RESOLUTION NO. RES-22-0206

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.
12 Construction.

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

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

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

C. Clarify 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.

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

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

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

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

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

E. The word “days” shall mean calendar days unless stated otherwise.
F. The word “City” shall mean the City of Long Beach, organized and operated pursuant to the provisions of the City Charter, and shall include all those departments administered by the City Manager, overseen by the City Council, and/or established under the City Charter.

G. The words “City Employee Relations Officer” shall mean the City Manager, or his/her designee, who shall be the City of Long Beach’s principal representative in all matters of employer-employee relations with the authority to enforce and apply the provisions of this Resolution.

H. The words “City Manager” shall mean the City Manager of the City of Long Beach.

I. The words “Director of Human Resources” shall mean the City’s Director of the Human Resources Department, who is appointed by the City Manager.

J. The word “employee” shall mean any person employed by the City except those persons elected or appointed to City Commissions.

K. The words “employee, confidential” shall mean an employee as designated by the Director of Human Resources who has access to or possesses information relating to employer-employee relations or who is required to develop or present City management decisions with respect to meeting and conferring or whose duties normally require access to confidential information which contributes significantly to the development of those management decisions.

L. The words “employee, management” shall mean any employee as designated by the Director of Human Resource having significant responsibilities for formulating and administering City policies and program, including but not limited to the City Manager, department heads, bureau managers, and division officers; or

M. The words “employee, professional” shall mean employees as
designated by the Director of Human Resources who are engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction or equivalent experience, including but not limited to attorneys, physicians, registered nurses, engineers, architects, teachers, and various types of physical, chemical, and biological scientists.

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

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

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

Q. The word "impasse" shall mean a point in collective bargaining when the duly authorized representatives of the City and the recognized employee organization have considered each other's proposals and counterproposals in good faith, attempted to narrow the gap of
disagreement and have reached a point where their differences on matters, over which they are required to meet and confer, remain so substantial and prolonged that further negotiations would be futile.

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

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

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

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

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

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

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

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

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

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

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

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

Section 4. **EMPLOYEE ORGANIZATION RIGHTS.**

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

B. Bargaining Rights of Recognized Employee Organizations.

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

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


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

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

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


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

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

3. Use of City Facilities for Recognized Employee Organizations.

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

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

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

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

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

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

E. The right to maintain the efficiency of governmental operations, and to determine the methods, means, and personnel by which
government operations are to be conducted.

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

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

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

1. Request for Voluntary Recognition.

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

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

(ii) The names, titles, mailing address, and business telephone numbers of the employee organization's officers.

(iii) The names of the employee organization's representatives who are authorized to speak on behalf of its members, including representatives who are not employees of the City.

(iv) A statement that the primary purpose of the employee organization is to represent employees on matters concerning wages, hours, and other terms and conditions of employment.

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

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

(vii) Certified copies of the employee organization's constitution and by-laws.

(viii) A designation of those persons, not to exceed two in number, and their addresses to whom notice, sent by regular United States mail, will be deemed sufficient notice on the employee organization for any purpose.

(ix) The job classification of employees in the unit claimed to be appropriate and the approximate number of members
employees therein.

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

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

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

3) In order for the employee organization to validate electronic proof of support materials under this subsection, the employee organization must submit to the City a sworn declaration that for all employees listed on the petition, the employee organization maintains either: (i) an original signed authorization card or signature petition; or (ii) records showing that the employee organization obtained an electronic signature of proof of support in compliance with
applicable state laws, including applicable PERB regulations.

b. Processing Initial Request for Voluntary Recognition.

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

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

c. Voluntary Recognition of Employee Organization. If the City Employee Relations Officer, or Director of Human Resources, determines, based on the signed request and signature petition
or authorization cards, that the petitioning employee organization has the
majority support (50% plus one) of the employees in the new approved
bargaining unit, it shall be certified as the exclusive recognized employee
organization of that bargaining unit.

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

B. Petition for Recognition.


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

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

a. The name and address of the employee
organization.

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

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

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

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

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

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

h. A designation of those persons, not to exceed
two in number, and their addresses to whom notice, sent by regular United
States mail, will be deemed sufficient notice on the employee organization for any purpose.

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

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

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

(ii) Proof of support may consist of any one of the following or a combination thereof: (i) original authorization cards individually signed by employees; (ii) an original signature petition containing employee signatures; and/or (iii) a list of employees who have electronically signed authorization cards and/or a signature petition, or provided a pdf, screenshot, or image demonstrating their signatures on authorization cards or a signature petition. Proof of support for petitions will be verified using the payroll for the period immediately prior to the date the petition is filed. In the event of multiple proof of support petitions are submitted by the same employee(s), the City will supply to each employee organization affected, a listing of employees that submitted multiple proof of support petitions. Each employee organization will be allowed no more
than ten (10) days from the date of receipt to provide the City with a corrected employee petition(s) indicating choice for representation for those employees. If no response is provided, the City shall count the most recent dated petition(s) within the applicable window period.

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


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

b. The City Employee Relations Officer, or Director of Human Resources, shall also determine whether the proposed bargaining unit is appropriate in accordance with Section 8. The City shall notify the petitioning employee organization in writing within the 30 days as to its unit determination and the reasons therefore. If the City determines that the proposed bargaining unit is appropriate, the City shall then determine whether the petitioning employee organization has majority support of the employees in the approved unit as set forth below. If the City approves a modified unit, the City shall inform the petitioning employee organization, and if such organization desires to proceed with the petition
using a modified unit, the City shall then determine whether the petitioning employee organization has majority support of the employees in the modified unit as set forth below. If the City rejects the proposed unit with no modifications, the City shall provide the petitioning employee organization with the reasons therefore in writing and cease any further processing of that petition.

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

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

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

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

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

D. Impact of Decertification Petition on Petition for Recognition.

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

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

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

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

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

3. Any revocation materials shall remain confidential and
not be disclosed by the City, except to indicate whether the materials
constituted sufficient revocation of the employee’s previous support for the
petitioning employee organization. The City shall not include the
employee(s)’ original authorization in the tabulation of the initial petition for recognition or intervenor petition.

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

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

2. Ballot. Provided that the employee organizations have established proof of support as required in section 7(A) and/or section 7(B), there shall be on the ballot: (i) the name(s) of the petitioning employee organization(s); (ii) the name(s) of any intervenor or challenging employee organization(s); and (iii) a provision for “no organization”, as applicable.
3. Eligible Voters. Eligible voters shall be defined as those employees in the same authorized bargaining unit who are employed by the City within the unit and who were employed during the pay period immediately prior to the date on which the petition was delivered to the City. This shall include those on authorized leave of absence, sick leave, or vacation, and who remain employed by the City in the same bargaining unit on the date of the election.

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

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

6. Election Bar. For a period of one year after an employee organization is certified as the recognized employee organization, any employee organization may not file a modification, recognition, or decertification petition for that bargaining unit or any subdivisions thereof.
7. Appeals. An employee organization aggrieved by a determination of the City Employee Relations Officer concerning the processing of any Petitions allowed for under these rules may submit a written request to the Director of Human Resources within 10 days of receipt of the City Employee Relations Officer’s final decision, requesting to submit the matter to a third-party hearing officer. The hearing officer shall be selected from a list submitted by SMCS. The hearing officer shall issue a proposed decision on the matter within 30 days of the filing of the appeal, which shall be advisory to the City Council. The City Council shall issue a final and binding decision on the matter within 30 days of receipt of the hearing officer’s proposed decision. The cost of the hearing shall be equally born by both parties.

Section 8. BARGAINING UNIT COMPOSITION.

A. Creation of New Bargaining Unit.

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

2. Factors. The City Employee Relations Officer shall review the request filed by an employee organization seeking formal recognition as the exclusive representative of a proposed bargaining unit, and shall determine whether the proposed unit is an appropriate and authorized unit. The principal criterion in making this determination is
whether employees in the proposed unit have a community of interest. The
City Employee Relations Officer shall also consider the following factors in
making such determination:

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

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

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

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

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

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

3. Response and Notice of Filing of Petition. Upon receipt
of the petition, the City Employee Relations Officer shall determine (1)
whether or not the proposed creation of a new bargaining unit is
appropriate, and (2) whether there has been compliance with the
requirements of Sections 7(A) or 7(B). If both criteria are met, the Employee
Relations Officer shall (1) advise all employees in the proposed new
authorized employee bargaining unit by posting notice at appropriate work
locations for 10 days; and (2) shall serve notice of the filing on all exclusive
recognized employee organizations.
4. Contest to the City’s Unit Determination. If the City Employee Relations Officer determines that the petition is not in compliance with the requirements of this Section, the petitioning employee organization may file an appeal in accordance with the appeal provision provided for in Section 7 above.

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

C. Petition for Severance.

The severance process is appropriate where an employee organization desires to represent classifications within an existing bargaining unit, which is already represented by another employee organization.
An employee organization that desires severance shall file a severance petition with the City. An employee organization shall serve this petition on the City Employee Relations Officer through: (i) the delivery of physical copies of documents containing the information described below at the Human Resources Department located at City Hall; or (ii) electronically serving digital copies of documents containing the information described below at the following email address, EROCLB@longbeach.gov.

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

2. Response and Notice of Filing of Petition. Upon receipt of the petition, the City Employee Relations Officer shall provide notice of such petition to the recognized employee organization and process the severance petition in accordance with Section 7 above. This includes determining whether such petition has been timely filed, whether there has been compliance with the requirements of Section 7 concerning Petitions for Recognition, whether there is proof of support of at least fifty percent (50%) of employees in the proposed unit, and whether the proposed unit is
appropriate. Such determination shall be made within 30 days of the date
of the filing of the severance petition.

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

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

c. After the ten (10) business days notification
period has elapsed, the City Employee Relations Officer shall then direct a
secret ballot election to be held to resolve the question of representation in
accordance with Section 7 above. Both the petitioning organization and the
recognized employee organization shall appear on the ballot, along with
any other employee organization who has filed a valid intervenor petition
with proof of support of at least 10% of the employees in the appropriate
unit. The choice of no representation shall also appear on the ballot.

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

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

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

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

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

Section 9. COLLECTIVE BARGAINING.

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

1. Meet and Confer. The City Employee Relations Officer, and other City representatives, and the representative of the exclusive recognized employee organization for each authorized employee bargaining unit shall meet and confer in good faith in an attempt to reach
agreement on all matters within the scope of representation. Meet and confer sessions shall be conducted in person, unless both parties agree otherwise.

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

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

   b. Fact-Finding. A recognized employee organization may request that the disputed issues identified in the written declaration of impasse be submitted to fact-finding. If the matter was submitted to mediation, the request to proceed to fact-finding must be filed no earlier than 30 days, but no later than 45 days, after the mediator was appointed. If the matter was not submitted to mediation, the request to
proceed to fact-finding must be made within 30 days after the written
declaration of impasse. If the matter is submitted to fact-finding, the parties
will comply with the provisions of the Meyers-Milias-Brown Act and the
Public Employment Relations Board’s regulations concerning factfinding.

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

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

Section 11. ADMINISTRATION.

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

1. The name and street address of the organization.

2. The names, titles, mailing address, and home and
business telephone numbers of its officers.

3. The names of employee organization representatives
who are authorized to speak on behalf of the organization.

4. A designation of two (2) persons and their addresses to
whom notice sent by regular United States mail shall be deemed full and
sufficient notice on the organization for any purpose.
5. A statement whether the exclusive recognized employee organization is a chapter of, or affiliated directly or indirectly in any manner, with a local, regional, state, national or international organization, and, if so, the name and address of each such organization.

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

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

Section 12. CONSTRUCTION.

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

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

C. Nothing contained in this Resolution shall abrogate any written memorandum of understanding or agreement between any employee organization and the City in effect on the effective date of this
Resolution. All such agreements shall continue in effect for the duration of the term specified therein, unless modified or rescinded by mutual agreement of the parties thereto.

Section 13. SEPARABILITY.

A. If any part or provision of this Resolution is in conflict or inconsistent with such applicable provisions of federal or state laws and City regulations, or is otherwise held to be invalid or unenforceable by any court of competent jurisdiction, such part or provisions shall be suspended and superseded by such applicable law or regulations and the remainder of this Resolution shall not be affected thereby.

B. All other Resolutions, or parts of Resolutions, in conflict with the provisions of this Resolution are hereby expressly repealed. In particular, Resolution Nos. C-22243 and C-23373 are hereby expressly repealed.

Section 14. This Resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting this Resolution.
I hereby certify that the foregoing Resolution was adopted by the City Council of the City of Long Beach at its meeting of December 6, 2022, by the following vote:

Ayes: Councilmembers: Allen, Price, Supernaw, Mungo, Saro, Austin.

Noes: Councilmembers: None.

Absent: Councilmembers: Zendejas, Uranga, Richardson.

Recusal(s): Councilmembers: None.

City Clerk
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