

partners in ongoing efforts to implement lasting policing reforms and accountability structures, critical to ensuring the security of Seattle communities but especially those that have been disproportionately impacted by unconstitutional policing; and

WHEREAS, the City Council recognizes the right of SPOG and all public employee unions to collectively bargain for wages, hours, and working conditions in the best interest of their members; and

WHEREAS, the Collective Bargaining Agreement (CBA) between The City of Seattle and the SPOG will expire on December 31, 2020 and the parties will begin negotiating a new contract as soon as March 2020; and

WHEREAS, the City respects the collective bargaining process and will negotiate and bargain a new CBA in good faith with the SPOG and respect the confidentiality of the process as required by Seattle Municipal Code (SMC) subsection 4.04.120.E; and

WHEREAS, SMC subsection 4.04.120.F requires the Council's Labor Policy and Public Safety, Human Services and Education committees or the successor committees to hold a public hearing on the effectiveness of the City's police accountability system and that this meeting should be held at least ninety days before the City begins collective bargaining agreement negotiations with the SPOG; and

WHEREAS, SMC subsection 4.04.120.G requires the City to consider in good faith whether and how to carry forward the interests expressed at the public hearing; and

WHEREAS, the Council's Labor Policy committee and Gender Equity, Safe Communities, New Americans and Education Committee held on December 5, 2019 a public hearing and received input from the Office of Police Accountability (OPA), Community Police Commission (CPC), the Office of Inspector General for Public Safety (OIG), and 32 citizens that provided personal testimony or represented community, non-profit or labor organizations that have a stake in police accountability and the SPOG contract; and

WHEREAS, represented organizations included, but were not limited to local businesses, neighborhood groups, communities of color, police and fire bargaining units, public safety advocacy associations and

community building organizations that focus on civil liberties and represent the rights of citizens who are disproportionately affected by police misconduct and/ or are over-represented in the criminal-legal system; and

WHEREAS, representatives of the CPC supported full implementation of the Police Accountability Ordinance (Ordinance 125315) and highlighted ten key priorities including: 1) the burden of proof and standard of review for disciplinary cases; 2) reforming the calculation of the 180-day timeline for disciplinary investigations; 3) subpoena authority for the OPA and OIG; 4) reforming features of the disciplinary process affecting public confidence; 5) ensuring civilian oversight authority includes allegations of criminal misconduct; 6) revising statute of limitations and record retention rules; 7) disclosure of material information during investigations; 8) empowering the SPD Chief to place employees on leave without pay; 9) reforms to secondary employment; and 10) whether complainants and victims should be allowed to appeal disciplinary decisions, and these priorities are further detailed in a letter from the CPC dated November 25, 2019 as Attachment 1 to this resolution; and

WHEREAS, the OPA and OIG identified three principles for the bargaining process, including a desire for more information about what has happened or is happening in the collective bargaining process, enhancing public trust and solidifying accountability entity independence; and

WHEREAS, specific recommendations from the OPA and OIG included: 1) a request that the City include in the negotiations process an external advisor with accountability experience ; 2) ensuring full subpoena authority of the OPA and OIG; 3) holding misconduct allegations to a quantum of proof that reflects a preponderance of the evidence; 4) providing clarity around the calculation of the 180-day timeline, newly discovered evidence, and time lags in reporting; 5) increasing the transparency and efficiency of the arbitration process; 6) prohibiting *de novo* review of the Chief's final disciplinary decisions; 7) improving the selection process for arbitrators; 8) providing authority for OPA to decide to whom criminal referrals are made and to oversee investigations of criminal SPD misconduct; 9) creating a

uniform enforcement mechanism to ensure SPD cooperation with accountability agencies; and 10) providing to OPA and OIG sufficient funding and staffing to support robust accountability and for the City to employ means to solidify oversight authority in ways that cannot be weakened by the collective bargaining process, and these priorities are further detailed in a letter from the OPA dated January 27, 2020 as Attachment 2 to this resolution, and these priorities are also further detailed in a letter from the OIG dated January 27, 2020 as Attachment 3 to this resolution; and

WHEREAS, testimony from individuals and on behalf of interest groups largely echoed the requests made by the CPC, OIG, and OPA, and included support for full implementation of the Police Accountability Ordinance (Ordinance 125315), support for additional police training including de-escalation and mental health training, support for bringing the City into compliance with the United States Department of Justice Consent Decree with regard to police accountability, opposition to racial disproportionality in the criminal justice system, support for new citizen review powers, support for new rights for complainants, support for making the role of the discipline appellate process consistent with the values of transparency and accountability, support for SPD officers to follow department policies and when privately employed, support for third party investigations, support for the hiring of additional officers, support for the protection of workers' rights as maintained through the collective bargaining process, support for more outreach to the community on issues of police accountability, and support for requiring officers to have a relationship/ tie to the community they serve; and

WHEREAS, the City Council voted in November 2018 to approve Council Bill 119368 (Ordinance 125693) and, with it, the current SPOG CBA, while acknowledging that the Community Police Commission, the Office of Police Accountability, and the Office of Inspector General for Public Safety, identified concerns about the SPOG CBA's compliance with the Police Accountability Ordinance (Ordinance 125315); and

WHEREAS, the City Council passed in November 2018 Resolution 31855, which requested that the City

Attorney's Office petition the Court to review those contract terms that fall within the scope of the Court's judicial oversight role pursuant to the Department of Justice Consent Decree, specifically including, but without limitation, the following terms of the CBA:

A. **Article 3.1** (page 6) - The standard of review and burden of proof in labor arbitration (SMC 3.29.135.F);

B. **Article 3.6.B-D** (pages 9-12) - The calculation, extension and/or re-calculation of the 180-day timeline for the Office of Police Accountability to investigate complaints of misconduct by the Seattle Police Department (SMC 3.29.130); and

C. **Appendix E.12** (page 84) - Narrowing of legislated subpoena powers of the Office of Police Accountability (SMC 3.29.125.E) and the Office of Inspector General (SMC 3.29.240.K); and

WHEREAS, on May 21, 2019 the Court found that The City of Seattle had fallen partially out of full and effective compliance with the Consent Decree due to concerns about the disciplinary appeals process and its impact on police accountability. The Court ordered the City to develop a methodology (1) to assess the present accountability regime, and (2) for how the City proposes to achieve compliance; and

WHEREAS, in July 2019, The City of Seattle hired 21CP Solutions, LLC to work with the City and the Department of Justice, and with the assistance of stakeholders and accountability partners to develop a methodology to assess the Seattle Police Department's accountability regime as it relates to officer discipline and appeals process; and

WHEREAS, the Court on October 15, 2019 authorized the City to proceed with the proposed assessment, to include the City's proposal to "present objective, evidence-based observations to inform the decisions of the City's elected leaders, appointees and community... including an analysis of ... four features of City's accountability system: (1) 180-day timeline for disciplinary investigations; (2) burden of proof and standard of review in disciplinary appeals; (3) subpoena authority of OPA and OIG; and (4) features of arbitration to promote public confidence"; and

WHEREAS, the City filed with the Court on December 13, 2019 its response, including a report authored by 21CP that made findings on the issues noted above, some of which were identified by both members of the community and the accountability agencies in the December 5 hearing pursuant to SMC 4.04.120.F; and

WHEREAS, consistent with SMC 4.04.120.G, the City of Seattle will consider in good faith whether and how to carry forward the interests expressed at the public hearing. Those suggested changes that are legally required to be bargained with the SPOG, SPMA, or their successor labor organizations will be considered by the City, in good faith, for inclusion in negotiations but the views expressed in the public hearing will not dictate the City's position during bargaining; and

WHEREAS, the City Council has in the past adopted resolutions that memorialize the testimony given at hearings pursuant to SMC 4.04.120.F, including City Council Resolution 31535, NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEATTLE THAT:

Section 1. The City of Seattle will consider in good faith whether and how to carry forward these interests through various means including, but not limited to, enactment of appropriate legislation, development of collective bargaining goals and objectives, and facilitating community police dialogue. To the extent that Washington law requires any changes to be bargained with employee representatives, the City will seek to discharge such obligations in good faith.

Adopted by the City Council the _____ day of _____, 2020, and signed by me in open session in authentication of its adoption this _____ day of _____, 2020.

President _____ of the City Council

Filed by me this _____ day of _____, 2020.

Monica Martinez Simmons, City Clerk

(Seal)

Attachment 1 - Community Police Commission's Recommendations Concerning City of Seattle's Labor Negotiations with Seattle Police Officers Guild and Seattle Police Management Association, November 25, 2019

Attachment 2 - Upcoming Contract Negotiations with the Seattle Police Officers' Guild, January 27, 2020

Attachment 3 - OIG feedback regarding Seattle Police Officers' Guild contract negotiations with the City, January 27, 2020