

ORDINANCE No. 187282 As Amended

*Authorize a Partial Compliance Agreement between the City on behalf of Portland Parks & Recreation and Laborers' Local 483, Laborers' International Union of North America that partially implements Arbitrator David Stiteler's Opinion and Award concerning the Bargaining Unit Work Grievance filed under the Recreation collective bargaining agreement (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. The City on behalf of Portland Parks & Recreation (PP&R) and Laborers' Local 483, Laborers' International Union of North America (the Union) are parties to a collective bargaining agreement effective July 1, 2013 to June 30, 2017 (the Recreation 2013-2017 CBA). The Recreation 2013-2017 CBA was ratified by City Council on January 14, 2014.
2. The Union is the sole and exclusive bargaining agent for the purpose of establishing wages, hours and conditions of employment for employees employed at PP&R in the classifications listed in Schedule "A" of the Recreation 2013-2017 CBA.
3. On June 14, 2013, Laborers Local 483 filed a grievance alleging that Recreation Support Persons (Casual) employees were performing bargaining unit work (the Bargaining Unit Work Grievance). Recreation Support Persons are excluded from the Recreation 2013-2017 CBA pursuant to Article 1.1.5. The City denied the grievance and the matter was appealed to arbitration before Arbitrator Stiteler.
4. On January 21-23, 2015, the parties went to arbitration on the grievance before Arbitrator David Stiteler. Arbitrator Stiteler issued an Opinion and Award on May 1, 2015. In his award, Arbitrator Stiteler held that the City violated, and is continuing to violate, the contract by assigning bargaining unit work to non-unit employees. He ordered the City to "cease and desist from assigning bargaining unit work, as set out in the job descriptions, to non-unit employees."
5. On July 17, 2015, the City on behalf of PP&R and the Union reached a Partial Compliance Agreement (the Agreement), Exhibit 1 attached hereto and incorporated herein by this reference, in which the parties agreed how to partially implement Arbitrator Stiteler's Opinion and Award. The Agreement lists certain steps to be taken by the parties between July 1, 2015 and December 1, 2015 in hopes of reaching complete agreement.
6. The Agreement meets the City's labor interests by providing partial clarity regarding compliance with Arbitrator Stiteler's Opinion and Award and establishes future dates during which the parties hope to attain complete agreement as to job descriptions that better delineate bargaining unit work. The Agreement also serves to avoid litigation and discord between the City and the Union.

7. Upon authorization of the Agreement by City Council, PP&R shall make temporary appointments of employees to the bargaining unit for 12 regular full-time, 30 regular three-quarter time, 19 regular part-time, and 25 full-time limited term positions, or the full-time equivalent thereof. Such appointments shall be retroactive to July 1, 2015 for purposes of pay and benefits, minus any pay received by the person appointed for performance of the same work from July 1, 2015 to the appointment. For anyone appointed to these positions under the Agreement, these employees shall receive health care benefits under the Recreation 2013-2017 CBA even if the appointment is a temporary appointment.
8. Under the Agreement, the City will cease using Casual employees for work performed by Customer Service Representative IIs, Preschool teachers and Assistant Pool Managers effective July 1, 2015, or in any event, by no later than August 1, 2015. The City will also create three FTE limited term positions into bargaining unit positions to cover bargaining unit work that had been performed by non-bargaining unit Camp Directors.
9. The City has determined that the approximate cost of the conversions outlined in the Agreement will cost between \$1,674,000.00 and \$2,355,433.01. The City has agreed that it will maintain the funding for the cost of the conversions for the 2015-2016 budget year.
10. Within the Agreement, the Union has agreed to hold the City harmless from a demand to include non-bargaining unit work job titles that do not perform regular and consistent bargaining unit work. The parties anticipate that these non-bargaining unit work jobs include lifeguards, water fitness instructors (except when upgraded as Recreation Leaders), Arts instructors, class instructors, fitness attendants, and fitness instructor assistants.
11. The Union also has agreed not to file any new grievances or unfair labor practices for any Casual employee performing bargaining unit work except as specifically stated in the Agreement during the time between July 17, 2015 and December 1, 2015 that the parties are in bargaining over these issues.

NOW, THEREFORE, the Council directs:

- a. The Agreement between the City on behalf of PP&R and the Union attached hereto as Exhibit A is authorized by this Council.
- b. The City is authorized to implement the Agreement in accordance with the terms and conditions of the Agreement.
- c. The City is authorized to pay up to \$2,355,443.01 for cost increases associated with the Agreement for budget year 2015-2016 from the General Fund.
- d. The City is authorized to maintain the funding for the cost of the conversions for the 2015-2016 budget year.

e. This ordinance is binding City policy.

Section 2. The Council declares that an emergency exists in order to avoid an unnecessary delay in the orderly implementation of the provisions of the Agreement; therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council: AUG 05 2015

Mary Hull Caballero
Auditor of the City of Portland

By *Gayla Jennings*

Mayor Charlie Hales

Prepared by: Anna Kanwit:JKU:ss

Date Prepared: July 21, 2015

Deputy

746

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Agenda No.
ORDINANCE NO. 187282 As Amended
Title

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INTRODUCED BY Commissioner/Auditor: Mayor Charlie Hales	CLERK USE: DATE FILED <u>JUL 24 2015</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration - Hales <i>[Signature]</i>	Mary Hull Cabellero Auditor of the City of Portland
Position 1/Utilities - Fritz	By: <u><i>[Signature]</i></u> Deputy
Position 2/Works - Fish	ACTION TAKEN:
Position 3/Affairs - Saltzman	JUL 29 2015 PASSED TO SECOND READING AUG 05 2015 9:30 A.M. As Amended
Position 4/Safety - Novick	
BUREAU APPROVAL Bureau: Bureau of Human Resources <i>[Signature]</i> OMF CAO: Fred Miller <i>[Signature]</i> Bureau Head: Anna Kanwit <i>[Signature]</i>	
Prepared by: AK:JKU:ss Date Prepared: July 21, 2015	
Financial Impact & Public Involvement Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
City Auditor Office Approval: required for Code Ordinances	
City Attorney Approval: Heidi K. Brown, Deputy City Attorney, required for contract, code, easement, franchise, comp plan, charter <i>[Signature]</i>	
Council Meeting Date: July 29, 2015	

AGENDA
TIME CERTAIN <input type="checkbox"/> Start time: _____ Total amount of time needed: _____ (for presentation, testimony and discussion)
CONSENT <input checked="" type="checkbox"/> <i>Pulled</i>
REGULAR <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	1. Fritz	<i>[Signature]</i>
2. Fish	2. Fish	✓
3. Saltzman	3. Saltzman	✓
4. Novick	4. Novick	✓
Hales	Hales	✓