

2018-2021 Collective Bargaining Agreement Memorandum of Understanding No. 3

This Memorandum of Understanding is entered into by and between the City of Keizer (“City”) and the Keizer Police Association (“Association”).

RECITALS:

- Whereas, the parties recently negotiated a 2018-2021 Collective Bargaining Agreement (“Agreement”) that contains language under Article 3.5 Association Membership and Fair Share and Article 3.6 Check-off and that is no longer lawful under the United States Supreme Court’s decision in *Janus v. American Federation of State, County and Municipal Employees, Council 31*; and
- Whereas, the City and the Association seek to modify such language to be compliant with the *Janus* decision.

AGREEMENT:

1. The parties agree to revise Article 3.5 - Association Membership and Fair Share and Article 3.6 - Check-off as follows:

Section 3.5 Association Membership and Fair Share

~~Membership or non-membership in the Association shall be the individual choice of employees covered by this Agreement. However, any employee who chooses not to become a member of the Association, as well as those who are members of the Association, shall make membership dues payments or fair share payments in lieu of dues except as provided in ORS 243.666, as defined in ORS 243.650(10), beginning on the 30th day following their first day of employment.~~

~~Notwithstanding the foregoing, any employee who objects to Association dues or “fair share” payments, based on bona fide religious tenets or teachings of a church or religious body of which the employee is a member or sincerely held religious beliefs in accordance with applicable law, shall not be required to make dues or “fair share” payments. Any such employee shall pay an amount of money equivalent to regular Association dues to a non-religious charity which has been mutually agreed upon by the employee affected and the Association. The employee must provide written verification of such payments to the City’s Finance Department on a monthly basis.~~

Section 3.6 Check-off

The City agrees to deduct bi-weekly Association membership dues ~~or “fair share” payments~~ from the pay of employees covered by this Agreement who are members of the

~~Association. Dues and fair share deductions, as well as charitable contributions required under Section 3.6 above, will be automatically deducted from the pay of bargaining unit employees who are Association members starting with their 30th day of employment. The Association agrees to provide the Human Resources Director with a list of all bargaining unit employees who were members of the Association prior to June 26, 2018. The Association agrees to notify the Human Resources Director in writing of any changes in the amount of dues to be deducted, and further agrees to notify the Human Resources Director as soon as practicable when an employee elects to opt out of membership in the Association. Written authorization may be via email. Such authorization shall continue in effect from year to year, unless revoked in writing and submitted to the Human Resources Office. The City will not be held liable for deduction errors, but will make proper adjustments with the Association for errors as soon as is practicable. *(moved to indemnification section and revised)*~~

2. The parties agree to revise Article 15 – Grievance Procedure as follows:

ARTICLE 15 – GRIEVANCE PROCEDURE

Section 15.1 Grievance Procedure

Grievance, for the purpose of this Agreement, is defined as a dispute regarding the meaning or interpretation of a particular clause of this Agreement or regarding an alleged violation of this Agreement. Such grievance shall be settled in the following manner

Step One: Should an employee believe that an employee's rights under this Agreement have been violated, within twenty-one (21) calendar days of the date of such grievance or knowledge thereof, the employee shall report the matter in writing to the employee's immediate supervisor. The written grievance shall be on a form approved by the City and Association and shall include:

1. A statement of the grievance and relevant facts;
2. Provision of the Agreement violated; and
3. Remedy sought.

Within twenty-one (21) calendar days after receipt of such report, the immediate supervisor shall attempt to resolve the matter and submit an answer in writing to the employee.

Step Two: If the grievance still remains unsettled, within twenty-one (21) calendar days after the reply of the immediate supervisor is received or the date that such reply is due, the Association **or a non-member of the Association grieving discipline** may submit the grievance in writing to the Police Chief. The Chief shall respond in writing to the employee within twenty-one (21) calendar days.

Step Three: If the grievance still remains unresolved, within twenty-one (21) calendar days, the Association **or a non-member of the Association grieving discipline** may submit the matter in writing to the City Manager. The City Manager shall respond in writing to the employee within twenty-one (21) calendar days.

Step Four: If the grievance still remains unsettled, within twenty-one (21) days after the reply of the City Manager is due, the Association **or a non-member of the Association grieving discipline** may serve written notice to the City Manager of the **Association's** intention to arbitrate the grievance.

After the grievance has been so submitted, the Association **or a non-member of the Association grieving discipline** may request from the Oregon Employment Relations Board a list of seven (7) Oregon and Washington arbitrators. The parties shall select an arbitrator from the list by alternatively striking a name, with the first strike being determined by lot. 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 detract from the terms of the contract. The arbitrator's decision shall be within the scope and terms of the contract and in writing including detailed findings and conclusions, together with an explanation of the reasoning utilized in making the decision. The arbitrator shall be asked to submit the decision within thirty (30) days of the date of the hearing.

Section 15.2 Cost of Arbitrator

Each party, **whether the Association on behalf of a member or an individual non-member who is challenging a disciplinary decision,** shall be responsible for paying the costs of presenting its own case in arbitration, including the payment of witness fees, if any. The cost for the arbitrator, court reporter (if any), and the hearing room shall be borne by the losing party. The arbitrator shall designate the "losing party." The arbitrator's designation of the "losing party" shall be final and binding. The cost of a court reporter is contingent on both parties having agreed to utilize the services of a court reporter.

Section 15.3 Time Limits

Any or all time limits specified in the grievance procedure may be waived by mutual written consent of the parties. Failure to submit the grievance in accordance with these time limits without such waiver shall constitute abandonment of the grievance. Failure by the City to respond within the time limit shall permit the grievance to proceed to the next step. The grievance may be terminated at any time upon receipt of a signed statement from the employee that the matter has been resolved through Step Three of the Grievance Procedure.

3. The Association intends to revise its current Membership Dues Form and will provide the City with copies of the revised Membership Dues Form, as well as copies of any current or revised Forms signed by employees who elect to become members of Association after June 26, 2018.
4. The Association agrees to indemnify and hold the City harmless against any claims or lawsuits against the City arising out of the City's compliance with Section 3.6 of the Agreement, as revised by this MOU. It is understood that the indemnification obligation does not apply to errors made by the City that are not in compliance with Section 3.6. The City will not be held liable for deduction errors, but will make proper adjustments with the Association for any errors made in the administration of Section 3.6, as soon as is practicable.
5. The revisions set forth in Sections 1 and 2 above will be considered part of the 2018-2021 Agreement and will be incorporated into that Agreement with the above interlineations removed upon execution by both parties.
6. This Memorandum of Understanding is effective upon execution by the parties and does not require ratification by the employees covered by the Agreement.

FOR THE CITY OF KEIZER:



 Chris Eppley, City Manager

09-21-18

 Date



 John Teague, Chief of Police

092118

 Date

FOR THE KEIZER POLICE ASSOCIATION:



 Darsy Olafson, President

09-24-18

 Date



 Kevin DeMarco, Vice President

09/17/18

 Date