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Marjorie F. Wittner, Chair  
Joan Ackerstein, CERB Member  
Kelly Strong, CERB Member

Appearances:

Strephon Treadway, Esq. - Representing the City of Chelsea

John J. Magner, Esq. - Representing SEIU, Local 888

James A.W. Shaw, Esq. - Representing the USW, Local 9427

## CERB DECISION IN FIRST INSTANCE

## Statement of the Case

On January 29, 2019, SEIU, Local 888 (SEIU) filed a unit clarification petition seeking to add the following titles to its bargaining unit of administrative employees employed by the City of Chelsea (City): Department of Public Works (DPW) Construction Manager/Project Engineer (Assistant City Engineer); DPW Jr. Business Manager; Chelsea Police Department (CPD) Crime Analyst; Licensing Administrator; and Assistant

1 Procurement Officer/Business Manager (APO/BM). The petition indicated that these titles  
2 were currently represented by Local 9427 of the United Steelworkers union (USW). On  
3 February 25, 2019, the USW filed a motion to intervene in the petition. The Department  
4 of Labor Relations (DLR) granted the motion.

5 On March 22, 2019, the City, SEIU and the USW participated in an informal  
6 conference at the DLR's offices to provide information about the petition. The parties  
7 submitted position statements and other documents before and after the conference. On  
8 April 22, 2019, SEIU withdrew its petition with respect to two titles: Assistant City Engineer  
9 and the Licensing Administrator.

10 SEIU argues that the three remaining positions, DPW Jr. Business Manager, CPD  
11 Crime Analyst and the APO/BM share a greater community of interest with its bargaining  
12 unit because the incumbents have similar skills and perform the same duties as many of  
13 its bargaining unit members. The USW disagrees, arguing that the titles have a greater  
14 community of interest with its unit because: 1) the Crime Analyst position performs highly  
15 specialized analysis of criminal trends and statistics and has been filled by someone with  
16 an advanced degree, and; 2) the other two incumbents are performing duties that were  
17 previously performed by USW titles. The City contends that it appropriately placed all  
18 three titles in USW's unit.

19 On December 20, 2021, the DLR sent the parties a letter asking them to show  
20 cause why the petition should not be resolved based upon the information summarized  
21 therein. The DLR received no responses to this letter. After reviewing the information in  
22 the show cause letter, the CERB has determined that there are no material facts in  
23 dispute. Based on the following facts, and for the reasons set forth below, the

1 Commonwealth Employment Relations Board (CERB) has determined that all three  
2 positions share a greater community of interest with the USW's unit than with SEIU, Local  
3 888's unit. We therefore dismiss the accretion petition.

4  
5 Background

6 Background<sup>1</sup>

7  
8 SEIU, Local 888

9  
10 In 1986, the City voluntarily recognized Local 925, Local 888's predecessor, as the  
11 exclusive representative of a unit consisting of clerical workers, inspectors, maintenance  
12 workers, custodians and other employees. The City and Local 888 have been parties to  
13 a series of collective bargaining agreements, including one that expired on June 30, 2019  
14 (CBA). Appendix A to the CBA is a list of bargaining unit titles. These titles include, without  
15 limitation, Accountant, Administrative Assistant, Disbursement Clerk, Executive Assistant  
16 to the Treasurer/Financial Operations Manager, Head Administrative Clerk, Office  
17 Manager, Payroll Specialist, and Systems Analyst.

18 In 2017, SEIU and the City negotiated a grievance settlement agreement  
19 (Agreement) that added four new "supervisory" titles to this unit: Accounts  
20 Payable/Payroll Specialist (Audit Department); Supervisor of Code Enforcement;  
21 Supervisor of Food and Sanitary Inspections/Weights and Measures; and Payroll and  
22 Accounts Payable Supervisor (Audit Department). The Agreement stated that the

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<sup>1</sup> This general background is adapted in part from the CERB's decision City of Chelsea, 36 MLC 111, CAS-07-3671 (January 8, 2010), a CAS petition that the USW filed in 2007 involving the same three parties involved in the instant matter. Both the USW and SEIU rely in part on the 2010 decision for their general description of unit history and composition.

1 inclusion of these titles did not constitute a past practice and was without prejudice to  
2 other matters.

3 As of 2019, SEIU salary grades were classified from Grade 0 to Grade 14, on a  
4 seven-step schedule, and from Grade S1 to Grade S3 on a six-step schedule.<sup>2</sup> In FY 19,  
5 the lowest annual salary on the scale was \$30,608.83 and the highest was \$67,111.58.  
6 The median salary, Grade, 8, Step 4, was \$50,796.97. The S1 – S3 salary range for  
7 employees hired before 11/2/09 was \$57,717.31 (Grade S1, Step 1) to \$74,053.60  
8 (Grade S3, Step 6).

9 USW

10  
11 In 1996, in Case No. MCR-4491, the former Labor Relations Commission certified  
12 the USW as the exclusive bargaining representative of a bargaining unit of “all full-time  
13 and regular part-time supervisory and administrative employees.” The certified unit  
14 included employees in the following titles: Designated Chief Procurement Officer (CPO),  
15 Construction Manager, Project Manager, Capital Projects Manager, and Business  
16 Manager (DPW). The certification did not include any of the titles in dispute in this  
17 proceeding. In addition to the titles in the certification, Appendix A to the USW’s 2016-  
18 2019 collective bargaining agreement contains a list of “Full-time and Regular Part-time  
19 Supervisory and Administrative Positions. This list includes the following titles: Financial  
20 Operations Manager/Treasurer/Collector; Assistant City Collector; Assistant Director of  
21 Assessing; Assistant Parking Clerk; Business Manager (Fire Dept.); Business and Grants  
22 Manager (Police Department); Assistant City Auditor; Planning Director; Housing

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<sup>2</sup> The 2016-2019 SEIU salary schedule has a Schedule A for SEIU members hired before 11/2/09 and a Schedule B for members hired after 11/2/09. For purposes of this decision, all references to SEIU salary ranges will be from Schedule A.

1 Director; Capital Improvement Program Coordinator; Financial Analyst, and Assistant  
2 Director of DPW.

3 The USW salary scale ranges from Grades 1-15 on an eight-step schedule. In FY  
4 2019, the Grade 1, Step 1 salary was \$32,361.00 and the Grade 15, Step 8 salary was  
5 \$107,813. The rough median, Grade 8, Step 4, was \$57,655.38.

6 **Assistant Procurement Officer/Business Manager - Background**

7 The City's Procurement Office is part of the City's Purchasing Department. It is  
8 headed by the CPO, a statutory position responsible for overseeing the City's  
9 procurement process and for ensuring that the City complies with state procurement law.  
10 The CPO is a Grade 11 USW position. At all relevant times, Dylan Cook (Cook) has  
11 served as the City's CPO. As set forth in Cook's affidavit, the CPO must have knowledge  
12 of the state's procurement laws, and the ability to correctly apply these laws. According  
13 to Cook, this involves knowing which bid laws apply to which procurement, ensuring that  
14 the procurement is properly advertised, assembling bid packages, updating relevant  
15 online databases with the requests, updating the City's website where necessary,  
16 handling questions from prospective bidders, conducting bid openings in conformance  
17 with the law, processing the bid results, awarding the bid to the successful bidder,  
18 preparing the contract, and arranging appropriate bids and insurance. The CPO job  
19 description contains no specific education requirements but requires strong knowledge of  
20 contemporary and effective procurement practices, applicable state law and purchase  
21 regulations. It does not require a Massachusetts Certified Public Purchasing Official

1 (MCPPO).<sup>3</sup> Cook holds a designation from the Massachusetts Office of the Inspector  
2 General as a MCPPO. Since 2017, Cook has also served as president of Local 9427.

3 Assistant Procurement Officer

4 Before 2017, the City's Procurement Office consisted solely of two employees -  
5 the Grade 11 CPO, and the Head Purchasing Clerk, a Grade 6 SEIU position.<sup>4</sup> Around  
6 2017, the City experienced a sharp increase in the number of complex procurements it  
7 was handling. As a result, it created a part-time (24 hours/week) Assistant Procurement  
8 Officer (APO) position to handle some of the additional workload. The City also intended  
9 the incumbent to fill in for the CPO in his absence, as well as to create a succession plan.  
10 In July 2017, the City posted the APO as a Grade 9, USW position.<sup>5</sup>

11 The posting summarized the position as "Assist[ing] with the purchase of all  
12 supplies, services, materials and equipment for all City departments pursuant to the  
13 provisions of General Laws Chapters 30B, 149 and 30, 39M." Requisite skills included  
14 "Extensive knowledge of municipal government operations; considerable knowledge of  
15 contract compliance, purchasing methods and procedures." The posting sought  
16 individuals with the "Ability to analyze and process purchasing requisitions and vouchers

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<sup>3</sup> The Office of the Inspector General awards the MCPPO designation after applicants successfully complete core courses, which include exams.

<sup>4</sup> All Head Clerk positions are classified at Grade 6 on the SEIU salary scale and require a high school education and three years of "full time work of similar responsibility and interaction." In 2019, the range for Grade 6 positions was from Step 1, \$41,506.70, to Step 7, \$49,568.94.

<sup>5</sup> In 2017, the range for USW Grade 9 positions was from Step 1, \$52,347.90 to Step 8, \$68,064.62. For employees hired after 9/22/09, the step scale only went up to Step 7, which was \$65,589.55.

1 and make purchasing decisions accordingly.” The education and experience  
2 requirements were a bachelor’s degree in business, public administration or a related  
3 field, 1-3 years of related experience, or any equivalent combination of education and  
4 experience.

5 Assistant Procurement Officer/Business Manager – Requirements and Duties

6 The APO posting did not attract any qualified applicants. As a result, the City  
7 decided to combine the APO position with the DPW Business Manager position. At the  
8 time, the DPW Business Manager position was a USW, Grade 9 position held by Dragica  
9 Ivanis (Ivanis).

10 The City titled this new hybrid position Assistant Procurement Officer/Business  
11 Manager (APO/BM). On March 23, 2018, the City posted it as a Grade 11 USW position,  
12 with a salary range of \$61,525.79 - \$77,088.66/year.<sup>6</sup> The job summary contained in the  
13 posting was identical to the job summary on the APO posting, except that it included  
14 responsibility for all “fiscal, budget, accounts payable, accounts receivable, cost  
15 accounting and all other financial activities of other Departments.” The educational  
16 requirements changed were downgraded from a bachelor’s degree to an associate’s  
17 degree. The skills, knowledge and abilities on the posting were mainly the same as those  
18 on the APO posting except for the additional requirement that the successful candidate  
19 was expected to obtain, or have the ability to obtain, MCPPO certification within eighteen  
20 months of assuming the position. The job description, which was prepared at the same  
21 time, required five years of related experience.

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<sup>6</sup> The upper limit was \$79,997.55 a year if the USW member was hired before 9/22/09.

The job description also listed the position's essential functions and duties in three separate categories: Procurement, Budget and Finance, and Administrative. The Procurement duties included:

- Work closely with multiple departments heads and staff, including the Chelsea Public Schools, to meet procurement needs;
- Assist in the selection of products for purchase through research and market trends;
- Work with Department Heads and follow through to ensure that materials ordered have been received...;
- Interview vendors in person or by telephone to obtain information relative to product, price, ability of vendor to produce product, service and delivery dates;
- Review requisitions for purchase orders to ensure accuracy, cost efficiency, proper accounting and compliance with City and State procurement regulations. . .

Budget and Finance duties included:

- Assist in the development, submission and administration of the [DPW] department's budget to ensure accuracy, appropriateness, compliance and effectiveness of budget documents;
- Attend hearings on the budget and provide supporting data when required;
- Review and analyze the execution of the budget; prepare and submit budget progress reports to Assistant Directors and Director of Public Works.

Administrative duties included:

- Assist the Chief Procurement Officer providing administrative support for all procurements;<sup>7</sup>
- Provide senior level assistance to internal and external customers of the department, including members of the public, contractors and other City departments. Greet visitors, answer phones, explain office procedures, respond to questions . . .
- Respond to public records requests and general questions presented to the office.

The job description indicated that the APO/BM was directly supervised by the CPO and was indirectly supervised by the Assistant Director of the DPW. The job description also indicated that the APO/BM did not directly supervise any employees, but indirectly supervised "Procurement Staff."

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<sup>7</sup> SEIU contends, without rebuttal, that such tasks include filing.



1 Ivanis was selected as the APO/BM on May 7, 2018, at an annual salary of  
2 \$76,405.15. According to her affidavit, she performs most of the same duties as Cook,  
3 except that she does not yet prepare contracts, although she anticipated doing so at some  
4 point. Ivanis also stated that Cook has more authority than she does. Ivanis divides her  
5 time evenly between the two positions, working at the Procurement Office from 2pm – 6  
6 pm on Tuesdays and from 8am – 4pm on Wednesdays and Thursdays. Ivanis spends  
7 the remainder of the workweek at the DPW Business Manager's office. Both offices are  
8 in City Hall, but on different floors.

9 Ivanis' duties when she is working in the Procurement Office include preparing a  
10 complex spreadsheet to document and manage the financial side of a street work  
11 contract. The spreadsheet contains multiple tabs, each with multiple columns that track  
12 free cash, mitigation, change orders, bonds, grant expenditures, bond debts, and  
13 contracts. Ivanis also reviews applications for payment by a City contractor to ensure  
14 compliance with the contract. Like Cook, Ivanis is certified as a MCPPO.<sup>8</sup>

15 Procurement Purchasing Clerk  
16

17 As of 2019, the Procurement Office consisted of Cook, Ivanis and the Grade 6  
18 SEIU Head Purchasing Clerk Mirjana Pejic (Pejic). SEIU contends that Pejic performs  
19 many of the same duties as Ivanis, including reviewing requisitions for purchase orders  
20 to ensure accuracy, cost efficiency, proper accounting and compliance with City and State  
21 procurement regulations, monitoring all purchasing from time of original requisition,  
22 assisting in preparing or correcting requisitions as necessary, providing assistance to

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<sup>8</sup> The show cause letter inadvertently omitted the undisputed fact that Ivanis has MCPPO certification.

1 internal and external customers of the department and questions presented to the office.  
2 SEIU further contends that when Ivanis is working at the Procurement Department, she  
3 consults with Pejic about what tasks she (Ivanis) needs to perform.

4 According to a 2009 job description, the Procurement Purchasing Clerk performs  
5 “complex clerical work,” including providing “office support to the CPO in all functions  
6 toward proper applications of law, policy and procedure applicable to contracting and  
7 purchasing.” In addition to traditional clerical duties, such as reception, mail, filing,  
8 phones, record maintenance, and basic customer service, the essential job functions  
9 listed include using the City’s financial software system, maintaining a contract database,  
10 and assembling contract documents for the CPO to review. As with all Head Clerk  
11 positions, the position requires a high school education, with additional relevant education  
12 strongly preferred and work experience. Skills include experience with financial  
13 databases and proficiency in basic office system programs.

14 **DPW Jr. Business Manager, Background**  
15

16 The DPW is the second largest department in the City, after the Police Department.  
17 At some point prior to 2008, when Ivanis assumed the Business Manager role, the DPW’s  
18 business office consisted solely of two Local 888 clerks. From at least 2008 - June 2018,  
19 the DPW’s business office consisted of Commissioner of Public Works Fidel Maltez  
20 (Maltez), full-time Business Manager Ivanis, and SEIU Head Clerk Theresa Cetina  
21 (Cetina). In June 2018, after Ivanis assumed the APO/BM position, the City created a  
22 Junior (Jr.) DPW Business Manager position to account for the work that Ivanis had  
23 previously performed and to provide back-up and succession for the Business Manager  
24 position. The City, without notifying SEIU, placed the position in the USW unit and

classified it as Grade 7.<sup>9</sup> The position summary on the posting and in the attached job description stated:

Responsible for assisting the Business Manager on all fiscal, budget, accounts payable, accounts receivable, cost accounting, and other financial activities of the Department of Public Works. Responsible for assisting the Business Manager on the oversight of customer service request/complaint tracking system and perform related duties as required. Act as a liaison to other City financial departments. Work is performed under the general administrative direction of the Business Manager and is reviewed through meetings, reports and program results.

The required "Skills, Knowledge and Abilities" stated in part:

Extensive knowledge of financial management, accounting, business administration and management. Ability to apply modern management systems and techniques. Knowledge of purchasing, statistical and payroll operations. Knowledge of computers with working knowledge of Microsoft Office applications including Word and Excel. Ability to assist Business Manager in developing annual budgets and maintaining detailed financial records and knowledge of purchasing, statistical and payroll operations. Knowledge of MUNIS is helpful.<sup>10</sup>

The posting indicated that the Jr. Business Manager reports directly to the Business Manager but may be assigned tasks by other DPW managers. The posting also indicated that the position has no direct reports.

The job description, which was prepared in May 2018 by Maltez, contained a more detailed description of job duties including:

- Assist the Business Manager with overseeing all records and accounts of fiscal transactions for the department.
- Analyze and process all approved requisitions; forwards bills and schedules to the City auditor.

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<sup>9</sup> The FY2018 pay scale for Grade 7 USW positions ranged from \$47,022.14 to \$61,141.04. The USW pay grade classification committee consists of Cook and an employee in the Treasurer's Office.

<sup>10</sup> The City uses the MUNIS financial database to keep track of the City's financials, payroll, and procurement, among other things.

- 1 • Assist the Business Manager in the formulation of budgets and budget estimates.  
2 Attend budget hearings and provide supporting data when requested.
- 3 • Review and analyze the execution of the budget; prepare and submit progress  
4 reports to the Business Manager;
- 5 • Oversee and control all expenditures; project revenues and outlays; cash flows;  
6 financial assistance transfers;
- 7 • Oversee and control state and federal grants, state aid funds, audits and ordinary  
8 maintenance.
- 9 • Analyze program expenditures.
- 10 • Produce detailed financial reports on all Department activities such as payroll,  
11 overtime, plowing, sweeping, recycling, special projects, capital expenditures and  
12 related items, job cost studies and cost accounting analysis.
- 13 • Provide oversight for all payroll activities completed by head clerk and head  
14 administrative assistant.
- 15 • Monitor and direct all purchasing from time of original requisition; correspond with  
16 requesting divisions and follow through to actual purchase; assist in preparation or  
17 correction of requisitions as necessary; Assist Business Manager with oversight  
18 and maintenance of the centralized customer/complaint management system.

19  
20 The educational qualifications on the posting were an associate's degree in  
21 business, administration, accounting or finance with three years of "proven experience in  
22 financial management, accounting or business administration and one year of supervisory  
23 experience."

24 The City selected Cetina, the former DPW Head Clerk, to fill the position. Cetina  
25 has an associate's degree and over ten years of experience in Chelsea in various  
26 departments. Her annual salary as the Jr. Business Clerk as of mid-2018 was \$53,  
27 814.46, which is Grade 7, Step 4 on the USW salary scale. As of 2019, Cetina, unlike  
28 Ivanis, was not reviewing invoices and applications for payment to ensure compliance  
29 with procurement contracts, but was being trained to do so.

30 DPW Head Purchasing Clerk

31  
32 The City backfilled Cetina's Head Administrative Clerk position with Ochoa Solis  
33 (Solis). As described in greater detail below, the DPW Head Administrative Clerk position

remains a SEIU Grade 6 position. The job summary contained on a 2017 posting for this position stated:

Under the direction of the Director of Public Works<sup>11</sup> or designee, position is responsible for the administration of complex clerical functions in the preparation and maintenance of the department accounts payable process and payments. Collect and process payments to all customer accounts. Supervision of payroll and personnel documentation to include attendance records. Coordinate, organize and maintain thorough office records to effectively meet department functions. Customer service duties. Research inquiries to provide thorough response and resolve issues.

The requisite skills included:

A working knowledge of all aspects of the [DPW] which includes streets and sidewalks, buildings and grounds, water and sewer, administrative preferred. Must have excellent basic math comprehension. Must be proficient with basic office system programs, such as the Microsoft Office Suite and be sufficiently familiar with common computer programs to be effective in working with City and Department databases and tools for record keeping.

The duties listed on the job description include effective supervision of payroll data and supporting office records; researching and gathering information in response to requests for public records; issuing street opening permits to private contractors and maintaining escrow accounts and street bonds; maintaining spreadsheets of monthly bills from NSTAR, National Grid and Direct Energy for street lights, traffic signals, public buildings, park lights and pumping stations; monetary account balances and requests for requisitions by DPW personnel against budget line items under their division; maintain records on hydrant meter rentals and sale of water meters.

A 2018 job posting lists the qualifications as a high school graduate with a program of education including basic practices or bookkeeping and three years of full-time work of similar responsibility and interaction.

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<sup>11</sup> At some point, the Director of DPW title changed to Commissioner.

1        Grievance

2  
3        On June 29, 2018, Local 888 filed a grievance protesting the City's decision to  
4 place the Jr. Business Manager's position in the USW's unit. On July 10, Commissioner  
5 Maltez sent the following response to SEIU representative Richard Zullo.

6        I am writing in response to the grievance submitted to DPW regarding the  
7 Junior Business Manager position that is currently posted for DPW. This  
8 position will complete tasks previously assigned to the Business Manager,  
9 which is an established [USW] position. Our Business Manager has  
10 transitioned into a new role that is shared with procurement and will have  
11 limited number of hours in our department; furthermore we have increased  
12 the number of construction contracts and large [Capital Improvement]  
13 projects we are undertaking throughout Chelsea. I stated on the job  
14 description the Junior Business Manager will be responsible for most of the  
15 day-to-day duties previously completed by our Business Manager. Our  
16 intention is to continue with this position as advertised and hire the most  
17 qualified candidate for our department.<sup>12</sup>

18  
19        Positions Compared to APO/BM and Jr. BM

20  
21        SEIU contends that the duties, skills and experience necessary to perform the  
22 APO/BM and Jr. Business Manager positions are comparable to the SEIU titles of  
23 Finance Manager in the Health and Human Services (HHS) Department, Payroll and  
24 Accounts Supervisor in the Auditor's Office, Senior Fiscal Analyst and Office Managers.  
25 These positions are described below.

26        Financial Manager, Department of Health and Human Services

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<sup>12</sup> Local 888 initially indicated that it would advance the grievance to Step 2, but then withdrew it in favor of having it resolved through this CAS proceeding.

1 As of 2019, the HHS Department consisted of a USW-represented Director with  
2 seven direct reports, five of which were represented by the USW and two of which were  
3 represented by the SEIU, including the Financial Manager.<sup>13</sup>

4 In 2018, the Financial Manager requested, and was granted, a salary  
5 reclassification from Grade 9, Step 6 on the SEIU salary scale to Grade 10.<sup>14</sup> The  
6 reclassification process included an employee questionnaire. On that questionnaire, the  
7 incumbent listed the most important aspects of her job as:

- 8 • Financial management for HHS administration grants and budgets;
- 9 • Creating and maintaining financial record keeping systems;
- 10 • Coordinate procurement and contract administration with City purchasing agent;
- 11 • Requisition, purchase orders, vendor payments processing;
- 12 • Work with grants management office to assure compliance with all applicable grant
- 13 requirements;
- 14 • Preparing monthly financial reports to Federal and State agencies; and
- 15 • Assisting all divisions in development of their annual budgets.

16  
17 In terms of the types of questions the incumbent would refer to her supervisor, the  
18 incumbent indicated that she would ask her supervisor how much he would be willing to  
19 spend for a particular program, but would handle questions or problems regarding grant  
20 set up requests, requisition process, purchase orders, invoices, vendor payments and  
21 grants reimbursements by herself.

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<sup>13</sup> Based on the organization chart provided, the USW positions were the Library Director, Public Health Nurse, Director of Public Services, Veterans' Agent and the Director of Recreational and Public Affairs. Of these, the Public Health Nurse and Veterans Agent had no direct reports. The Director of Recreational and Cultural Affairs had three reports, two of which were USW positions and one of which was unrepresented. The Director of Elder Services had four direct reports, two USW (Elder Advocate and Program Coordinator), one SEIU (Watchman) and one unrepresented part-time Office Manager.

<sup>14</sup> The SEIU Grade 10 pay range in FY 2019 was \$49,340.41 to \$58,922.78. The City's Director of Human Resources and Administration Diane Carey (Carey) signed off on the upgrade.

1 The requirements for this position, as reflected on both the job description and  
2 questionnaire, are a bachelor's degree and four years of relevant experience, plus a  
3 working knowledge of Microsoft Office programs and MUNIS.

4 Payroll and Accounts Payable Supervisor – Office of the City Auditor  
5

6 The Office of the City Auditor is headed by the City Auditor, a non-union position.  
7 The Assistant City Auditor, a USW position, reports directly to the City Auditor. A USW  
8 Financial Analyst and a SEIU Payroll and Accounts Payable (AP) Supervisor report to the  
9 Assistant City Auditor. The AP/Payroll Specialist, also a SEIU position, reports to the  
10 Payroll and Accounts Payable Supervisor.

11 As described above, in 2017, SEIU and the City agreed to add the Payroll and  
12 Accounts Payable Supervisor and the AP/Payroll Specialist to SEIU's unit. The  
13 Agreement provided that the Payroll and AP Supervisor would be classified as a Grade  
14 S3, and the AP Payroll Specialist would be a Grade 8. The job summary for the Payroll/AP  
15 Supervisor position states in pertinent part:

16 Under the direction of the Assistant City Auditor, the Payroll and Accounts  
17 Payable Supervisor oversees the daily operation of the assigned payroll and  
18 [AP] functions. Prepare and disburse payroll for the City. Supervises AP  
19 Payroll Specialist, ensures all processes are executed appropriately in a  
20 timely manner. Operates as a subject matter expert and escalation point to  
21 resolve issues and continuously looks for improvements in operational  
22 processes and designs. Discuss and recommend those initiatives as they  
23 pertain to the payroll and A/P functions. Under general supervision of City  
24 Auditor and Assistant City Auditor, implement workable solutions to  
25 department workflow issues/problems. Work with the Assistant City Auditor  
26 and City Auditor to define standards and procedures for payroll and A/ P  
27 operations.

28 The essential functions listed on the job description include timely and accurate  
29 data entry into MUNIS. The qualifications include a bachelor's degree in finance,



1 experience in MUNIS or a related field, Microsoft Office suite, and a minimum of one year  
2 of supervisory experience.

3 Senior Fiscal Analyst – Treasurer's Office  
4

5 The Treasurer's Officer is headed by the Treasurer, an unrepresented position.  
6 Two USW titles report directly to the Treasurer – the Assistant Treasurer Collector and  
7 the Supervisor of Central Billing. The remaining seven positions in the office are SEIU  
8 positions. Six of them are clerks or administrative assistants. The seventh is the Senior  
9 (Sr.) Fiscal Analyst

10 A 2012 job posting for the Sr. Fiscal Analyst position reflects that it is classified as  
11 a SEIU Grade 7. The summary of duties states that this position works:

12 Under the general direction of the City Treasurer and Collector and  
13 supervised by the Assistant Treasurer and Collector[.] [T]his position is  
14 responsible for complex clerical work in support and maintenance of all  
15 types of financial and fiscal accounts and analysis associated with financial  
16 records, fiscal reporting and financial trends. Coordinate[s] disbursement;  
17 develops projections related to receipts and disbursements. Organizes and  
18 maintains financial databases. Uses independent judgment within the  
19 framework of established policies and department[] objectives in performing  
20 fiscal operations.  
21

22 The position also assists in the compilation and output of monthly financial reports;  
23 and assists in the development and ongoing production of the City's monthly  
24 management report, annual budget document, and the capital improvement documents.  
25 Qualifications include an associate's degree in accounting, finance, public/business  
26 administration or a related field and three years of full-time work, with additional  
27 experience considered in lieu of education requirements.

28 Office Managers  
29

SEIU finally compares the Jr. Business Manager position to the various Office Manager positions it represents in the City, including in the Police Department (discussed below), Fire Department, Inspectional Services Department (ISD), and the Office Manager and Data Analyst in the Assessing Department. The first three Office Managers are classified as a Grade 7 and require a high school education with training in business practices and three or four years of full-time work of similar responsibility and interaction. The summary of job duties on the Police Office Manager's and ISD Office Manager's position statements both indicate that the positions "perform[] complex clerical work involving payroll, databases and financial records." The Fire Department Office Manager posting focuses on processing payroll items, including salary, overtime, out of grade, fire details, station details and various payments for each pay period. It also requires keeping an Excel spread sheet on all out of grades worked and dates paid. All three positions require a high school degree with training in business practices, and four years of similar full-time work with two years of directly related post-secondary education substituting for up to two years of required experience. Like other SEIU positions, the incumbent must be proficient in the use and understanding of Microsoft Office suite.

The Office Manager and Data Analyst of the Assessing Department<sup>15</sup> is classified as a Grade 8. This position also requires a high school education and four years of comparable full-time work. Two years of directly related post-secondary education could substitute for up to two years of the required experience.

#### **CPD Crime Analyst**

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<sup>15</sup> The Assessing Department has a total of four employees: a non-union Director, a USW Assistant Assessor, a USW Appraiser and the SEIU Officer Manager/Data Analyst described above.

Police Department, Generally

The Crime Analyst is a civilian position within the CPD's Professional Standards Division. The uniformed personnel in that department are represented by two unions, one for officers and one for superiors. There are a total of eight civilian positions in the CPD, some of which are represented by the USW and others by SEIU. Most of the civilian titles are in the Professional Standards Division, which is headed by a uniformed police captain.

In addition to the Crime Analyst position at issue, the Professional Standards Division is staffed by a Grade 11 USW Business/Grants Administrator and four SEIU positions – Officer Manager, Head Clerk, Head Administrative Clerk and Administrative Assistant. The Business Grants Manager provides administrative, fiscal, and budgetary assistance to the Chief of Police, including oversight of all budget preparation and account maintenance. The position includes project management, grants reporting, and administrative duties. It requires an associate's degree in business administration, accounting or finance.

The CPD also employs two civilians outside of the Professional Standards Division, an unrepresented Community Engagement Specialist and an SEIU Animal Control Officer. All civilians appear on the lowest tier of the CPD organization chart.

Crime Analyst

The City created the Crime Analyst position in 2018. Before that, there was an unrepresented "Assistant Crime Analyst" position. The title was rated as MM4 on the exempt salary scale with a salary range of \$46,603 to \$59,487. The qualifications for the position were a bachelor's degree in criminal justice or a related field, one year of

1 experience with crime analysis or data analysis, and a high level of proficiency with  
2 relational databases and spreadsheet applications.

3 In 2018, Carey, in conjunction with a police officer and police captain, developed  
4 the Crime Analyst position at issue here. The City posted it internally to USW bargaining  
5 unit members on September 17, 2018, as a Grade 9 position on the USW scale, with a  
6 salary range of \$55,401.09 to \$69,415. The position was summarized as follows:

7 The Crime Analyst provides liaison work to the Chelsea Police Crime  
8 Reporting and Analysis unit by collecting data of current crime trends,  
9 patterns and locations; distribute[s] this information to appropriate Chelsea  
10 Police Department personnel, and forecasts future departmental needs for  
11 personnel deployment. Duties include analyzing, organizing and presenting  
12 crime data and statistics. Perform statistical and analytical research  
13 involving the use of computer applications, random statistical sampling,  
14 correlation and regression probability studies; gathering and analyzing  
15 crime data for crime pattern detection, suspect crime correlations, and  
16 target-suspect forecasting. Prepare reports on crime data and trends for  
17 Chelsea Police Department personnel. Deliver presentations to Chelsea  
18 Police Department personnel, members of the community and outside  
19 agencies.

20  
21 The 2018 job description includes a more detailed description of job duties, including:

- 22  
23 • Perform tactical, strategic operational and administrative analysis supporting the  
24 work of the Chelsea Police Department.
- 25 • Query and analyze statistics in an effort to link cases by key factors and  
26 disseminate information about known and newly discovered patterns to all  
27 department personnel. This analysis improves the safety of the community by  
28 facilitating appropriate police response which will have an objective to prevent and  
29 reduce crime in the city.
- 30 • Report specific submissions to the crime reporting unit for the Commonwealth.

31 The job description also had separate sections for Communication and Clerical/

32 Administrative duties. Communication duties included:

- 33  
34 • Develop and deliver presentations to senior law enforcement staff in the Chelsea  
35 Police Department, Boston Regional Intelligence Center, Massachusetts State  
36 Police Fusion Center and other law enforcement agencies as directed.
- 37 • Write and distribute daily Crime Bulletin[s] to law enforcement personnel.

- Using mapping software, develop maps of “hot zone” areas and communicate timely to law enforcement personnel.<sup>16</sup>

Under Clerical/Administrative, the duties include maintaining department documentation and reports and providing timely reports.

The posting required a bachelor's degree in Criminal Justice or a related field, with two years of experience with crime analysis or data analysis. The skills, knowledge and abilities included:

- Knowledge of law enforcement operations, procedures, Uniform Crime Reports and National Incident Based Reporting System;
- Knowledge of criminological theory and practice;
- High level of proficiency with relational database and spreadsheet applications including access and excel and other Microsoft Office suite applications.

In the latter half of 2018, the City selected Alisa Leduc (Leduc), an outside hire, to fill the position. Her annual salary was \$55,501.09, which is a Grade 9, Step 1 on the USW pay scale. Leduc has a master's degree in public administration and criminal justice and experience in crime analysis with the MBTA transit police.

Examples of LeDuc's work included spreadsheets showing City-wide and Sector 3 crime end-of-month statistics for January 2019. The spreadsheets tallied the number of different crimes per month, e.g., murder, rape, aggravated assault, etc., as well as the rate and percentage change in the crime rate, the violent crime rate, and the property crime rate. A second sheet depicted the same data, as well as arrests and probable cause determinations, in bar graph and pie graph formats.

#### Positions Compared to Crime Analyst

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<sup>16</sup> The record contains no evidence that the incumbent had actually performed these duties as of 2019.

SEIU contends that the Financial Analyst in the Auditing Department performs similar analytical and statistical duties to the Crime Analyst. SEIU also contends that the Crime Analyst position is similar to the Head Administrative Clerk at the CPD. A 2010 job posting for the Grade 6 Head Administrative Clerk at the Police Department and a job description for the same position reflects that this position performs “complex” clerical work and record keeping and requires a high school education and three years of relevant experience, with post-secondary education in administration or related coursework “advantageous.” The position summary on the 2010 posting also states in pertinent part:

Responsible for a considerable degree of discretion in the operations of the Police Department, Central Records Bureau. Under direction from police chief or his designee, work is of significant responsibility in the preparation and maintenance of records, receipts, files and correspondence maintained in the official record of the Police Department. Carries a high degree of discretion in the control and dissemination of department information to appropriate recipients . . . Will prepare and provide administrative reports upon request and administrative assistance to sworn officers regarding the preparation of reports and research of traffic hearing or court information.<sup>17</sup>

SEIU emphasizes that other duties on the job description include checking and tabulating statistical data and preparing “basic statistical reports.”

SEIU also compares the Crime Analyst position to the SEIU Police Office Manager, a Grade 7 position that requires a high school graduate with training in business practices with post-secondary education in office management, accounting or a related field preferred. A 2018 posting for this position contains three headings for essential job duties: Payroll Administration, Financial Reporting, and Clerical Administrative. Again, SEIU emphasizes that the financial reporting functions include providing statistical and financial

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<sup>17</sup> The SEIU provided the 2010 job posting. The City provided a 2014 job posting for the same position that summarized similar duties but without the reference to the need for “considerable discretion.”

1 reports as needed; assisting with preparation of budget requests, quarterly reports, audits  
2 associated with financial reports and calculation of budget requirements; maintaining data  
3 elements required in account keeping databases; and maintaining department motor  
4 vehicle information and related reports.

5 SEIU further notes that the Crime Analyst, like other SEIU titles, including ISD  
6 inspectors and Clerks, utilizes Geographic Information systems (GIS).

7 Opinion<sup>18</sup>

8 A unit clarification is the appropriate procedural vehicle to determine whether  
9 newly-created positions should be included in or excluded from a given bargaining unit or  
10 to determine whether substantial changes in the job duties of an existing position warrant  
11 inclusion or exclusion from a bargaining unit. Town of Athol, 32 MLC 50, 52, CAS-04-  
12 3567 (June 29, 2005). In analyzing whether an employee should be accreted into an  
13 existing bargaining unit, the CERB considers: 1) whether the position at issue was  
14 covered by the original certification or recognition; 2) whether the parties' subsequent  
15 conduct, including bargaining history, discloses that the parties considered the position  
16 to be included in the existing bargaining unit; and 3) whether the position shares a  
17 community of interest with other positions in the existing bargaining unit. If the CERB  
18 determines that the requisite community of interest exists, it will accrete the petitioned-for  
19 employee into the existing bargaining unit. City of Boston, 35 MLC 137, 140, CAS-07-  
20 3669 (December 31, 2008). When a position shares a community of interest with more  
21 than one bargaining unit, the CERB places the position in the unit with which it shares the

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<sup>18</sup> The CERB's jurisdiction is not contested.

1 greater community of interest. Board of Trustees, University of Massachusetts, 31 MLC  
2 209, 215, CAS-04-3577 (June 22, 2005).

3 Here, there is no dispute that the first and second prongs of the accretion analysis  
4 are inconclusive as to all three disputed titles. The City created them in 2018, long after  
5 the SEIU and USW were first recognized/certified. Further, the SEIU and the City have  
6 not entered into any agreement demonstrating their intention to either include or exclude  
7 the disputed titles. See City of Malden, 32 MLC 97, 100, CAS-04-3599 (November 2,  
8 2005) (CERB will not accrete a position into an existing bargaining unit if the parties have  
9 executed a collective bargaining agreement demonstrating an intent to exclude the  
10 petitioned-for positions, unless the job duties have materially changed). For each of the  
11 disputed titles, therefore, we focus on the third prong – with which bargaining unit the  
12 disputed title shares a greater community of interest.

13 To determine whether employees share a community of interest, the CERB  
14 considers factors like similarity of skills and functions, similarity of pay and working  
15 conditions, common supervision, work contact and similarity of training and experience.  
16 Board of Higher Education, 36 MLC 139, 141, CAS-06-3659 (March 5, 2010). No single  
17 factor is outcome determinative. City of Springfield, 24 MLC 50, 54, MCR-4602 (January  
18 15, 1998). The Law requires that employees share only a community of interest rather  
19 than an identity of interest. Id. Here, all three positions share a community of interest  
20 with both units, at least in terms of similarity of working conditions and work contact. They  
21 each perform office-type work in City Hall, alongside and in regular contact with members  
22 of both the SEIU and USW bargaining units. The educational requirements for these  
23 positions are also the same as some SEIU positions. For the reasons set forth below,



1 however, each of the disputed titles share a greater community of interest with the USW's  
2 unit, in terms of duties and functions, which are the main characteristics that distinguish  
3 the administrative/supervisory USW unit from SEIU's clerical unit.

4 Assistant Procurement Officer/Business Manager

5 As explained above, the City created this position as a hybrid of the existing USW  
6 Business Manager position and the newly-created Assistant Procurement Officer  
7 position. We have no difficulty concluding that this title should remain in the USW's unit.  
8 First, the Business Manager position was included in the unit that the CERB certified in  
9 1996 and remained in the unit for the ten years Ivanis served in this role. Other than the  
10 fact that it is now a part-time position, there is no evidence and no party argues that other  
11 aspects of this position have changed. Without more, the reduction in hours is an  
12 insufficient basis and indeed, improper basis, to remove this longstanding USW title from  
13 the unit. See, e.g., Town of Sturbridge, 29 MLC 156, 159, MCR-02-4998 (February 7,  
14 2003) (unit that excludes one or more regular part-time employees that perform the same  
15 work as full-time employees is inappropriately underinclusive).

16 Regarding the APO aspect of the position, the record shows that Ivanis performs  
17 most of the same functions of the CPO, including significantly, the ability to analyze and  
18 process purchasing requisition and vouchers in accordance with a knowledge and  
19 understanding of state procurement laws. The substantial overlap of duties is consistent  
20 with the City's contention that it created this position to handle the additional workload  
21 resulting from an increase in the amount of complex procurements the City was handling.  
22 It is also consistent with the fact that the combined APO/BM title is now on the same  
23 salary grade level as the CPO. Given that the CPO, like the Business Manager, was one

1 of the titles expressly included in the CERB's 1996 certification, that Ivanis works with  
2 Cook in the Procurement Office at least half of her working time, and that both she and  
3 Cook have MCPPO certification, we have no difficulty in concluding that title was  
4 appropriately placed in the USW's unit. While there may be some overlap between the  
5 APO/BM and Purchasing Clerk job descriptions, in terms of administrative or even some  
6 substantive duties performed, e.g., providing administrative support for all procurements,  
7 greeting visitors and answering phones, the fact remains that the Head Clerk, like all other  
8 Head Clerks, is intended to provide office support for the procurement functions  
9 performed by the CPO and APO, but does not require "extensive knowledge of municipal  
10 government operations" or "considerable knowledge of contract compliance, purchasing  
11 methods and procedures."<sup>19</sup>

12 SEIU also points to three other SEIU positions, the HHS Financial Manager, the  
13 Payroll and Accounts Payable Supervisor in the City Auditor's Office and the Senior Fiscal  
14 Analyst in the Treasurer's Office. As a preliminary matter, we will not compare any of the  
15 USW titles to the Payroll and Accounts Payable supervisor because the City and the SEIU  
16 bargained over the unit placement of that position and agreed it would be without  
17 prejudice. As for the other two titles, while their job descriptions indicate that they perform  
18 skilled payroll work and have procurement functions, the HHS position appears to be an  
19 outlier because it requires a four-year degree. Most other SEIU positions, notably, the

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<sup>19</sup> While SEIU contends that the Procurement Purchasing Clerk advises Ivanis on what to do on her Procurement days, this does not necessarily mean that the clerk supervises Ivanis or knows her job better than Ivanis does. Such advice could also be a function of the fact that Ivanis is not in the Procurement Office on a daily basis and needs to be told what happened in her absence.

1 Head Clerk and Office Manager positions, require only a high school degree. As for the  
2 Senior Fiscal Analyst, we note that this position is part of an office that, like the  
3 Procurement Office, includes a USW Assistant to the Department Head. This structure  
4 of having a non-union or USW Department head, a USW “assistant department head”  
5 and one or more SEIU support staff is replicated in the Assessing Department and the  
6 Auditor’s Department. Where the Business Manager position has been a USW title since  
7 1996 and where the record shows that Ivanis, as APO, performs most of the duties that  
8 the CPO, another USW title performs, we conclude that the APO/BM shares a greater  
9 community of interest with the USW’s unit, notwithstanding the existence of SEIU support  
10 positions that perform some of the same duties.

11 Jr. Business Manager

12 We reach a similar conclusion regarding the Jr. Business Manager, who is  
13 expected to perform the duties that Ivanis performs on the days she is serving as the  
14 APO. Like the APO position, this position is also required to have “extensive knowledge”  
15 of the relevant subject matter, here, financial management, accounting, business  
16 administration and management. Although again, there is some overlap in the duties of  
17 the SEIU titles discussed in the preceding paragraphs, the fact that the City did not  
18 eliminate Cetina’s position as DPW Head Clerk when she assumed the Jr. Business  
19 Manager position demonstrates that the Jr. Business Manager position is not merely a  
20 renaming of the Head Clerk position but performs high-level assistance to the Business  
21 Manager and performs the same duties on days when Ivanis is not in the office. For this  
22 reason, we find that this title shares a greater community of interest with the USW’s unit  
23 than with SEIU’s.

CPD Crime Analyst

Finally, we conclude that the CPD Crime Analyst was appropriately placed in the USW's unit based on the sophisticated statistical analysis the incumbent in the title is expected to perform. The position requires a bachelor's degree, specialized experience with crime or data analysis and a "high level" of proficiency. The education requirements distinguish it from all but two other SEIU positions, but are similar to the USW titles described throughout this decision. Although many other SEIU unit members work with databases and spreadsheets or GIS systems, the Union does not claim that any perform independent analysis of trends or statistics, and it is this advanced type of analysis that leads us to conclude that the position shares a greater community of interest with the USW's unit than with SEIU's.<sup>20</sup>

12 Conclusion

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14 For the foregoing reasons, we conclude that all three positions share a greater  
15 community of interest with the USW's unit than with SEIU's unit and dismiss this petition.  
16 **SO ORDERED**

16     **SO ORDERED**

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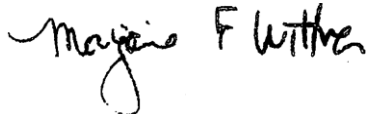
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<sup>20</sup> The Sr. Fiscal Analyst job description states that the title performs “complex clerical work *in support and maintenance of* all types of ...analysis associated with financial records, fiscal reporting and financial trends.” It does not state that the position independently performs such analyses.

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COMMONWEALTH EMPLOYMENT RELATIONS BOARD



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