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191282

Emergency Ordinance

*Ratify Letter of Agreement with the Portland Fire Fighters' Association, International Association of Fire Fighters Local 43, to settle an Unfair Labor Practice Complaint

Passed

The City of Portland ordains:

Section 1. The Council finds:

1. The City and the Portland Firefighters' Association, IAFF Local 43 (PFFA) are parties to a collective bargaining agreement (CBA) effective July 1, 2019 to June 30, 2023 (the CBA) and have been parties to many CBAs prior thereto.
2. In or about 1984, PF&R created a Dive Team comprised of Firefighters with diving training and experience to provide emergency water rescue and recovery in response to water incidents. The parties later negotiated additional pay of six percent (6%) of the top step Firefighter base hourly rate for Dive Team members. Dive Team members also had overtime opportunities due to the required training.
3. The City dissolved the 25-member Dive Team in 2013, and the Union filed an Unfair Labor Practice complaint, Case No. UP-059-13, on December 26, 2013 protesting that elimination among other reductions.
4. The City re-constituted the Dive Team for the 2015-2016 and 2016-2017 fiscal years with 13 members, but then decided again to eliminate the Dive Team effective July 1, 2017.
5. The Union filed another ULP complaint on December 11, 2017, Case No. UP-36-17, protesting this second Dive Team elimination. The parties agreed to hold that case in abeyance pending the outcome of the appeal in UP-059-13, but in November 2020 the ERB directed the case to be taken out of abeyance. A hearing was held before

Introduced by

[Mayor Ted Wheeler](#)

Bureau

[Human Resources;](#)
[Management and Finance](#)

Contact

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Requested Agenda Type

Four Fifths

Date and Time Information

Requested Council Date

May 17, 2023

Time Requested

10 minutes

Portland Policy Document

Employment Relations Board (ERB) Administrative Law Judge (ALJ)
Carlton Grew on April 15, 2021.


6. ALJ Grew issued a Recommended Order on August 25, 2021 and an Amended Recommended Order on September 27, 2021. The Amended Recommended Order directed the Parties to bargain over the impacts of the City's decision to eliminate the Dive Team, without damages during the period when the parties held the case in abeyance, unless the parties agreed otherwise.
7. In early October 2021, the parties agreed to bargain over 12 months of economic damages, including the 6% premium, overtime, and retirement benefits for those affected. Both parties further agreed not to file objections to the Amended Recommended Order.
8. On October 27, 2021, the ERB issued its Final Order adopting the ALJ's Amended Recommended Order.
9. The City and PFFA agreed to compensate each employee listed in Exhibit A one thousand (\$1,000) dollars for overtime pay.
10. In addition to the overtime pay listed above, the City agrees to compensate each employee listed in Exhibit A an amount equivalent to six percent (6%) above their regular wage for the time period July 1, 2017 - June 30, 2018.
11. The Parties agree the 6% premium pay will be calculated using the employee's regular wage rate on July 1, 2017.
12. This Agreement shall fully resolve *Portland Fire Fighters' Association v. City of Portland*, UP-36-17, including the City's bargaining obligation as ordered by ALJ Grew in the Final Order.

NOW, THEREFORE, the Council directs:

- A. The Chief Human Resources Officer is authorized to execute the letter of agreement, Exhibit 1, between the City and Portland Fire Fighters' Association relating to the settlement of an unfair labor practices complaint, with approval as to form by the assigned attorney in the City Attorney's Office.
- B. This ordinance is binding City policy.

Section 2. The Council declares that an emergency exists because the agreement will resolve litigation in the unfair labor practice complaints and the Oregon Employee Relations Board Final Order adopting the Administrative Law Judge's Amended Recommended Order; therefore, this Ordinance shall be in full force and effect from and after its passage by the Council.

Documents and Exhibits

 [Exhibit 1 \(https://www.portland.gov/sites/default/files/council-documents/2023/exhibit-1_0.pdf\)](https://www.portland.gov/sites/default/files/council-documents/2023/exhibit-1_0.pdf) 544.15 KB

An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor (City Charter Chapter 2 Article 1 Section 2-122)

Passed by Council
May 17, 2023

Auditor of the City of Portland
Simone Rede

Impact Statement

Purpose of Proposed Legislation and Background Information

The Letter of Agreement will settle the Portland Fire Fighters' Association's (PFFA) Unfair Labor Practice complaints found at Case Nos. UP-059-13 and UP-36-17 and the related Oregon Employment Board Final Order adopted October 27, 2021 to bargain the impacts of the disbanded Dive Team within Portland Fire & Rescue.

Central Budget Office will use Contingency Funds to support this financial agreement.

Financial and Budgetary Impacts

This Letter of Agreement has a one-time financial impact of \$91,431.08 representing the agreed-to overtime costs of \$1000 per employee and a six percent (6%) premium pay above the regular wage for the time period July 1, 2017 - June 30, 2018 for fourteen employees identified in Exhibit A of the Letter of Agreement. It does not result in any ongoing financial obligations.

Community Impacts and Community Involvement

Not applicable.

100% Renewable Goal

Not applicable.

Agenda Items

393-2 Four-Fifths Agenda in [May 17-18, 2023 Council Agenda](https://www.portland.gov/council/agenda/2023/5/17)
(<https://www.portland.gov/council/agenda/2023/5/17>)

Passed

Commissioner Dan Ryan Yea

Commissioner Rene Gonzalez Yea

Commissioner Mingus Mapps Yea

Commissioner Carmen Rubio Yea

Mayor Ted Wheeler Yea