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STATE OF OREGON
EMPLOYMENT RELATIONS BOARD
PETITION FOR REPRESENTATION OR UNIT CHANGES
Public Employment

AUG 10 2016

EMPLOYMENT
RELATIONS BOARD

INSTRUCTIONS: Submit *original and one copy* to the Board, with any *original* required showing of interest to: **Employment Relations Board, 528 Cottage Street NE - Suite 400, Salem, Oregon 97301-3807. Phone (503) 378-3807 / Fax (503) 373-0021.** Attach additional sheets if needed.

For Board Use Only

Case No. UC-009-16

Date Filed 08-10-16

AMENDED

1. Purpose of Petition

- RC-CERTIFICATION OF REPRESENTATIVE.** At least 30% of the employees in the proposed or existing bargaining unit desire to be represented by Petitioner for purposes of collective bargaining, and Petitioner desires to be certified as the exclusive representative of the unit. (OAR 115-025-0000(1)(a))
- CC-CERTIFICATION WITHOUT ELECTION.** More than 50% of unrepresented employees in an appropriate bargaining unit seek collective bargaining representation by the labor organization named in the Petition, and none of the employees in the proposed unit are currently represented. (OAR 115-025-0000(1)(c))
- CU-CERTIFICATION WITHOUT ELECTION.** More than 50% of a group of unrepresented employees seek to be included in an existing bargaining unit represented by the labor organization named in the petition. (OAR 115-025-0005(1)(b))
- CR-PETITION FOR ELECTION.** At least 30% of the unrepresented employees subject to a pending Petition for Certification Without an Election request an election on whether the labor organization named in the Petition should be designated by the Board as the exclusive representative for the affected employees. (OAR 115-025-0075; ORS 243.682(3)(a))
- DC-DECERTIFICATION.** At least 30% of the employees in an existing bargaining unit assert that their exclusive bargaining representative no longer represents a majority of employees in the unit and seek decertification. (OAR 115-025-0000(1)(d))
- RM-REPRESENTATION.** Employer asserts that one or more labor organizations have presented a claim for recognition or continued recognition as the exclusive bargaining representative of its employees; employer has a good faith doubt as to the continued majority status of the incumbent labor organization and requests an election. (OAR 115-025-0000(1)(b))
- UC-REDESIGNATION OF UNIT.** Employer seeks to remove employees from the existing bargaining unit that it believes are inappropriately included under criteria contained in ORS 243.682(1). (OAR 115-025-0000(1)(e))
- UC-UNIT CLARIFICATION.** A labor organization (recognized or certified as exclusive representative of the bargaining unit) or a public employer seeks clarification for placement of certain employees:
 - OAR 115-025-0005(2) Public employee status
 - OAR 115-025-0005(3) Whether position is included in unit based on certification or contract language
 - OAR 115-025-0005(4) Addition of unrepresented positions to unit
 - OAR 115-025-0005(5) Merger of bargaining units
 - OAR 115-025-0005(6) Appropriate unit placement (Transfer)
- UC-AMENDMENT OF CERTIFICATION OR RECOGNITION.** (OAR 115-025-0008)
- UC-REVOCAION OF CERTIFICATION OR RECOGNITION.** (OAR 115-025-0009)
- RCM-MERGER OF SCHOOL DISTRICTS.** (OAR 115-025-0090)

<p>2. Name/address of public employer: City of Oregon City 625 Center St. Oregon City, OR 97045</p>	<p>Name/address/phone/e-mail/fax of employer's representative: C. Akin Blitz Bullard Law 200 SW Market Street, Suite 1900 Portland, OR 97201 503-248-1134 ablitz@bullardlaw.com</p>
<p>3. Name/address of any current recognized or certified labor organization: Oregon City Police Employees' Association</p>	<p>Name/address/phone/e-mail/fax of current labor organization's representative: Daryl Garrettson Fenrich & Gallagher, P.C. 245 W. 5th Avenue Eugene, OR 97401 (541) 342-7820 Daryl@onlinenw.com</p>
<p>4. Description of proposed bargaining unit <i>or</i> description of existing unit and proposed change: Note: Remember to include language excluding supervisory and confidential employees. See Attachment A.</p>	
<p>5. Number of employees in proposed or existing unit: <u>49</u> Number of employees to be added to or removed from existing unit: <u>2</u></p>	
<p>6. Current contract (submit copy): Effective Date: _____ Expiration Date: <u>2019</u> Expired contract, if applicable (submit copy): Expiration Date: _____</p>	
<p>7. Name, address, and phone/fax number of labor organizations other than Petitioner that are known to have an interest in representing employees in the existing or proposed bargaining unit or clarification: None</p>	
<p>8. Any other relevant facts: See, Attachment A. Attachment B is the ratified 2016-2019 Oregon City Police Employees' Association Agreement. Attachment C is the predecessor 2013-2016 OCPEA agreement. Attachment D is the status quo/expired City of Oregon City/AFSCME collective bargaining agreement.</p>	

By signing below, Petitioner certifies that no other labor organization is currently certified or recognized as the exclusive bargaining representative of any employee in the proposed unit (CC filings), or in the group of employees that Petitioner is seeking to include in an existing bargaining unit (CU filings).

I certify that the statements in this petition are true to the best of my knowledge and information.

Petitioner/Organization: City of Oregon City

Petitioner's Representative and Title: C. Akin Blitz, Attorney for Petitioner

Representative's Signature:  Date: 9 August 2016

Address: 200 SW Market Street, Suite 1900 Portland OR 97201 Phone/Fax: 503-248-1134

Email: ablitz@bullardlaw.com

ATTACHMENT A

4. **Description of proposed bargaining unit or description of existing unit and proposed change:**

Language in the predecessor 2013 – 2016 collective bargaining agreement:

**ARTICLE 2:
RECOGNITION**

"The City recognizes the Association as the sole and exclusive bargaining agent for all full-time or regular part-time employees working fifteen (15) hours or more per week for the City, excluding temporary, supervisory and confidential employees but including Senior Police Officers and Police Sergeants, who are employed in any of the classifications listed in Appendix A to this Agreement." [language related to part-time employees omitted]

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APPENDIX A

* * * * *

“CLASSIFICATION

Police Officer

Senior Police Officer

Police Sergeant

Community Service Officer

Police Records Specialist

Municipal Court Secretary

Court Services/Collections Clerk

Parking Enforcement Officer

Office Specialist --- Code Enforcement

Code Compliance Officer

Property Control Officer” [pay ranges and steps omitted]

Current language in the ratified 2016 – 2019 collective bargaining agreement:

**ARTICLE 2:
RECOGNITION**

“The City recognizes the Association as the sole and exclusive bargaining agent for all full-time or regular part-time employees working fifteen (15) hours or more per week for the City, excluding temporary, supervisory and confidential employees but including Police Officers, Senior Police Officers, Police Sergeants, Community Services Officers, Property Officer, Police Records Specialist, Senior Records Specialist, Parking Enforcement Officers, and Code Enforcement and Code Compliance Officers (except those enforcing building, fire and other codes and regulations not ordinarily and customarily enforced by a municipal police department).

As of July 1, 2016, the City shall have the right to petition the Oregon Employment Relations Board (ERB) and initiate proceedings to remove the Court Services Collections Clerk and the Municipal Court Specialist from the bargaining unit on bases which include lack of community of interest, conflict of interest, appearances to the Court and community that Court staff answer to police supervisors, and objections raised by the City Attorney [sic] [and] the Municipal Court Judge. This Agreement shall not constitute a contract bar to any such petition and ERB proceeding.”

[language related to part-time employees omitted]

8. Any other relevant facts:

Bargaining notes contained in the TA document stated, “This proposal is addressed in the “what if” list. Criticisms/questions have been raised about including Court staff within the bargaining unit and the police department. This proposal impacts three court clerks. The City recently has added a records clerk and an officer, and plans to add a third officer position. The “what if” package supposal is contingent on agreement to this change.”

The wage appendices TA’d by the City and the Association do not list the classification of Court Services/Collections Clerk, nor the classification of Municipal Court Secretary.

Article 8 relates to salaries and wage adjustments. It provides for wage increases and provides, “Generally, Employees covered by this Agreement shall be paid in accordance with the salary schedules shown in Appendix A to this Agreement:”

The labor agreement does not grant explicitly wage increases to the positions and classifications of Municipal Court Secretary and Court Services/Collections Clerk because the City anticipates this issue must be addressed in bargaining with AFSCME Council 75 which is the certified representative of a City wall-to-wall bargaining unit described in the AFSCME collective bargaining agreement with Local 350-2. Although the City and AFSCME have not completed bargaining of the 2016 – 2019 agreement, Article 2 related to recognition has been amended and

tentatively agreed upon. The effect of ERB granting this petition will be that the affected positions and classifications will accrete to the AFSCME wall-to-wall bargaining unit.

The changes TA'd on June 29, 2016 by AFSCME and the City are as follows"

ARTICLE 2 RECOGNITION

2.1 The CITY recognizes the UNION as the sole and exclusive bargaining agent for all regular full-time and part-time employees working twenty (20) hours or more per week for the CITY, ~~excluding supervisory and confidential employees, police department employees, in the police, volunteers employees including in the reserve, police officers whether or not paid for some reserve officer related work, reserves, seasonal employees, temporary employees, part-time —swimming pool office help, lifeguards and instructors.~~

2.2 ~~Specific job classifications covered by the Agreement are listed in Addendum A: to this Agreement. The classifications used are for descriptive purposes only. Their use is neither an indication nor a guarantee that these classifications or titles will continue to be utilized by the CITY.~~

2.23 The CITY shall inform the UNION of all ~~new bargaining unit employees hired and employees separated from City service terminated, whenever the affected positions are those included in Addendum A.~~

2.34 ~~In the event new job classifications, which would properly be included in this bargaining unit, are established by the CITY, both~~The City will provide to the UNION the classification description and salary range for new classifications not within the police department. If the UNION requests, the parties shall meet to negotiate concerning mandatory subjects of bargaining related to a new classification which is not excluded from this bargaining unit, provided however that the bargaining process shall not delay hiring and filling the position(s) at issue, and provided further that the terms and conditions established through bargaining shall be applied retroactively to and from the date of hire, wages, and hours applicable to the new job classification.