



## AGENDA REPORT

**Meeting Date:** December 5, 2013  
**Item Number:** F-2  
**To:** Honorable Mayor and Members of the City Council  
**From:** City Attorney  
**Subject:** AN ORDINANCE OF THE CITY OF BEVERLY HILLS  
ADDING ARTICLE 5 TO CHAPTER 5 OF TITLE 2 OF THE  
MUNICIPAL CODE REGARDING THE PROCEDURE FOR  
ADOPTING OR AMENDING A MEMORANDUM OF  
UNDERSTANDING BETWEEN THE CITY AND AN  
EXCLUSIVELY RECOGNIZED EMPLOYEE  
ORGANIZATION  
**Attachments:** 1. Ordinance

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### **RECOMMENDATION**

If the proposed ordinance conforms to the City Council's previous direction, then the City Attorney's Office recommends that the City Council introduce the ordinance entitled An Ordinance of the City of Beverly Hills Adding Article 5 to Chapter 5 of Title 2 of the Municipal Code regarding the Procedure for Adopting or Amending a Memorandum of Understanding Between the City and an Exclusively Recognized Employee Organization.

### **INTRODUCTION**

At its study sessions of August 20<sup>th</sup> and October 15<sup>th</sup>, 2013 the City Council discussed whether to adopt local regulations governing the labor negotiation process. At the conclusion of the study session discussion on October 15<sup>th</sup>, 2013, the City Council directed that the City Attorney's Office draft an ordinance that reflected the City Council's direction to implement procedures designed to increase public awareness of proposed memoranda of understanding before those memoranda are adopted.

### **DISCUSSION**

The proposed ordinance includes the following provisions:

(1) A decision to adopt or amend a memorandum of understanding with a labor organization will require that the matter be placed on the agenda at two meetings of the City Council. The meetings shall be at least fourteen days apart.

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(2) The proposed memorandum of understanding, or amendment, will be posted on the City's website at least seventy two hours before the first meeting at which the agreement will be placed on the City Council's agenda.

(3) The proposed memorandum of understanding or amendment may not be adopted on the consent calendar.

(4) Unless reported by the City Council as provided in paragraph (5) below, the following procedures will be followed for the adoption or amendment of a memorandum of understanding:

a. The principal negotiator for the City will not be an employee of the City and will have expertise in labor negotiations.

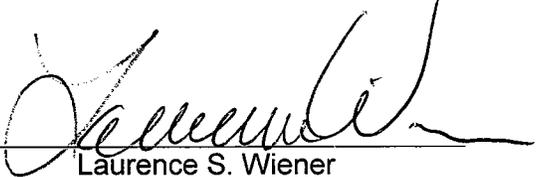
b. The City will hire a fiscal impacts consultant to prepare an independent fiscal analysis of any tentative agreement that will be considered for adoption at a City Council meeting. The fiscal analysis will be made public and posted on the City's website at least seventy two hours prior to the first meeting at which the agreement is placed on the City Council's agenda.

(5) If the City Council chooses not to follow any of the procedures set forth in paragraph (4), the City Council shall report this fact orally at each meeting at which the agreement is placed on the City Council's agenda.

The procedures set forth above will apply to the adoption of memoranda of understanding with labor organizations, and amendments to those memoranda, that are not governed by California Government Code Section 7507. Government Code Section 7507 requires almost identical procedures to be followed when the City Council considers changes to retirement plan benefits or other post employment benefits. However, because Government Code Section 7507 addresses changes to future obligations (i.e., post retirement benefits) Section 7507 requires an actuarial analysis to be performed and made public, rather than a fiscal analysis.

### **FISCAL IMPACT**

To the extent that the City engages a fiscal impacts consultant to prepare a report in cases where the report is not otherwise required by State law, the proposed ordinance would create a commensurate fiscal impact. Similarly, engaging a lead negotiator who is not a City employee may also have a fiscal impact. However, the City has already followed this practice for a number of years.

  
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Laurence S. Wiener  
City Attorney

# **Attachment 1**

ORDINANCE NO. 13-O-

AN ORDINANCE OF THE CITY OF BEVERLY HILLS  
ADDING ARTICLE 5 TO CHAPTER 5 OF TITLE 2 OF THE  
MUNICIPAL CODE REGARDING THE PROCEDURE FOR  
ADOPTING OR AMENDING A MEMORANDUM OF  
UNDERSTANDING BETWEEN THE CITY AND AN  
EXCLUSIVELY RECOGNIZED EMPLOYEE ORGANIZATION

THE COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY ORDAINS AS  
FOLLOWS:

Section 1. The City Council hereby adds Article 5 to Chapter 5 of Title 2 of  
the Beverly Hills Municipal Code as follows:

**“Article 5  
LABOR NEGOTIATIONS**

- 2-5-501: Applicability**
- 2-5-502: Definition**
- 2-5-503: Adoption of a Memorandum of Understanding**
- 2-5-504: City Representative**
- 2-5-505: Economic Analysis**

**2-5-501: Applicability:**

This Article shall apply when the City Council considers adopting or amending a memorandum  
of understanding.

**2-5-502: Definition:**

For the purposes of this Article, the following words and phrases shall be defined as follows:

MEMORANDUM OF UNDERSTANDING shall mean a formal signed agreement between the  
City and an exclusively recognized employee organization.

**2-5-503: Adoption of a Memorandum of Understanding:**

- A. The City Council may adopt or amend a memorandum of understanding only after the memorandum or amendment has been placed on an agenda at a minimum of two (2) City Council meetings that are held at least two (2) weeks apart.
- B. A proposed memorandum of understanding or amendment to a memorandum of understanding, as well as any fiscal impacts analysis prepared pursuant to Section 2-5-505 of this Article, shall be posted on the City's official website at least seventy-two (72) hours before the first City Council meeting at which the proposed memorandum of understanding or amendment is considered.
- C. The adoption or amendment of a proposed memorandum of understanding shall not be placed on the City Council's consent calendar.

**2-5-504: City Representative:**

Unless reported as provided below, the lead negotiator on behalf of the City during the negotiation of a memorandum of understanding or amendment to a memorandum of understanding shall not be an employee of the City and shall have demonstrated expertise in negotiating labor and employment agreements on behalf of municipalities.

If the principal representative of the City does not meet the requirements of this Section, then this fact must be reported at the meetings of the City Council at which the memorandum of understanding or amendment is considered.

**2-5-505: Economic Analysis:**

Unless reported as provided below, the City Council shall obtain from a consultant who is not an employee, a fiscal impact analysis of the proposed memorandum of understanding or amendment to a memorandum of understanding. If a statement of actuarial impact is required by California Government Code Section 7507 or its successor for any change to retirement or other post employment benefits, then the fiscal analysis required by this Section need not address the benefit changes analyzed in the statement of actuarial impact.

If a fiscal impact analysis is not obtained as required by this Section, then this fact must be reported orally at the meetings of the City Council at which the memorandum of understanding or amendment is considered.”

Section 2. If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this ordinance which can be implemented without the invalid provisions, clause, or application; and to this end, the provisions of this ordinance are declared to be severable.

Section 3. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance and shall cause this Ordinance and this certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

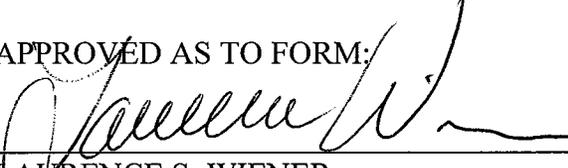
Section 4.     Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

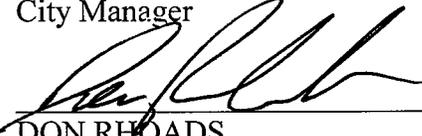
Adopted:  
Effective:

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JOHN A. MIRISCH  
Mayor of the City of  
Beverly Hills, California

ATTEST:

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(SEAL)  
BYRON POPE  
City Clerk

APPROVED AS TO FORM:  
  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:  
  
\_\_\_\_\_  
JEFFREY C. KOLIN  
City Manager  
  
\_\_\_\_\_  
DON RHOADS  
Director of Administrative Services