

1 RESOLUTION NO. RES-16-0045

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3 A RESOLUTION OF THE CITY COUNCIL OF THE
4 CITY OF LONG BEACH REJECTING THE FACTFINDING
5 REPORT AND AUTHORIZING IMPLEMENTATION OF THE
6 TERMS OF THE CITY'S LAST, BEST AND FINAL OFFER
7 TO THE INTERNATIONAL ASSOCIATION OF
8 MACHINISTS AND AEROSPACE WORKERS AND
9 UNREPRESENTED EMPLOYEES PURSUANT TO
10 GOVERNMENT CODE SECTION 3505.4

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

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

19 WHEREAS, the City and IAM began negotiations in September of 2015
20 regarding the City contracting out IAM bargaining unit work in anticipation of construction
21 and occupancy of a new Civic Center Building in 2019; and

22 WHEREAS, the City and IAM engaged in twelve bargaining sessions
23 wherein City made eight proposals including its last, best, final offer communicated
24 verbally on February 17, 2016 and in writing on February 26, 2016; and

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

27 WHEREAS, on February 26, 2016, City declared impasse; and

28 WHEREAS, IAM requested Factfinding and the parties participated in a

1 Factfinding Hearing on April 15, 2016; and

2 WHEREAS, on May 5, 2016, decertification elections were held and the
3 Refuse-Basic, Skilled and General – Basic and the Skilled and General – Supervisors
4 bargaining units decertified from IAM; and

5 WHEREAS, the Factfinding report was made available to the public on May
6 19, 2016; and

7 WHEREAS, the City held a public hearing regarding impasse on May 24,
8 2016; and

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

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

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

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

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

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

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Section 3. That the terms of the City's last, best, and final offer to the IAM and unrepresented employees are hereby approved and adopted. A copy of said last, best, and final offer is attached to this Resolution labeled Attachment "A" and is hereby incorporated herein by this reference as a part of this Resolution.

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

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

Section 6. This resolution shall take effect immediately upon its adoption 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 May 24, 2016 by the following vote:

Ayes: Councilmembers: Gonzalez, Lowenthal, Price, Supernaw,
Mungo, Andrews, Uranga, Richardson.

Noes: Councilmembers: None.

Absent: Councilmembers: Austin.

Marisa del Valle
City Clerk

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

**CITY OF LONG BEACH**

DEPARTMENT OF HUMAN RESOURCES

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

February 26, 2016

Sent via Email and U.S. Mail

Richard Suarez, GLR
International Association of Machinists and
Aerospace Workers
535 W. Willow Street
Long Beach, CA 90806

Dear Mr. Suarez:

Re: City of Long Beach Civic Center Project

As we discussed on Wednesday February 17, 2016, I write to formally declare impasse regarding the City's decision to contract out IAM-represented positions (in approximately June 2019) and the reasonable foreseeable effects of that decision. Attached to this letter is the City's last, best and final offer ("LBFO"). Please note that it is substantively the same as the offer that was presented to you at our February 8, 2016, meeting with one exception: we have withdrawn the provision that IAM dismiss its pending PERB charge.

Further, you will note that there are two formatting changes. First, as it appears there will not be a Letter of Agreement ("LOA"), the City has omitted the "whereas" provisions that are generally part of an LOA. Second, we accepted Mr. Graham's suggestion that the proposal specifically reference the positions to be contracted out. Therefore, Sections 2 and 3 now list the non-supervisory and supervisory positions that are subject to contracting out. We split the category of positions into supervisor and non-supervisor as your current offer agrees that the supervisory positions can be contracted out.


The City had hoped that we could reach agreement with IAM on these matters. Based on our twelve meetings that have taken place over the last two and one-half months (December 4, 2015 to February 17, 2016) that have involved the dedication of many hours (at least 50 hours) by the parties, the City declares impasse as we believe that further discussions would be futile as IAM simply refuses to accept the City's explanation that the subcontracting is required so that the Building Condition Index ("BCI") warranty required under the Project Agreement can be satisfied and enforced. Therefore, based on the attached LBFO, the City believes we are at impasse on the following two provisions:

- “2. Upon occupancy of the new Civic Center Project (expected in June 2019), the City will contract out the following IAM-represented non-supervisory positions which are currently assigned to the Civic Center: Building Maintenance Engineer, General Maintenance Assistant, Electrician, Maintenance Assistant I, Clerk Typist III, Secretary as identified in Table 2 (Appendix B) of the City’s December 22, 2015, Proposition L study.

7. The parties understand and agree that the Project Company may hire two additional security positions to provide supplemental security work. The primary functions of the supplemental security positions shall be limited to services related to staffing the Security/Information Desk during normal business hours. This includes, meeting guests coming into City Hall, providing directions and general information, distribution of “guest” security badges for access to certain floors within the building, and screening of guests prior to access to controlled areas.”

I understand that IAM has also taken the position that we have not exhausted bargaining over the impacts of the City’s pending contracting out decision. As we discussed at our February 17, 2016, meeting the City disagrees. We have been negotiating over impacts for the entire negotiations process and IAM has specifically made proposals that revolve around the reasonable foreseeable impacts of the decision. Further, the City has agreed with IAM’s proposals regarding the impact on current employees and that it will meet with IAM in the future should there be unforeseeable impacts.

Sincerely,


Alejandrina Basquez
Director of Human Resources

AB:IRM:eg
R:\Personnel\Svc\Labor Relations\IAM\Meet & Confer\CCP

Attachment

cc: Patrick H. West, City Manager
Tom Modica, Assistant City Manager
Irma Rodriguez Moisa, AALRR
Kenneth A. Walker, Manager of Labor Relations

LBFO PROPOSAL
City of Long Beach
Re Civic Center Project

The City of Long Beach makes the following last, best and final offer with respect to the City's decision and reasonable foreseeable impacts to approve the funding model via adoption of the Project Agreement for the construction and maintenance of a new Civic Center Project:

1. The City agrees it shall meet and confer prior to the scheduled June 2019 occupancy of the new Civic Center regarding future unforeseen negotiable impacts on affected employees.
2. Upon occupancy of the new Civic Center Project (expected in June 2019), the City will contract out the following IAM-represented non-supervisory positions which are currently assigned to the Civic Center: Building Maintenance Engineer, General Maintenance Assistant, Electrician, Maintenance Assistant I, Clerk Typist III, Secretary as identified in Table 2 (Appendix B) of the City's December 22, 2015, Proposition L study.
3. Upon occupancy of the new Civic Center Project (expected in June 2019), the City will contract out the following IAM-represented supervisory positions which are currently assigned to the Civic Center: Mechanical Supervisor, Facility Maintenance Supervisor, Building Services Supervisor as identified in Table 2 (Appendix B) of the City's December 22, 2015, Proposition L Study.
4. The City agrees that the employees who hold the classifications identified in Sections 2 and 3 of this Proposal shall not suffer a reduction in hours, position, duties, or compensation as a result of the execution of a contract with the Project Company. Employees in the classifications identified in Sections 2 and 3 of this proposal shall be assigned work within their job classification at other locations in the City. The City agrees to meet with IAM concerning the reassignment of the affected employees prior to any reassignment.
5. The City agrees that, upon the handback of the City Hall, the contracted-out bargaining unit work will be restored to IAM-represented City employees in the appropriate functionally-equivalent classifications.
6. The City agrees that the current six (6) Special Services Officer positions assigned to the Civic Center facility will not be impacted and will continue to perform security services at the new Civic Center and that the number of these positions shall not be reduced in the future, without mutual agreement of the parties.
7. The parties understand and agree that the Project Company may hire two additional security positions to provide supplemental security work. The primary functions of the supplemental security positions shall be limited to services related to staffing the Security/Information Desk during normal business hours. This includes, meeting guests coming into City Hall, providing directions and general information, distribution of "guest" security badges for access to certain floors within the building, and screening of guests prior to access to controlled areas.

LBFO PROPOSAL
City of Long Beach
Re Civic Center Project

8. Other than the work identified in Sections 2 and 3 of this Proposal, the City agrees that it shall not contract out any other IAM bargaining unit work.
9. The City Council shall take all actions necessary to effectuate the provisions of this Agreement.