



AGENDA REPORT

Meeting Date: August 5, 2008
Item Number: F-13
To: Honorable Mayor & City Council
From: Sandra Olivencia-Curtis, Assistant Director of Administrative Services/Human Resources
Subject: City Council Approval of Side Letter Agreement Between the City of Beverly Hills and the Confidential Employees Association Regarding Agency Shop
Attachments: 1. Side Letter Agreement

RECOMMENDATION

Approve side letter agreement between the City of Beverly Hills and the Beverly Hills Confidential Employees Association regarding agency shop.

INTRODUCTION

The Beverly Hills Confidential Employees Association was recently recognized as a new employee association in the City. The City and the association anticipate commencing collective bargaining negotiations in the next few months. In the meantime, these employees shall continue to receive the benefits provided by their compensation plan.

DISCUSSION

Per California law, Government Code section 3502.5, the association is permitted to request that they have "agency shop" (i.e., that non-members pay an agency fee as dues for being in the unit) included in its memorandum of understanding with the City. The City and the association have agreed to an agency shop agreement which is memorialized in a side letter of agreement and which the City anticipates will eventually be included in the memorandum of understanding between the parties after one is negotiated. This was created now because of the Association's right under the law to demand agency shop prior to waiting for negotiations.

Meeting Date. August 5, 2008

FISCAL IMPACT

None



Scott Miller, Director of
Administrative Services/CFO
Finance Approval



Sandra Olivencia, Assistant Director
of Administrative Services/Human
Resources

Approved By

**SIDE LETTER AGREEMENT
BETWEEN
THE CITY OF BEVERLY HILLS (The City) AND THE BEVERLY HILLS CONFIDENTIAL
EMPLOYEES ASSOCIATION (The Association)
DEALING WITH
“AGENCY SHOP”**

1. Legislative Authority

The parties mutually understand and agree that as a result of State of California adoption of SB 739, all full time and part-time benefited employees represented by the City of Beverly Hills Confidential Employees Association have the right to join or not join the Association. However, the enactment of a local “Agency Shop” requires that as a condition of continuing employment, employees in the respective bargaining unit must either join the Association or pay to the Association a service fee in lieu thereof. Such service fee shall be established by the Association, and shall not exceed the standard initiation fee, periodic dues and general assessments of the Association.

2. Association Dues/Service Fees

(a) Effective July 1, 2008, the Human Resources Office shall provide all current full time benefited employees and any full time and part-time benefited employees hired thereafter, with an authorization notice advising them that Agency Shop for the Association has been enacted pursuant to state law and an agreement exists with the Association, and that all employees subject to the Agreement must either join the Association, pay a service fee to the Association, or provide proof of membership in a religious organization which holds historic opposition to membership in a labor organization. Such notice shall include a form for the employee’s signature authorizing a payroll deduction of Association dues, a service fee or a charitable contribution equal to the service fee. Said employees shall have 14 calendar days from the date they receive the form to fully execute it and return it to the City Human Resources Office.

(b) If the form is not completed properly or returned within 14 calendar days, the City shall commence and continue a payroll deduction of service fees from the regular biweekly paychecks of such employee. The effective date of Association dues, service fee, or charitable contribution shall begin no later than the beginning of the first pay period commencing 14 calendar days after receipt of the authorization form by the employee.

(c) The employee’s earnings must be sufficient after the other legal and required deductions are made to cover the amount of the dues or fees authorized. When an employee is in a non-pay status for an entire pay period, no withholding will be made to cover the pay period from future earnings. In the case of an employee in a non-pay status only during part of the pay period, whose salary is not sufficient to cover the full withholding, no deduction shall be made. In this connection, all other legal and required deductions (including health care and insurance deductions) have priority over Association dues and service fees.

3. Religious Exemption

(a) Any employee who is a member of a bona fide religion, body or sect that has historically held conscientious objections to joining or financially supporting public employee organizations shall upon presentation of active membership in such religion, body, or sect, not be required to join or financially support any public employee organization as a condition of employment. The employee may be required, in lieu of periodic dues, initiation fees or agency shop fees, to pay sums equal to the dues, initiation fees or agency shop fees to a nonreligious, non-labor charitable fund exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, chosen by the employee from a list of at least three of these funds, designated in a memorandum of understanding between the City and the Association, or if the memorandum of understanding fails to designate the funds, then to any such fund chosen by the employee. Proof of the payments shall be made on a monthly basis to the City as a condition of continued exemption from the requirement of financial support to the Association.

(b) Declarations of or applications for religious exemption and any other supporting documentation shall be forwarded to the Association within 14 calendar days of receipt by the City. The Association shall have 14 calendar days after receipt of a request for religious exemption to challenge any exemption granted by the City. If challenged, the deduction to the charity of the employee's choice shall commence but shall be held in escrow pending resolution of the challenge. Charitable contributions shall be made by regular payroll deductions only.

4. Rescission

The agency shop provision in this memorandum of understanding may be rescinded by a majority vote of all the employees in the unit covered by the memorandum of understanding, provided that:

(a) A request for such a vote is supported by a petition containing the signatures of at least 30 percent of the employees in the unit;

(b) The vote is by secret ballot;

(c) The vote may be taken at any time during the term of the memorandum of understanding, but in no event shall there be more than one rescission vote taken during that term. Notwithstanding the above, the City and the Association may negotiate, and by mutual agreement provide for, an alternative procedure or procedures regarding a vote on an agency shop agreement.

(d) If a "rescission vote" is approved by unit members during the term of a current memorandum of understanding, the Association agrees not to petition for or seek Agency Shop status for the duration of the current memorandum of understanding.

5. Indemnification

The Association shall indemnify, defend, and hold the City harmless against any liability arising from any claims, demands, or other action relating to the City's compliance with the agency fee obligation including claims relating to the Association's use of monies collected under these

challenge to the City's compliance with the agency fee obligation, and the Association agrees to pay any attorney, arbitrator or court fees related thereto.

6. Election

Prior to the implementation of this provision, the Association conducted an election at an open meeting held on May 13, 2008 to which the Association invited each eligible bargaining unit member, whether or not he/she is a current Association dues paying member. All eligible unit members in attendance were allowed to participate during discussion and voting, irrespective of current membership in the Association. A ballot was signed in support of an Agency Shop for the Confidential Association and a representative of the City has concluded that the majority of signatures casted prevail.

7. City Council Approval

Authorization to approve this side letter of agreement shall be submitted to the City Council at the meeting scheduled for August 5, 2008.

The Parties hereto have caused this Side Letter of Agreement to be executed the _____ day of _____, 200__.

City of Beverly Hills

Dated: July 15, 2008

By: Roderick Wood
Roderick Wood, City Manager

Dated: July 11, 08

By: Sandra Olivencia
Sandra Olivencia, Director of Human Resources

City of Beverly Hills Confidential Employees Association

Dated: July 11, 2008

By: Milner
Chief Bargaining Representative