

In the Matter of the Arbitration
between
City of Sutherlin
and
Sutherlin Police Officers Association

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EMPLOYMENT
RELATIONS BOARD

2009-2010 Interest Arbitration

Arbitrator's Opinion and Award

Arbitrator William Greer
P.O. Box 80847
Portland, Oregon 97280

December 14, 2009

Introduction. The City of Sutherlin, Oregon (City) and the Sutherlin Police Officers Association (Association) negotiated for a successor to their 2007-2009 collective bargaining agreement and were unable to reach agreement on all proposals. They submitted the single issue in dispute to interest arbitration. I award the Association's last best offer.

The parties presented their cases in a hearing on October 19, 2009, in Sutherlin, Oregon. The City was represented by Mark Amberg, Harrang Long Gary Rudnick, PO Box 11620, Eugene, Oregon 97440. The Association was represented by Becky Gallagher, Garrettson Gallagher Fenrich & Makler, 423 Lincoln Street, Eugene, Oregon 97401.

The parties submitted their last best offers on the issue as provided in ORS 243.746(3), and they agreed that the dispute is properly in interest arbitration. The advocates fully and fairly represented their respective parties. The hearing was orderly; the parties had a full opportunity to present evidence and examine and cross-examine witnesses. The hearing closed on October 19, upon receipt of the parties' oral closing arguments. The parties stipulated to an extension of the due date for this opinion and award; ORS 243.746(5). I take notice of ORS 243.742 through 243.762 and OAR 115-40-015. ORS 243.746(4) is attached at Appendix A.

Statement of the issues. The issue is: Is the City or the Association last best offer more appropriate under the criteria of ORS 243.746(4)?

Witnesses and exhibits. All witnesses testified under oath. The Association offered seven exhibits and testimony from one witness (Jay Huskey). The City offered nine exhibits and testimony from two

witnesses (Tom Boggs, Mike Mahler). I have thoroughly reviewed all of the evidence that was received, relevant, and material, and I have thoroughly considered the parties' closing arguments.

2007-2009 contract terms and last best offers. The parties' last best offers involve Article 19, "Grievance Procedure and Arbitration," and are attached as Appendix B. Their last best offers differ in only one respect, Step 4 of the grievance procedure.

The City's last best offer for Step 4 states (with the City's underlining and strikeout and my addition of paragraph numbers and paragraphing):

[1] Except for grievances involving discharge decisions, if the grievance cannot be resolved by the City Manager, the parties agree that the grievance will be submitted to a pre-arbitration panel comprised of three members selected by the Association, from other police associations, and three members selected by management, from other police agencies.

[2] Within seven (7) business days from the date the Association is provided with the City Manger's Step 3 response, each party shall submit to the other party a written list of five (5) proposed panel members. The other party may, within five (5) business days of receiving the other party's list, strike up to two (2) names from the list. The remaining three names shall comprise the panel members for the non-striking party. If less than two (2) names are stricken, the non-striking party shall select three of the remaining names to serve as its panel members.

[3] The panel will meet within thirty (30) business days after the panel is selected to review the grievance and if necessary conduct interviews to resolve the issue.

[4] The panel may meet in person or by telephone conference.

[5] The decision of the panel is binding, however, if the panel cannot reach a mutual decision, either by consensus or majority, the Association may, within fifteen (15) calendar days of receipt of the panel's notification, advise the City Manager in writing of its intent to arbitrate the grievance.

[5] Grievances of discharge decisions will not be submitted to a pre-arbitration panel. If, after receiving the City Manager's Step 3 response, the grievance of a discharge decision remains unsettled, the Association may, within fifteen (15) calendar days of receipt of the City Manager's response, advise the City Manager in writing of its intent to arbitrate the grievance.

The Association's last best offer for Step 4 states (with the Association's double underlining and strikeout and my addition of paragraph numbers, paragraphing, and italicized words):

[1] If the grievance cannot be resolved by the City Manager, the parties agree that the grievance will be submitted to a pre-arbitration panel comprised of three members selected

by the Association, from other police associations, and three members selected by management, from other police agencies.

[2] *No language.*

[3] The panel will meet within thirty (30) business days to review the grievance and if necessary conduct interviews to resolve the issue.

[4] *No language.*

[5] The decision of the panel is non-binding, however, ~~if the panel cannot reach a mutual decision, either by consensus or majority; the parties may mutually agree to accept the decision of the panel as binding. If the parties do not mutually agree to accept the decision of the panel, the~~ Association may within fifteen (15) calendar days of receipt of the panel's notification, advise the City Manager in writing of its intent to arbitrate the grievance.

Most significantly, the City proposes to continue having an appointed pre-arbitration panel's decision be *binding* on the parties for non-discharge cases. The City proposes one significant change to the status quo: *discharge* grievances would no longer to be submitted to a pre-arbitration panel. The Association proposes one significant change to the status quo: an pre-arbitration panel's decision would *not* be binding on the parties.

Facts

Origin of the pre-arbitration panel language. The collective bargaining agreement that applied to the bargaining unit in 1994-96 included a grievance procedure with review at four steps: immediate supervisor, police chief, city manager, and grievance arbitrator. The grievance procedure in the 1996-98 contract retained those four steps and added a pre-arbitration procedure virtually identical to that in the 2007-2009 contract. In the 1996 negotiations, the parties thought that the pre-arbitration panel procedure would resolve disputes and avoid the costs of grievance arbitration.

The parties' experience with pre-arbitration panels. In 2003, the parties submitted a discipline grievance to the pre-arbitration panel step. The City called about seven or eight potential appointees before three agreed to serve as panelists; several did not have time available or did not want to participate for other reasons. The parties eventually appointed a panel that consisted of two managers employed by county sheriffs, a manager employed by a city, and three bargaining unit members employed by county sheriffs. Three managers and two bargaining unit members denied the grievance, upholding the City's disciplinary action; one bargaining unit member dissented.

In 2008, the parties submitted a December 28, 2007 demotion and suspension grievance to the pre-arbitration panel step. Both parties had difficulty recruiting pre-arbitration panel appointees. The Association sought individuals who were familiar with the grievant. The City sought individuals

who were not familiar with the grievant but were experienced law enforcement personnel. The selection and service of panel members included the following:

- As of March 3, the City stated two objections to the Association's initial appointees: (a) all three were employed by an emergency dispatch center, rather than a police or sheriff department; (b) one of the three appointees was married to a Sutherlin bargaining unit member who was on probation;
- In response, the Association withdrew the names of two dispatch center employees (including the individual identified as a Sutherlin officer's spouse) and appointed other individuals;
- As of March 11, the parties' panels consisted of bargaining unit members employed by three different public employers (who served during their off-duty time) and three city police chiefs (who served during their flexible on-duty time);
- As of March 20, one of the City panelists withdrew and was replaced by another individual;
- As of March 21, one of the Association panelists withdrew and was replaced by another individual;
- As of April 8, another Association panelist withdrew and was replaced by another individual. Both the Association and the City then submitted written arguments and evidence to the panel;
- On April 10, one of the Association panelists did not participate in the panel's telephone conference call deliberations due to work issues. The remaining panelists (three managers and two bargaining unit members) unanimously agreed on a result.

Grievance procedure of other public employers. The collective bargaining agreements in the record apply to the following other public employers and police or sheriff bargaining unit employees and do not include a pre-arbitration panel similar to that in the parties' 2007-2009 contract: Hood River, Independence, Lincoln City, Molalla, Sandy, and Stayton. The grievance procedures for bargaining unit employees of the Roseburg Police Department and Douglas County Sheriff's Office—larger employers that are in proximity to Sutherlin—do not include a pre-arbitration panel similar to that in the parties' 2007-2009 contract.

Discussion

Criteria. In interest arbitration, ORS 243.746(4) provides that interest arbitrators "shall base their findings and opinions on these criteria giving first priority to paragraph (a) of this subsection [which states]: (a) The interest and welfare of the public." In the unique circumstances of this case,

the parties did not raise arguments about the criteria specified in ORS 243.746(b)-(h).

Requirements for changing the status quo. In interest arbitration, a party seeking a change to the existing collective bargaining agreement has the burden of showing a compelling reason for the proposal. The authors of an arbitration treatise state:

In the world of collective bargaining, stability and continuity are values of primary importance. The status quo is not realistically subject to major alteration or modification unless (a) there is demonstrable evidence that the status quo has proved to be unworkable or mischievous, or (b) external evidence establishes “changed circumstances” which impel modification, or (c) there is a perceptible trade-off in which the party seeking change has “bought” agreement.¹

A party may establish a “compelling reason” for a proposal that changes the status quo by showing the proposal would correct an aspect of the status quo that is clearly inappropriate or unworkable, and the other party presents no reasonably convincing evidence or argument in opposition to the proposal. A party proposing to change the status quo may support its position by citing the terms of the collective bargaining agreements for comparable jurisdictions, particularly where those contracts are relatively consistent.

Status quo and proposals. Under the parties’ 2007-2009 contract, to process a grievance beyond the city manager’s level, the Association must submit the dispute to a pre-arbitration panel composed of bargaining unit employees from other police associations and managers from other police agencies. Both parties propose changes to the status quo. The City proposes to eliminate that step for discharge grievances but retain it for other grievances. The Association proposes to change the authority of panels from making binding decisions to issuing non-binding recommendations.

Past problems with the pre-arbitration panel process. The parties have had several problems with the pre-arbitration panel review, which ends in a binding decision, which has raised questions about the fairness of the process:

- Both the City and the Association have had difficulty in getting people to volunteer for service as a pre-arbitration panel member;
- The process could appear to be unfair, because panelists appointed by the City have been managers who perform panel duties while at work and *being paid*, while panelists appointed by the Association have been employees of other jurisdictions who generally must perform panel duties while off duty and *not being paid*;

¹ Wollett, Grodin, and Weisberger, *Collective Bargaining in Public Employment* (West 4th ed. 1993) at 328.

- Because one panelist did not participate in the panel's deliberations and decision, the panel's 2008 decision was unbalanced and therefore unfair;
- Some qualified bargaining unit members employed by other police employers likely chose not to volunteer as Association pre-arbitration panel representatives because the time involved is unpaid and reduces the amount of their non-duty, rest and recuperation time away from work issues;
- Some qualified managers employed by other police employers likely chose not to volunteer as City pre-arbitration panel representatives, because the time devoted by City panelists to grievances involving Sutherlin takes away from the time they have available to perform their own work for their own employers or may require them to work longer hours, reducing the amount of their non-duty, rest and recuperation time away from work issues;
- A significant amount of time and money was expended by the City and the Association in selecting panel members and presenting evidence and arguments to the panels;
- The panel review process took a significant amount of time from start to finish, delaying the resolution of grievances. The parties and panelists devoted time to: panel member appointment; objections to the other party's appointments followed by responses (such disputes could lead to a grievance about whether a party had violated the grievance procedure); withdrawals from appointments and subsequent new appointments; coordination of meeting times; rescheduling meetings to address last-minute conflicts; time to review the evidence presented by the parties; deliberation; and issuance of a decision.

Potential problems with the pre-arbitration panel process. The fairness of the panel process reasonably could be jeopardized or questioned if the City's last best offer is awarded, thereby authorizing panels to continue issuing binding decisions:

- One or both parties may again be unable to get a sufficient number of qualified individuals to volunteer for service as a panel member, again resulting in unfairness. That problem would be aggravated by the City's proposal to require both parties to submit a list of *five* proposed panelists;
- The pre-arbitration panel process delegates the decision-making process to individuals who may not be qualified in interpreting labor contracts² or who may have a bias toward or

² The parties' current agreement does not require any minimum qualifications for service on a pre-arbitration panel. If the parties continue to process a grievance to arbitration, Article 19.3 of their 2007-2009 contract provides that they will request a list of arbitrators from the Employment Relations Board. ERB Rule 115-40-030 specifies the qualifications required for an arbitrator to be included on the ERB panel.

against the Grievant or the City;³ which could lead to unfair results;

- While some grievances are resolved in the panel step of the process, that step can significantly delay the arbitration of grievances that are not resolved by panels;
- Individuals appointed by the parties may know the grievant or the manager who made the grieved decision, which could jeopardize the parties' presumed goal of a neutral decision making process;
- Individuals appointed by the parties may be unfamiliar with the contract interpretation questions involved in grievances submitted to panels;
- An appointee may be affected—and perhaps intimidated—by the position, rank, standing, or reputation of another appointee and, as a result, fail to be an independent, effective panel member;
- An appointee may feel pressured to uphold the grievance position of the party that appointed him or her, instead of being independent;
- The failure of an appointee to participate in the panel deliberations and vote may alter the panel's decision;
- If a panel did not reach a “mutual decision” and the Association decided to pursue the dispute to arbitration, the parties' total costs for presenting their cases would be significantly higher than if they simply went directly to arbitration;
- A panel could make an unlawful decision.

Several other factors are relevant in this interest arbitration. First, the City's proposed exclusion of discharges from the pre-arbitration panel step reflects its position that the panel process is unnecessary, at least for those cases. Second, the parties may consider the pre-arbitration panel process beneficial in some cases; under the Association's proposal, the parties have the option of deciding to accept as binding a pre-arbitration panel's decision on *any* grievance, thereby avoiding

³ Again, the parties' current agreement does not require panelists to declare any bias or conflict of interest. In contrast, for those grievances submitted to an arbitrator appointed from the ERB list, ERB Rule 115-40-032 states: “(3) No person shall serve as an arbitrator in any arbitration proceeding in which he/she has any financial or personal interest in the result of the arbitration, unless the parties, in writing, waive such disqualification. (4) Prior to accepting his/her appointment, the prospective arbitrator shall disclose any circumstances likely to create a presumption of bias or which he/she believes might disqualify him/her as an impartial arbitrator. . . . If either party declines to waive the presumptive disqualifications, the vacancy thus created shall be filled in the same manner as that governing the making of the original appointment. . . .”

grievance arbitration. Regarding costs, the parties' grievance procedure ends in "loser pays" arbitration, thereby reducing the total cost of arbitration for the winning party. Finally, no other collective bargaining agreement in the record has a grievance procedure with a pre-arbitration panel system.

Relevant terms of the Public Employee Collective Bargaining Act, ORS 243.650 et seq. The policy statement for the Act, ORS 243.656, provides (emphasis added):

(3) Experience in private and public employment has . . . proved that protection by law of the right of employees to organize and negotiate collectively . . . removes certain recognized sources of strife and unrest, by *encouraging practices fundamental to the peaceful adjustment of disputes* arising out of differences as to wages, hours, terms and other working conditions

(5) It is the purpose of [the Public Employee Collective Bargaining Act] to obligate public employers, public employees, and their representatives to enter into collective negotiations *with willingness to resolve grievances and disputes relating to employment relations*

ORS 243.672(1)(g) provides that it is an unfair labor practice for a public employer to "[v]iolate the provisions of any written contract with respect to employment relations" Such complaints, under some circumstances, can be heard and decided by the three-member Employment Relations Board, a *neutral* agency administered under ORS 240.060-.123.

ORS 243.706 provides: "(1) A public employer may enter into a written agreement with the exclusive representative of an appropriate bargaining unit setting forth a grievance procedure culminating in *binding arbitration* or any other dispute resolution process agreed to by the parties." (Emphasis added.)

Those terms in the Act identify some of the interests and welfare of the public. The pre-arbitration panel process has flaws that reasonably would not lead to "the peaceful adjustment of disputes," under ORS 243.656(3). Very significantly, the legislature has granted bargaining unit employees the right, under ORS 243.672(1)(g), to a *neutral* decision of alleged contract violations. In ORS 243.706, the legislature clearly identified arbitration as a dispute resolution mechanism.

The public has a significant interest in having the grievance procedure applicable to public employees be fair in appearance, operation, and result. An unfair process clearly would result in labor-management unrest and further disputes, and it could lead to employee retention problems. Bargaining unit police officers regularly appear in Oregon courts, which are required by law to apply principles of fairness and justice. The grievance procedure applicable to bargaining unit employees should provide a system that assures fairness for employees, the Association, and the City.

The Association proposes the more significant change to the 2007-2009 contract and has shown that the status quo is clearly inappropriate, unworkable, and unfair, for the reasons noted above, primarily:

- (1) Both parties have had difficulty in getting people to volunteer for service as a pre-arbitration panel members;
- (2) Panelists appointed by the City perform panel duties while *being paid*, while panelists appointed by the Association generally must perform panel duties while *not being paid*;
- (3) Because one panelist did not participate in the 2008 panel's deliberations and decision, that panel's decision was unbalanced and therefore unfair; and
- (4) The pre-arbitration panel process delegates the decision-making process to individuals who may not be qualified in interpreting labor contracts and who may have a bias toward or against a grievant, the Association, or the City.

The Association's proposal retains the benefits of the pre-arbitration panel system while enabling the Association—if dissatisfied with the panel's non-binding recommendation—to proceed to arbitration. While the City's proposal alleviates some of the problems with the status quo, it continues a flawed process.

Conclusion

The Association's last best offer is more appropriate under the criteria of ORS 243.746(4). I award it.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "William Greer". The signature is stylized and cursive.

William Greer
Arbitrator

December 14, 2009

Appendix A

ORS 243.746

(4) Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, unresolved mandatory subjects submitted to the arbitrator in the parties' last best offer packages shall be decided by the arbitrator. Arbitrators shall base their findings and opinions on these criteria giving first priority to paragraph (a) of this subsection and secondary priority to paragraphs (b) to (h) of this subsection as follows:

(a) The interest and welfare of the public.

(b) The reasonable financial ability of the unit of government to meet the costs of the proposed contract giving due consideration and weight to the other services, provided by, and other priorities of, the unit of government as determined by the governing body. A reasonable operating reserve against future contingencies, which does not include funds in contemplation of settlement of the labor dispute, shall not be considered as available toward a settlement.

(c) The ability of the unit of government to attract and retain qualified personnel at the wage and benefit levels provided.

(d) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other paid excused time, pensions, insurance, benefits, and all other direct or indirect monetary benefits received.

(e) Comparison of the overall compensation of other employees performing similar services with the same or other employees in comparable communities. As used in this paragraph, "comparable" is limited to communities of the same or nearest population range within Oregon. Notwithstanding the provisions of this paragraph, the following additional definitions of "comparable" apply in the situations described as follows:

(A) For any city with a population of more than 325,000, "comparable" includes comparison to out-of-state cities of the same or similar size;

(B) For counties with a population of more than 400,000, "comparable" includes comparison to out-of-state counties of the same or similar size; and

(C) For the State of Oregon, "comparable" includes comparison to other states.

(f) The CPI-All Cities Index, commonly known as the cost of living.

(g) The stipulations of the parties.

(h) Such other factors, consistent with paragraphs (a) to (g) of this subsection as are traditionally taken into consideration in the determination of wages, hours, and other terms and conditions of employment. However, the arbitrator shall not use such other factors, if in the judgment of the arbitrator, the factors in paragraphs (a) to (g) of this subsection provide sufficient evidence for an award.

Appendix B

City Last Best Offer

The City's Last Best Offer includes maintenance of current contract language, except:

- All articles, contract appendices, and memoranda tentatively agreed to; and
- The City's proposal on the article set forth below.

ARTICLE 19 GRIEVANCE PROCEDURE AND ARBITRATION

19.1 Procedure

Any grievance which may arise between the parties to this Agreement as to the interpretation, application or violation of the terms of this Agreement may be settled as set forth below:

Step 1. The employee, with or without an Association representative, shall take up the grievance or dispute with the immediate supervisor within fifteen (15) calendar days of its occurrence, or within fifteen (15) calendar days of knowledge of its occurrence by submitting written notice including:

- A) Statement of grievance and relevant facts;
- B) Provisions of Agreement violated; and
- C) Remedy sought.

The immediate supervisor shall respond to the employee within fifteen (15) calendar days.

Step 2. If the grievance still remains unsettled, the employee or Association representative may within twenty (20) calendar days after the reply of the immediate supervisor, submit a written notice to the Police Chief or designee, including:

- A) Statement of grievance and relevant facts;
- B) Provisions of Agreement violated; and
- C) Remedy sought.

The Police Chief shall respond to the employee within fifteen (15) calendar days.

Step 3. If the grievance still remains unsettled, the employee or Association representative may within fifteen (15) calendar days of receipt of the reply of the Police Chief, submit the grievance to the City Manager. The City Manager shall meet, within fifteen (15) calendar days of his receipt of the grievance with the aggrieved employee and/or Association representative to attempt to resolve the grievance and shall respond to the employee within fifteen (15) calendar days of the meeting.

Step 4. Except for grievances involving discharge decisions, if the grievance cannot be resolved by the City Manager, the parties agree that the grievance will be submitted to a pre-arbitration panel comprised of three members selected by the Association, from other police associations, and three members selected by management, from other police agencies. Within seven (7) business days from the date the Association is provided with the City

Manger's Step 3 response, each party shall submit to the other party a written list of five (5) proposed panel members. The other party may, within five (5) business days of receiving the other party's list, strike up to two (2) names from the list. The remaining three names shall comprise the panel members for the non-striking party. If less than two (2) names are stricken, the non-striking party shall select three of the remaining names to serve as its panel members.

The panel will meet within thirty (30) business days after the panel is selected to review the grievance and if necessary conduct interviews to resolve the issue. The panel may meet in person or by telephone conference.

The decision of the panel is binding, however, if the panel cannot reach a mutual decision, either by consensus or majority, the Association may, within fifteen (15) calendar days of receipt of the panel's notification, advise the City Manager in writing of its intent to arbitrate the grievance. Grievances of discharge decisions will not be submitted to a pre-arbitration panel. If, after receiving the City Manager's Step 3 response, the grievance of a discharge decision remains unsettled, the Association may, within fifteen (15) calendar days of receipt of the City Manager's response, advise the City Manager in writing of its intent to arbitrate the grievance.

19.2 Discrimination Issues

Prior to submitting a discrimination issue to EEOC of the Bureau of Labor, the City encourages the employee to meet with the City Manager in an attempt to resolve the issue internally.

19.3 Arbitration

After the grievance has been so submitted, the parties or their representative shall either singularly or jointly request from the State Employment Relations Board a list of names of five (5) arbitrators. The parties shall select an arbitrator from the list by mutually agreeing to an arbitrator or by alternately striking the names. The grievant shall strike the first name objectionable to him. The final name left on the list shall be the arbitrator. The arbitrator's decision shall be final and binding, but the arbitrator shall have no power to alter, modify, add to or subtract from the terms of the Agreement. The arbitrator's decision shall be within the scope and terms of the Agreement and in writing.

The arbitrator shall be asked to submit his award within thirty (30) calendar days from the date of the hearing. His decision may also provide retroactivity to the original date of the Agreement. The losing party shall be responsible for the compensation of the arbitrator's fee and the cost of any hearing room unless such are paid by the State of Oregon.

19.4 Time Limits

Any and all time limits specified in the grievance procedure may be waived by mutual consent of the parties. This waiver must be in writing and signed by the involved parties. Failure by the grievant to submit the grievance in accordance with these time limits without such waiver shall constitute abandonment of grievance. Failure by the Employer or his designated representatives to submit a reply within the specified time shall cause the grievance to be advanced to the next step. A grievance may be withdrawn at any time upon receipt of a signed statement from the Association or the employee.

19.5 Association Representatives

Authorized representatives of the bargaining unit may process grievances during duty hours, so long as time used to do so is not excessive and does not interfere with the normal operation of the Police Department. The employer will never be required to pay an employee overtime to facilitate the processing of an employee's grievance.

Association Last Best Offer

Current contract language except:

1. All tentative agreements.
2. Article 19 – Grievance Procedure and Arbitration:

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The immediate supervisor shall respond to the employee within fifteen (15) calendar days.

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employee within fifteen (15) calendar days of the meeting.

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If the grievance cannot be resolved by the City Manager, the parties agree that the grievance will be submitted to a pre-arbitration panel comprised of three members selected by the Association, from other police associations, and three members selected by management, from other police agencies. The panel will meet within thirty (30) business days to review the grievance and if necessary conduct interviews to resolve the issue. The decision of the panel is non-binding, however, if the panel cannot reach a mutual decision, either by consensus or majority, the parties may mutually agree to accept the decision of the panel as binding. If the parties do not mutually agree to accept the decision of the panel, the Association may within fifteen (15) calendar days of receipt of the panel's notification, advise the City Manager in writing of its intent to arbitrate the grievance.

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The arbitrator shall be asked to submit his award within thirty (30) calendar days from the date of the hearing. His decision may also provide retroactivity to the original date of the Agreement.

The losing party shall be responsible for the compensation of the arbitrator's fee and the cost of any hearing room unless such are paid by the State of Oregon.

19.4 Time Limits

Any and all time limits specified in the grievance procedure may be waived by mutual consent of the parties. This waiver must be in writing and signed by the involved parties. Failure by the grievant to submit the grievance in accordance with these time limits without such waiver shall constitute abandonment of grievance. Failure by the Employer or his designated representatives to submit a reply within the specified time shall cause the grievance to be advanced to the next step. A grievance may be withdrawn at any time upon receipt of a signed statement from the Association or the employee.

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Award

Arbitrator William Greer
P.O. Box 80847
Portland, Oregon 97280

I have carefully reviewed all of the parties' evidence and arguments. I award the Association's last best offer.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'William Greer', with a large, stylized flourish at the end.

William Greer
Arbitrator

December 14, 2009

