

ORDINANCE No. 187512

*Authorize agreement regarding Outstanding Phase I Matters related to the July 17, 2015 Partial Compliance Agreement between the City on behalf of Portland Parks & Recreation and Laborers' Local 483, Laborers' International Union of North America (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 CBA).
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 CBA.
3. On June 14, 2013, the Union filed a grievance alleging that Recreation Support Persons (Casual) employees were performing bargaining unit work. Casual employees are excluded from the CBA pursuant to Article 1.1.5. The City denied the grievance and the matter was appealed to arbitration before Arbitrator David Stiteler.
4. On May 1, 2015, Arbitrator Stiteler issued an Opinion and Award. In his award, Arbitrator Stiteler held that the City violated, and is continuing to violate, the CBA by assigning bargaining unit work to non-bargaining unit employees. He ordered the City to "cease and desist from assigning bargaining unit work, as set out in the job descriptions, to non-bargaining unit employees."
5. On July 29, 2015, City Council authorized a July 17, 2015 Partial Compliance Agreement (the Phase I Agreement) between the City on behalf of PP&R and the Union, in which the parties agreed how to partially implement Arbitrator Stiteler's Opinion and Award.
6. The Phase I Agreement lists certain steps to be taken by the parties between July 1, 2015 and December 1, 2015 in hopes of reaching complete agreement. One of the steps included temporary appointments of Casual employees to bargaining unit classifications listed in Schedule "A" of the CBA 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 (Phase I temporary appointments). Such appointments were made retroactive to July 1, 2015 and were for fiscal year 2015-16.

7. Article 25.1 of the CBA provides that employees appointed in job classifications listed in Schedule "A" are hired at the entry wage rate for the classification in which they are appointed. The CBA does not provide for any exceptions.
8. When the City completed the Phase I temporary appointments, the City placed the employees at the entry wage rate for the classification in which they were appointed, in accordance with Article 25.1. Notwithstanding the provisions of Article 25.1, the Union requested that the City place four employees who were temporarily appointed to the Recreation Leader – Preschool classification at the step that is closest to the wage rate they were earning prior to implementation of the Phase I Agreement. Those four employees are as follows: Robin Palmersheim, Jean Walker, Patricia McCord and Suzanne Haidri (the Preschool Four).
9. On December 1, 2015, the City on behalf of PP&R and the Union entered into an Agreement re: Outstanding Phase I Matters (the Agreement), Exhibit 1 attached hereto and incorporated herein by this reference. The only portion of the Agreement that requires Council action concerns the pay rate for the four preschool teachers.
10. The Agreement meets the City's labor interests by settling all outstanding issues related to implementation of the Phase I Agreement. The Agreement also serves to avoid litigation and discord between the City and the Union.
11. Upon authorization of the Agreement by City Council, the Preschool Four will be placed at the step that is closest to the wage rate they were earning prior to implementation of the Phase I Agreement. Thereafter, the Preschool Four's wage rates will be paid in accordance with Schedule "A" of the CBA.
12. The Preschool Four will also receive a lump sum payment that represents the difference between the wage rate they have been paid for work performed and the amount they will receive at the higher wage rate, retroactive to July 1, 2015.
13. The General Fund fiscal impact of the increased wage rates and the retroactive pay for the Preschool Four is estimated to cost \$25,000 for fiscal year 2015-16.
14. Within the Agreement, the parties agree not to pursue any action for violation of the Phase I Agreement that relates to the title of the Phase I temporary appointments (permanent, temporary or limited duration) or with the civil service recruitment process for such Phase I temporary appointments.

NOW, THEREFORE, the Council directs:

- a. The City is authorized to implement the Agreement between PP&R and the Union in accordance with the terms and conditions of the Agreement.
- b. The City is authorized to pay the increased wage rates and the retroactive pay estimated at \$25,000 for the Preschool Four for fiscal year 2015-16 from the General Fund.

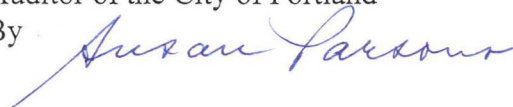
- c. This ordinance is binding City policy.

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: DEC 16 2015

Mary Hull Caballero
Auditor of the City of Portland

By



Deputy

Mayor Charlie Hales

Prepared by: Anna Kanwit:JKU:ss

Date Prepared: December 7, 2015

1302 -
Agenda No. 187512
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Title

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<p>INTRODUCED BY Commissioner/Auditor: Mayor Charlie Hales</p> <p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Hales <i>CHA</i></p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Novick</p> <p>BUREAU APPROVAL</p> <p>Bureau: Bureau of Human Resources</p> <p>OMF CAO: Fred Miller <i>Fred Miller</i></p> <p>Bureau Head: Anna Kanwit <i>A</i></p> <p>Prepared by: AK:JKU:ss Date Prepared: December 7, 2015</p> <p>Financial Impact & Public Involvement Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p> <p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>City Auditor Office Approval: required for Code Ordinances</p> <p>City Attorney Approval: Heidi K. Brown, Deputy City Attorney required for contract, code, easement, franchise, comp plan, charter <i>Heidi K. Brown</i></p> <p>Council Meeting Date: December 16, 2015 <i>12/16/15</i></p>	<p>CLERK USE: DATE FILED DEC 08 2015</p> <p style="text-align: right;">Mary Hull Cabellero Auditor of the City of Portland</p> <p>By: <i>[Signature]</i> Deputy</p> <p>ACTION TAKEN:</p>
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AGENDA
<p>TIME CERTAIN <input checked="" type="checkbox"/> Start time: 10:15 a.m.</p> <p>Total amount of time needed: 15 minutes (for presentation, testimony and discussion)</p>
<p>CONSENT</p>
<p>REGULAR <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)</p>

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	<input checked="" type="checkbox"/>	
2. Fish	2. Fish	<input checked="" type="checkbox"/>	
3. Saltzman	3. Saltzman	<input checked="" type="checkbox"/>	
4. Novick	4. Novick	<input checked="" type="checkbox"/>	
Hales	Hales	<input checked="" type="checkbox"/>	