EPMC amount)