



Office of the City Manager

CONSENT CALENDAR  
November 27, 2007

To: PK Honorable Mayor and Members of the City Council

From: PK Phil Kamlarz, City Manager

Submitted by: David W. Hodgkins, Director of Human Resources

Subject: Recognition of Service Employees International Union Local 1021

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute and implement a Side Letter of Agreement with Service Employees International Union (SEIU) to recognize SEIU Local 1021 as the sole and exclusive representative for employees assigned to Representation Units currently represented by SEIU Local 790, Local 535, and the Part-Time Recreation Leaders Association/SEIU Local 535 (collectively, "SEIU Locals").

FISCAL IMPACTS OF RECOMMENDATION

There are no fiscal impacts in adopting this recommendation.

CURRENT SITUATION AND ITS EFFECTS

SEIU currently has two local unions representing employees of the City of Berkeley. SEIU Local 790 represents career employees in manual labor occupations, office administrative support and police non-sworn employees performing paraprofessional duties in the Police Department. SEIU Local 535 represents employees in career and non-career health and welfare, social services and professional nursing occupations, career and non-career professional, paraprofessional and technical administrative occupations, and career Library occupations including Library Aides. SEIU Local 535 also represents career benefited part-time and non-benefited recreational employees through the Part-Time Recreation Leaders Association ("PTRLA"). As a result, there are three separate labor contracts between the City and SEIU and historically the City has negotiated separately with SEIU Local 790 and SEIU Local 535. The SEIU Locals represent approximately 1000 of the City's 1668 full-time equivalent budgeted career positions.

BACKGROUND

Early this year, the City was notified by SEIU that a decision was made by SEIU to reorganize its California local unions. As a result of this decision to reorganize, the SEIU Locals were consolidated into the newly formed Local 1021 with the stated intent to affect a change in representation effective March 1, 2007. The City responded to SEIU that it could not yet recognize that consolidation, based on several concerns including, but not limited to, the fact that SEIU was not planning to comply with the

exclusive representation language in the three existing labor contracts that includes a decertification provision. In objecting to the consolidation at that time, the City also relied on Public Employment Relations Board (PERB) Regulations, which provide an administrative remedy for the union to amend its certification or recognition in the event of a merger, amalgamation, affiliation or transfer of jurisdiction.

SEIU responded by describing the detailed procedures it followed to merge a number of local union affiliates into larger, geographically based local unions. One aspect of this procedure was a statewide vote of all employees represented by SEIU that included participation of City of Berkeley employees represented by SEIU. Based on this recent information, the City is prepared to recognize Local 1021 as the sole and exclusive representative of employees currently represented by SEIU Local 790, SEIU Local 535 and the PTRLA/SEIU Local 535 subject to the terms and conditions of a Side Letter of Agreement, which has been agreed to by the parties and is attached to the Resolution as Exhibit A.

#### RATIONALE FOR RECOMMENDATION

The reason for this action is because SEIU has consolidated its statewide Local Chapters into regional Locals to improve the administrative efficiency and improve their worksite organizational ability. SEIU Locals 790 and 535 will cease to exist as separate independent entities.

#### ALTERNATIVE ACTIONS CONSIDERED

No alternative actions were considered or are appropriate for this subject matter.

#### CONTACT PERSON

David W. Hodgkins, Director of Human Resources, 981-6805

#### Attachments:

##### 1: Resolution

Exhibit A: Side Letter of Agreement between the City of Berkeley and Service Employees International Union

RESOLUTION NO. ##,###-N.S.

SIDE LETTER AGREEMENT RECOGNITION OF SERVICE EMPLOYEES  
INTERNATIONAL UNION LOCAL 1021

WHEREAS, Service Employees International Union (SEIU) is the sole and exclusive representative of employees assigned to three separate bargaining units that are SEIU Local 790, SEIU Local 535 and the Part-Time Recreation Leaders Association/SEIU Local 535; and

WHEREAS, SEIU employees are assigned and organized in the following Representational Units: Unit D (manual occupations), Unit J (paraprofessional employees – Police Department), Unit K-1 (career, non-confidential office and clerical), Unit K-2 (supervisory clerical employees), Unit G-1 (career and non-career health, welfare, and social service occupations), Unit G-3 (career and non-career professional nursing classifications), Unit I-A (career supervisory library employees), Unit I-B (career non-supervisory library employees including all library aides), Unit L (career and non-career, miscellaneous and administrative employees), Unit R-1 (career benefited, part-time recreational), and Unit R-2 (non-benefited, part-time recreational); and

WHEREAS, on February 6, 2007, the City was notified by SEIU that a decision was made by SEIU to reorganize its California local unions and as a result of this decision to reorganize, Locals 790 and 535 were consolidated into the newly formed Local 1021 effective March 1, 2007; and

WHEREAS, on August 24, 2007, the City received correspondence from SEIU that described in detail the procedures followed by SEIU to merge a number of local union affiliates into larger, geographically-based local unions; and

WHEREAS, one aspect of this procedure was a statewide vote of all employees represented by SEIU that included participation of City of Berkeley employees represented by SEIU; and

WHEREAS, based on the information provided by SEIU the City is prepared to recognize SEIU Local 1021 as the sole and exclusive representative of employees currently represented by SEIU Local 790, SEIU Local 535 and the Part-Time Recreation Leaders Association/SEIU Local 535 subject to the terms and conditions of a Side Letter of Agreement, which has been agreed to by the parties and is attached to the Resolution as Exhibit A.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute and implement the Side Letter of Agreement with Service Employees International Union to recognize SEIU Local 1021 as the sole and exclusive representative for employees assigned to Representation Units currently

represented by SEIU Local 790, Local 535, and the Part-Time Recreation Leaders Association/SEIU Local 535 based on the terms and conditions set forth in the Side Letter that is attached to this Resolution as Exhibit A.

Exhibits

A: Side Letter of Agreement between the City of Berkeley and Service Employees International Union

**SIDE LETTER AGREEMENT  
BETWEEN THE CITY OF BERKELEY AND  
SERVICE EMPLOYEES INTERNATIONAL UNION**

The parties to this Agreement are the City of Berkeley (“City”), and Service Employees International Union (SEIU), Locals 535 including the Part-Time Recreation Leaders Association, 790 and 1021, (“Local 535”, “Local 790” or “Local 1021”). The provisions of this Agreement apply to City of Berkeley employees assigned to the following representation units: Unit D (manual occupations), Unit J (paraprofessional employees – police department), Unit K-1 (career, non-confidential office and clerical), Unit K-2 (supervisory clerical employees), Unit G-1 (career and non-career health, welfare, and social service occupations), Unit G-3 (career and non-career professional nursing classifications), Unit I-A (career supervisory library employees), Unit I-B (career non-supervisory library employees including all library aides), Unit L (career and non-career, miscellaneous and administrative employees), Unit R-1 (career benefited, part-time recreational), and Unit R-2 (non-benefited, part-time recreational).

**BACKGROUND**

On February 6, 2007, the City was notified by SEIU that a decision was made by SEIU to reorganize its California local unions. As a result of this decision to reorganize, Locals 790 and 535 were consolidated into the newly formed Local 1021 and this change in representation would take place effective March 1, 2007. In response to this notification, on March 12, 2007 the City responded to SEIU with several concerns including but not limited to, the exclusive representation language in three existing labor contracts that includes a decertification provision citing Resolution No. 43,397-N.S. (Rules and Regulations for Administration of Employer Employee Relations). In this same March 12<sup>th</sup> letter, the City also cited Public Employment Relations Board (PERB) Regulations (California Administrative Code Title 8 Section 61300), which provides an administrative remedy for the union to amend its certification or recognition in the event of a merger, amalgamation, affiliation or transfer of jurisdiction.

On August 24, 2007, the City received correspondence from SEIU that described in detail the procedures followed by SEIU to merge a number of local union affiliates into larger, geographically-based local unions. One aspect of this procedure was a statewide vote of all employees represented by SEIU that included participation of City of Berkeley employees represented by SEIU. Based on this information, the City is prepared to recognize Local 1021 as the sole and exclusive representative of employees assigned to the following representation units named below, subject to the terms and conditions of this Side Letter of Agreement.

Representation Unit D (manual occupations), Unit J (paraprofessional employees – police department), Representation Unit K-1 (career, non-confidential office and clerical), Representation Unit K-2 (supervisory clerical employees), Representation Unit

G-1 (career and non-career health, welfare, and social service occupations), Representation Unit G-3 (career and non-career professional nursing classifications), Representation Unit I-A (career supervisory library employees), Representation Unit I-B (career non-supervisory library employees including all library aides), Representation Unit L (career and non-career, miscellaneous and administrative employees), and Representation Unit R-1 (career benefited, part-time recreational), and Representation Unit R-2 (non-benefited, part-time recreational).

## **AGREEMENT**

The parties agree as follows:

1. The City recognizes that employees currently represented by Local 790 and Local 535, including employees covered by the Part-Time Recreation Leaders Association (PTRLA) Memorandum Agreement, shall be represented by Local 1021 effective upon approval by the City Council through their adoption of a resolution authorizing the City Manager to execute and implement this Side Letter of Agreement.
2. Nothing in this Agreement alters the respective rights of the City and the present bargaining units, as all such units remain separate and are in all ways bound by the terms of the current MOUs until such time, if any, that the City adopts successor agreements.
3. The Memorandum Agreement with Local 790 is modified in the third paragraph of Section 1 (Recitals) to read as follows:

### **SECTION 1: RECITALS**

Local 1021, Service Employees International Union, is the Recognized Employee Organization for Representation Unit D (Manual Occupations), Representation Unit J (Para-professional Employees- Police Department), and Representation Unit K-1 (career non-confidential office and clerical employees), and Representation Unit K-2 (Supervisory Clerical Employees). The employee positions in such Representation Unit are set forth herein and made a part hereof, and Local 1021, Service Employees International Union, hereinafter referred to as "the Union" is recognized as the sole representative of employees assigned to such positions. This Memorandum Agreement shall be presented to the City Council, Rent Board, and Board of Library Trustees as the joint recommendation of the undersigned.

4. The Memorandum Agreement with Local 535 is modified in the third paragraph of Section 1 (Preamble) to read as follows:

**SECTION 1: PREAMBLE**

Local 1021, Service Employees International Union, hereinafter referred to as "the Union," is the recognized employee organization for representation Units G-1 (career and non-career health, welfare and social service occupations), G-3 (career and non-career professional nursing classifications), I-A (career supervisory library employees), I-B (career non-supervisory library employees including all Library Aides), and L (career and non-career, miscellaneous and administrative employees). The employee positions in the Representation Units referred to above are set forth in Section 6. The Union is recognized as the sole representative of employees in positions assigned to these units. This Memorandum Agreement shall be presented to the City Council, Rent Board, and Board of Library Trustees as the joint recommendation of the undersigned.

5. The Memorandum Agreement with the Part-Time Recreation Leaders Association/Local 535 is modified in the third paragraph of Section 1 (Preamble) to read as follows:

**SECTION 1: PREAMBLE**

The Part Time Recreation Leaders Association, an affiliate of Service Employees International Union, Local 1021, hereinafter referred to as "the Union," is the recognized employee organization for representation Units R-1 (career benefited, part-time Recreational) and R-2 (non-benefited, part-time recreational). The employee positions in the Representation Units referred to above are set forth in Section 6. The Union is recognized as the sole representative of employees in positions assigned to these units.

6. The City and Local 790, Local 535 and Local 1021 agree that all of the terms and conditions of the collective bargaining agreements between the City and Local 790, Local 535 and the Part-Time Recreation Leaders/SEIU Local 535 shall be adopted by Local 1021 and the City and that where the contract refers to either Local 790, Local 535 or "the Union" all such references shall be understood by the parties to refer to Local 1021.
7. Local 1021 shall be comprised of employees formerly represented by Local 790, Local 535 and the Part-Time Recreation Leaders/SEIU Local 535.
  - a. The City and Local 1021 understand and agree that only the wages, hours and other terms and conditions of employment set forth in the collective bargaining agreement between the City and Local 790 shall apply to Local 1021 employees formerly represented by Local 790 and that none of the wages, hours and other

terms and conditions of employment set forth in the collective bargaining agreement between the City and Local 535 and/or the Part-Time Recreation Leaders/SEIU Local 535 shall apply to the employees formerly represented by Local 790.

- b. The City and Local 1021 understand and agree that only the wages, hours and other terms and conditions of employment set forth in the collective bargaining agreement between the City and Local 535 shall apply to Local 1021 employees formerly represented by Local 535 and that none of the wages, hours and other terms and conditions of employment set forth in the collective bargaining agreement between the City and Local 790 and/or the Part-Time Recreation Leaders/SEIU Local 535 shall apply to the employees formerly represented by Local 535.
  - c. The City and Local 1021 understand and agree that only the wages, hours and other terms and conditions of employment set forth in the collective bargaining agreement between the City and the Part-Time Recreation Leaders/SEIU Local 535 shall apply to Local 1021 employees formerly represented by the Part-Time Recreation Leaders/SEIU Local 535 and that none of the wages, hours and other terms and conditions of employment set forth in the collective bargaining agreement between the City and Local 790 and/or Local 535 shall apply to the employees formerly represented by the Part-Time Recreation Leaders/SEIU Local 535.
8. This Agreement is a tentative agreement that is subject to approval by the City Council of the City of Berkeley and shall become effective upon adoption by the City Council, Rent Board, and the Board of Library Trustees.
  9. The parties agree that for purposes of negotiating successor agreements to the current Local 790, 535 and PTRLA Memorandum Agreements, the City will individually negotiate only with the present bargaining units that are comprised in each of those present Memorandum Agreements. In other words, nothing in this Agreement is intended to grant, nor does it grant, any rights to any present bargaining unit to be included in future negotiations with any other bargaining unit other than those they presently have immediately prior to the proposed recognition of Local 1021. Nothing in this Agreement, however, shall prohibit the parties from conducting joint or common bargaining in those successor negotiations by mutual agreement.

Nothing in this Agreement is intended to grant, nor does it grant, any additional rights to any City of Berkeley employee other than they presently have immediately prior to the proposed recognition of SEIU Local 1021. This Agreement runs parallel to and is an integral part of the following three existing collective bargaining agreements now in effect and makes no other changes in those agreements except as set forth above.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2007 by the Employer - Employee representatives whose signatures appear below for their respective organizations.

**Employee Representatives:**

**Employer Representatives:**

**Service Employees International Union  
Local 1021**

**City of Berkeley**

\_\_\_\_\_  
Damita Davis Howard, President, SEIU  
Local 1021

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Phil Kamlarz, City Manager

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Sandra Lewis, Treasurer, SEIU Local 1021

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David W. Hodgkins, Director of Human  
Resources

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James Wallace, President, SEIU Local  
1021 Maintenance Chapter

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Leland Johnson, President, SEIU Local  
1021 Social Services Chapter

\_\_\_\_\_  
James Wells, President, SEIU Local 1021  
Part-Time Recreation Leaders Association  
Chapter

