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PUBLIC EMPLOYMENT
RELATIONS COMMISSION

IN THE MATTER OF

CITY OF MUKILTEO

AND

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS
LOCAL 3482

PERC Case No.: 24438-I-11-0584

Date Issued: March 8, 2013

INTEREST ARBITRATION OPINION

OF

ALAN R. KREBS

Appearances:

CITY OF MUKILTEO — Bruce L. Schroeder

IAFF LOCAL 3482 — Terrance M. Costello

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OPINION OF THE ARBITRATOR

PROCEDURAL MATTERS

In accordance with RCW 41.56.450, an interest arbitration hearing involving certain uniformed personnel of City of Mukilteo, Washington was held on November 14, 2012 in Mukilteo, Washington. The parties waived the provision in RCW 41.56.450 which provides for a three member arbitration panel to resolve an interest arbitration dispute and agreed instead to present the matter to a single arbitrator, Alan R. Krebs. City of Mukilteo was represented by Bruce L. Schroeder of the Summit Law Group PLLC. International Association of Fire Fighters Local 3482 was represented by Terrance M. Costello of the law firm Schwerin, Campbell, Barnard, Iglitzin & Lavitt LLP. At the hearing, witnesses testified under oath and the parties presented documentary evidence. A court reporter was present, and, subsequent to the hearing, a copy of the transcript was provided to the Arbitrator. Post hearing briefs were submitted.

APPLICABLE STATUTORY PROVISIONS

When certain public employers and their uniformed personnel are unable to reach agreement on new contract terms by means of negotiations and mediation, RCW 41.56.450 calls

for interest arbitration to resolve their dispute. The parties agree that RCW 41.56.450 is applicable to the firefighter bargaining unit involved here.

RCW 41.56.465 sets forth certain criteria which must be considered in deciding the controversy:

> (1) In making its determination, the panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and, as additional standards or guidelines to aid it in reaching a decision, the panel shall consider:
>
> (a) The constitutional and statutory authority of the employer;
>
> (b) Stipulations of the parties;
>
> (c) The average consumer prices for goods and services, commonly known as the cost of living;
>
> (d) Changes in any of the circumstances under (a) through (c) of this subsection during the pendency of the proceedings; and
>
> (e) Such other factors, not confined to the factors under (a) through (d) of this subsection, that are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment. . . .
>
> * * *
>
> (3) For employees listed in RCW 41.56.030(7) (e) through (h), the panel shall also consider a comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of public fire departments of similar size on the west coast of the United States. However, when an adequate number of comparable employers exists within the state of Washington, other west coast employers may not be considered.

The statute does not provide guidance as to how much weight should be given to any of these standards or guidelines, but rather leaves that determination to the reasonable discretion of the interest arbitrator. RCW 41.56.465 requires the interest arbitrator to be mindful of the legislative purpose set forth in 41.56.430, which provides:

> The intent and purpose of chapter 131, Laws of 1973 is to recognize that there exists a public policy in the State of Washington against strikes by uniformed

> personnel as a means of settling their labor disputes; that the uninterrupted and dedicated service of these classes of employees is vital to the welfare and public safety of the State of Washington; that to promote such dedicated and uninterrupted public service there should exist an effective and adequate alternative means of settling disputes.

Arbitrators are generally mindful that interest arbitration is an extension of the bargaining process. They recognize those contract provisions upon which the parties could agree and decide the remaining issues in a manner which would approximate the result the parties would likely have reached in good faith negotiations considering the statutory criteria. A party proposing new contract language has the burden of proving that there should be a change in the status quo.

ISSUES

On December 14, 2011, the Executive Director of the State of Washington Public Employment Relations Commission certified that following mediation, the parties were at impasse on ten specified provisions in negotiations for their successor collective bargaining agreement, and therefore, they should proceed to interest arbitration on those issues. The previous agreement has a duration from January 1, 2009 through December 31, 2010. The parties agree that the new agreement will retroactively apply from January 1, 2011 through December 31, 2012. Prior to the hearing, the parties resolved four of those issues, leaving the following issues at issue:

Article 7.1	Salaries
Article 9.2	Maximum Vacation Accrual
Article 11.1	Insurance
Article 25.3	Paramedic Certification
Article 31.3	Longevity Pay
Appendix A	Salary Schedule

NATURE OF THE EMPLOYER

The City of Mukilteo is situated in Snohomish County, bordered by King County to the south, and the more rural Skagit County to the north. Mukilteo is known as a bedroom community with considerable waterfront on Puget Sound, and is located between the cities of Everett and Seattle, just west of the Boeing Company's largest manufacturing site. It takes pride in being recently listed in the top ten of Money Magazine's "100 Best Places to Live in America." The City's Fire Department provides services for fire suppression and prevention, technical rescue, hazardous material, and emergency medical response and transport. The Union represents 25 employees in the classifications of captain and firefighter. Article 25.1 of the Agreement requires that all employees "obtain and maintain Emergency Medical Technician Certificates." Article 25.2 requires that all "employees hired as Firefighter/Paramedics will be required to maintain . . . Paramedic certifications." Article 31.2 provides that the non-probationary firefighter/paramedics receive premium pay of ten percent of their base pay. The bargaining unit members all work 24 hours shifts. The City has two fire stations. One station has a minimum staffing of two firefighter/EMTs and the other has a minimum staffing of two firefighter/paramedics. There is a captain at each station, and there can be an acting captain if one is gone. In addition to the firefighters, the City has four other bargaining units: commissioned law enforcement, non-commissioned law enforcement support, public works, and office clerical/technical.

COMPARABLE EMPLOYERS

RCW 41.56.465(3) requires the interest arbitrator to "consider a comparison of the wages, hours, and conditions of employment . . . [with those] of like personnel of public fire

departments of similar size. . . ." The parties were unable to agree on a list of appropriate comparators. They did agree that the cities of Anacortes, Arlington, and Mt. Vernon should be utilized as comparators. As additional comparators, the City proposes that the cities of Oak Harbor and Tumwater be used. The Union proposes the use of the cities of Lynnwood, SeaTac, and Tukwila, as well as King County Fire Districts 11, 13, and 44, and Snohomish County Fire District 4.

The City asserts that the jurisdictions which it has proposed all fall within population and assessed valuation bands of 50 percent up and 50 percent down when compared to Mukilteo, with the exception of Mt. Vernon which has a service population slightly above the upper 50 percent bracket, but which was included because of its geographic proximity. The City, relying on several published interest arbitration decisions, asserts that fire districts should not be used as comparators because they differ from cities in revenue sources and overall mission. The City argues that fire districts should only be used as comparators to cities when it is impossible to devise an adequate list of city comparables, and here, it is possible to establish a list confined to cities. The City further argues that Lynnwood and Tukwila should be excluded because, unlike Mukilteo, both have a huge sales tax base resulting from large shopping malls. It points out that in 2011, Lynnwood and Tukwila each received over fifteen million dollars in sales tax, and SeaTac almost ten million, while Mukilteo received less than two million from that source.

The Union chose its list of comparators from fire departments in Snohomish County and neighboring King and Skagit Counties which fall within population and assessed valuation bands of 50 percent to 200 percent that of Mukilteo. The Union argues that the City's proposal to use only five comparators, all cities, is unnecessarily restrictive and too small a sample, such that it risks skewing the data. The Union takes the position that its use of both fire departments and

cities as comparators is appropriate considering the wording of the statute and most arbitral authority. The Union urges the rejection of Oak Harbor as a comparator because it is largely rural and not part of the Seattle Metropolitan area, it has assessed value which is less than half that of Mukilteo, it does not employ like personnel because unlike Mukilteo they do not provide basic or advanced life support transports and do not employ paramedics, and unlike Mukilteo and all other proposed comparators, Oak Harbor firefighters do not work 24 hour schedules. The Union further urges that Tumwater be excluded as a comparator because it is not geographically proximate to Mukilteo and it is in a different and much smaller labor market, the Olympia-Tumwater-Lacey metropolitan area.

As both parties recognize in their briefs, most arbitrators have long selected "fire departments of similar size" to utilize as comparators on the basis of similar population and assessed valuation of the served area, with additional consideration of geographic proximity and whether they share the same or similar labor market. It is also generally recognized that there must be an adequate number of comparators so that a trend could be evident and individual anomalies would not overly skew the results. Arbitrators frequently utilize six to ten comparators to achieve this purpose, though fewer have been used, particularly in special circumstances, such as when the subject jurisdiction is so large that it has few available comparators of similar size. Also, arbitrators are constrained by the evidence presented by the parties. Arbitrators can only consider as comparators those employers for which a party has presented evidence of the terms and conditions of employment provided to their firefighters.

The population and assessed valuation of Mukilteo and of the comparators suggested by one or both of the parties are reflected below.

Mutually Agreed Comparators

Fire Department	Population	Assessed Valuation
Anacortes	15,960	$2,545,635,473
Arlington	17,970	$1,822,509,261
Mt. Vernon	32,350	$2,485,713,804

Additional City Proposed Comparators

Fire Department	Population	Assessed Valuation
Oak Harbor	22,200	$1,619,266,260
Tumwater	17,900	$2,226,496,660

Additional Union Proposed Comparators

Fire Department	Population	Assessed Valuation
Lynnwood	35,900	$4,207,375,958
SeaTac	27,210	$4,501,330,936
Tukwila	19,080	$4,660,649,637
King County Fire District 11	18,299	$2,150,743,051
King County Fire District 13	10,874	$2,250,595,362
King County Fire District 44	18,680	$2,053.547,635
Snohomish County Fire District 4	17,499	$2,979,811,052
Mukilteo	20,360	$3,242,759,403

In order to select comparators, arbitrators have utilized various parameters of population and assessed valuation above and below that of the subject jurisdiction. Those parameters have generally not been less than half, nor more than twice that of the fire department at issue. Where there is an excess in the number of possible comparators, arbitrators may narrow the parameters, by diminishing the range, by eliminating the more distant or dissimilar comparators, or both. The three comparators upon which the parties agree range in population from about 78 percent to

about 158 percent that of Mukilteo, and in assessed valuation from about 56 percent to about 78 percent that of Mukilteo. All of the proposed additional comparators fall within the population parameters of the agreed upon comparators, except for King County Fire District 13, which is at about 53.4 percent of Mukilteo, and Lynnwood, which is at about 176.3 percent. Only Oak Harbor among the proposed additional comparators has an assessed value which is less than that of any of the agreed upon comparators. Only Lynnwood, SeaTac, and Tukwila among all the agreed upon or proposed comparators have an assessed value higher than Mukilteo, with Lynnwood being about 129.8 percent that of Mukilteo, SeaTac at about 138.9 percent, and Tukwila at about 143.7 percent.

I am not persuaded by the City's argument that fire districts should be excluded as comparators. Prior to 1987, the governing statute required a comparison with "like employers." That statute was modified in 1987 to require a comparison with "public fire departments of similar size." Both city fire departments and fire districts are "public fire departments." The change in the statutory language appears to reflect a legislative intent that fire districts and cities may be considered as comparators to each other. Over the past twenty years, most arbitrators have routinely considered fire districts as comparators to cities. *City of Mukilteo* (Lankford, 2002); *City of Anacortes* (Krebs, 2003); *City of Kent* (Beck, 2004); *City of Pasco* (Gaunt, 2006); *City of Tacoma* (Wilkinson, 2007). In the 2002 interest arbitration involving the City of Mukilteo, the City, contrary to its position here, proposed to utilize a number of fire districts as comparators. The City's contention that fire districts should only be used as comparators for cities when necessary, is not the view of most arbitrators, and in practice, would mean that fire districts would almost never be used as comparators since lists of comparators confined to cities generally can be established. Thus, the City's position, in this regard, would render insignificant

the 1987 change in statutory language. The more likely significance of that change is that fire departments of like size are to be considered appropriate comparators regardless of whether they are cities or fire districts.

Oak Harbor has been excluded as a comparator for a variety of reasons. Oak Harbor is a much more rural community than Mukilteo. It is not on the I-5 corridor, but rather is situated in the San Juan Islands and must be reached by ferry. Its assessed valuation is less than half that of Mukilteo. Moreover, it is different from Mukilteo in other ways. Oak Harbor utilizes 12 hour shifts, unlike the 24 hour shifts utilized by Mukilteo and all the other suggested comparators. Also, unlike Mukilteo, Oak Harbor does not provide either basic or advanced life support transports. I have also excluded King County Fire District 13 because it is also confined to an island which must be accessed by ferry, and it serves a much smaller population than any of the other suggested comparators, with a population barely half the number serviced by Mukilteo.

I have included Lynnwood, SeaTac, and Tukwila, though each has much larger sales tax revenues than Mukilteo. Sales tax revenues have not generally been considered as a factor in other published interest arbitration decisions. Perhaps a reason for this is that fire districts do not receive revenues from the sales tax, making a comparison in this regard problematic. In any event, in the circumstances here, I do not believe that the inclusion of Lynnwood, SeaTac, and Tukwila would be unfair or unreasonable, since they are sufficiently balanced by the other selected comparators, all of which have smaller assessed valuations than does Mukilteo. Tumwater has also been included as a comparator since its population and assessed valuation falls within the population and assessed valuation parameters of the cities which the parties have agreed are comparable. I am not persuaded that Tumwater should be excluded because of its distance from Mukilteo. I base this on the parties' agreement that Anacortes should be included

as a comparator. Tumwater is on the I-5 corridor and compared to Anacortes, is closer to Seattle and is not significantly farther away from Mukilteo. Since the parties have agreed that Anacortes is an appropriate comparator, I find insufficient basis to exclude Tumwater. Moreover, Arlington, a nearby agreed-upon comparator, has both Mukilteo and Tumwater written into its agreement as comparators.

Thus, the following ten fire departments will be utilized as comparators for Mukilteo:

Anacortes
Arlington
Lynnwood
Mt. Vernon
SeaTac
Tukwila
Tumwater
King County Fire District 11
King County Fire District 44
Snohomish County Fire District 4

The ten selected comparators service populations ranging from 78 percent to 176 percent that of Mukilteo, with three comparators larger than Mukilteo in population and seven smaller. The selected ten comparators service jurisdictions with assessed valuations ranging from 56 percent to 144 percent that of Mukilteo, also with three jurisdictions larger than Mukilteo and seven smaller. Omitting Lynnwood, SeaTac, and Tukwila, and all fire districts, as the City urges, would lead to an unnecessarily small number of comparators, all of which would have assessed valuation lower than that of Mukilteo. The selected comparators provide a more reliable and balanced overall comparison.

COST OF LIVING

The governing statute requires consideration of "the cost of living." The Union presented evidence that the Consumer Price Index (CPI-U) for the Seattle-Tacoma-Bremerton area rose by 10.8 percent from January 1, 2009 until January 1, 2013, while firefighter wages rose by 7.5 percent during that period. The City presented evidence that firefighter wages in the past twelve years increased by 46.67 percent while the Seattle-Tacoma-Bremerton CPI-U increased by 26.4 percent during the same period. Bureau of Labor Statistics data submitted into evidence indicates that the CPI-U for Seattle-Tacoma-Bremerton rose by annual averages of 0.3 percent in 2010, 2.7 percent in 2011, and 2.8 percent in the first half of 2012.

OTHER CONSIDERATIONS

In addition to the specific criteria set forth in RCW 41.56.465(a)-(d), Subsection (e) of that statute requires consideration of "[s]uch other factors, not confined to the factors under (a) through (d) . . ., that are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment. . ." Accordingly, the factors discussed below have been considered.

Ability to Pay

A factor frequently raised in contract negotiations and also considered by interest arbitrators is the ability to pay wage and benefit increases. Clark County (Axon, 1996); King County (Lankford, 2009).

The City contends that all proposals at issue must be analyzed in the context of the City's ominous financial situation which requires it to continue to aggressively reduce expenditures. The City asserts that since 2008, it has been hard hit by the economic recession, which has

created a serious financial gap between revenues and expenditures resulting in the plummeting of its General Fund balance. The City maintains that based on current projections, its deficit situation will continue, even with measures to reduce expenditures.

The Union contends that the City has the ability to fairly compensate its firefighters. In this regard, the Union points to the City's unexercised property taxing authority, its General Fund reserve balance at the end of 2011 which significantly exceeds its conservative minimum goal, its high credit rating, and its history of under-projecting its revenues.

It has been established that the City's finances have not been immune to the fallout from the deep recession of 2008 which had severe and long lasting negative effects on the public sector. The City's Fire Department has a budget of about $4.2 million. Of this amount, about $1.8 million is derived from an EMS levy on assessed valuation, and the remainder comes from the City's General Fund. In 2009, City voters approved an increase in the EMS levy from 23 cents per $1,000 of assessed valuation to 50 cents per $1,000. However, revenue from the EMS levy has decreased since 2009 as assessed valuation in the City steadily decreased by a total of 24 percent between 2009 and 2012, and then decreased again by 2.8 percent for 2013. During the same period, the City's General Fund revenue also decreased as its property and sales taxes lagged. At the same time, the City was faced with increased expenditures for its employees' health insurance and pensions. Fortunately for Mukilteo, it was in excellent financial shape when the recession hit. In 2009, Standard and Poor's gave the City a AAA bond rating, one of the few cities in the state to achieve such a stellar grade. In 2007, the City had a robust beginning General Fund balance of about $7.2 million, with General Fund revenues of about $12.8 million, and expenditures of about $12.9 million. Beginning in 2007, City expenditures exceeded revenues every year, so that its ending balance steadily diminished to about $4.5 million in 2011,

while revenues declined to less than $12.4 million. The City presented evidence that the Government Finance Officers Association recommends that cities maintain unrestricted fund balances in their general fund of no less than two months of regular general fund revenues or expenditures. In 2010, the City established a policy that it would maintain a $1 million reserve Contingency Fund to cover unexpected circumstances, and would also maintain a General Fund Operating Reserve equal to two months of budgeted operating expenses. In its 2011 Comprehensive Annual Financial Report, the City reported that it had ending fund balances of "[a]proximately $2.6 million . . ., or 23 percent of total 2011 General Fund expenditures . . . available for spending at the government's discretion."

By law, the City may raise the property tax of persons already living there by a maxim 1 of one percent per year, but may opt not to raise taxes and instead bank that additional taxing authority to exercise in the future. In the past, the City has often opted to bank the one percent additional taxing authority, and that bank is now at about $316,000. In 2012, the City elected to raise its property taxes by the one percent, and in addition, utilize its banked taxing authority equivalent to about an additional two percent.

The decline in the City's tax revenues during the past four years is significant. The national economy's slow improvement from the depths of the recession has not yet led to an improved economic situation for the City. This is despite the City's doubling of the EMS levy rate and its dipping into its banked property taxing authority. Though the City's finances have not yet reached crisis state, and it does have some unreserved funds available in its General Fund over and above a minimally prudent level, its steadily declining reserves is worrisome, particularly in the present uncertain difficult economic circumstances.

Recruitment and Retention

Arbitrators often consider employee turnover, or lack thereof, when determining appropriate compensation rates. A high level of turnover or difficulties in recruitment may signify that the compensation levels are inadequate.

In the last ten years, two firefighters left their employment with the City for a reason other than retirement, one in 2003 and one in 2008. Both of those were in probationary status and left to accept employment with other local fire departments. There is no indication that in recent years, the City has had any difficulty recruiting or retaining employees with the existing terms and conditions of employment.

Internal Equity

As your Arbitrator has held in other interest arbitration proceedings, the settlements reached by an employer with its other bargaining units are significant. While those settlements are affected by the particular situation of each bargaining unit, still there is an understandable desire by the employer to achieve consistency. From a union's standpoint, it wants to do at least as well for its membership as the employer's other unions have already done. At the bargaining table, the settlements reached by the employer with the other unions are likely to be brought up by one side or the other.

The City contracts with unions representing four bargaining units other than the firefighters. All of those bargaining units agreed to no wage increase for 2011, just as the Union here did. Three of the bargaining units have agreed to reopen wage negotiations for 2012. The union representing the City's law enforcement officers agreed with the City that it would receive an increase of 1.5 percent for 2012, but should the firefighters be awarded in arbitration any increase in 2011, or more than 1.5 percent for 2012, then such increases shall be applied to the

law enforcement bargaining unit as well. The City's non-represented employees received no wage increase in 2011 or 2012.

Regarding health insurance, the City currently pays 100 percent of the premium for employees in all of the bargaining units, and 90 percent of the premium for dependents, with the employees paying 10 percent.

BASE WAGES

The parties agree that there will be no increase to base wages for 2011.

The City contends that there should also be no general increase to base wages for 2012. The City argues that its proposal in this regard is reasonable and fair based on consideration of all relevant factors, most importantly because of the national economic crisis and its impact on the City and neighboring jurisdictions. The City maintains that it remains close to its minimum reserve level, and must remain financially conservative in order to avoid future deficit spending. The City asserts that its wage proposal is supported by internal comparisons with other City employees, by the fact that wages paid to the employees in this bargaining unit have exceeded the cost of living over the last decade, by the low turnover rate, and by comparison with the compensation provided by the comparators.

The Union proposes a retroactive general wage increase of 3.2 percent for 2012. The Union reasons that the City's firefighters have fallen behind their counterparts in comparable fire departments, and with the addition of the Union's proposed longevity premium, the City's rank will rise to a place near the midpoint of the comparators.

As previously discussed, the governing statute requires consideration of a "comparison of the wages, hours, and conditions of employment of like personnel of similarly-sized public

employers." The Union presented evidence of total hourly compensation as of December 31, 2012 for a ten-year firefighter with an A.A. degree, including holiday pay, deferred compensation and the employer contribution for insurance benefits for a married employee with two dependents. Hours were adjusted for Kelly and debit days, vacation leave, and holiday leave. The Union agreed to the compensation data provided by the City for the City's suggested comparators. The City has not provided compensation data for the Union's proposed comparators, and has not disputed the figures provided by the Union for them. The City agrees that the comparison should be based on net hourly pay, but argues that total compensation comparison should not include health insurance benefits because of the differing plans that are offered by the comparators. Your Arbitrator finds that the more accurate comparison of total compensation would include the employers' contributions for health insurance inasmuch such contributions are elements of compensation and in contract negotiations, parties generally understand that. Parties may negotiate lower wages for better health benefits. Therefore, the comparison of compensation which is presented below does include in net hourly pay, the cost to the employer for employee health insurance.

The total adjusted hourly rates for Mukilteo and the ten comparators are reflected below. All represent net hourly pay as of December 31, 2012, except for Lynnwood. Lynnwood's net hourly pay is as of December 31, 2011, presumably because a contract for 2012 has not yet been finalized.

Department	Net Hourly Pay
Anacortes	$41.57
Arlington	43.50
Lynnwood	46.87
Mt. Vernon	42.42
SeaTac	46.24
Tukwila	46.00
Tumwater	43.90
King County F.D. 11	47.34
King County F.D. 44	49.51
Snohomish County F.D. 4	44.71
Average	45.20
Median	45.36
Mukilteo	44.25

Thus, as of December 31, 2012, the City's firefighters are 2.2 percent below the average of the comparators and 2.5 percent below the median.

The parties agreed that the cost of the Union's proposal for a 3.2 percent increase would be $60,648 and that the cost of "mandatory benefits on COLA increase" would be $7,243.

A wage increase of 2.3 percent shall be awarded, retroactive to January 1, 2012. This increase will result in bargaining unit employees receiving compensation close to the average and in the middle of the pack in relation to the comparators. While slightly below the recent rise in the cost of living, the awarded increase takes into account the lack of turnover among the employees, the modest or nonexistent wage increases received by other City employees, the employees' continued favorable health insurance benefits, and the City's challenging financial circumstances evidenced by declining revenues in the past several years. The Union did agree to no wage increase for 2011, and even with the awarded increase for 2012, the City's General F d balance and its reserve Contingency Fund still will likely remain at satisfactory levels.

LONGEVITY PAY

The Union proposes a new longevity pay premium retroactive to 2011 in the following amounts:

2 percent after 5 years
4 percent after 10 years
6 percent after 15 years
8 percent after 20 years

All of the comparators provide a longevity premium in varying amounts. The City's police officers receive a wage premium of 1 percent after 5 years, 2 percent after 10 years, 3 percent after 15 years, and 4 percent after 20 years. In order to receive these premiums, the City's police officers must have a satisfactory performance evaluation and satisfactorily complete designated levels of training at the state criminal justice academy. Police officers have a choice of taking this benefit or an education pay premium, but may not receive both. Other City employees do not receive a longevity premium.

The cost to the City for the longevity pay proposed by the Union would be $119,614 over the term of the contract.

The Union argues that its longevity proposal should be adopted because the comparators and the City's police all receive a longevity premium, and without a longevity premium the City's firefighters will not achieve parity with firefighters in comparable districts.

The City opposes the introduction of a longevity premium. It contends that the longevity proposal is not economically justified in view of its significant financial difficulties and the wage freezes agreed to by other employee groups. The City argues that the Union's proposal is not supported by reference to the comparators since when longevity pay is factored into the total annual compensation, its firefighters exceed the average of the comparables. With regard to its

police officers, the City points out the significant differences between their longevity premium benefit and the one proposed by the Union here.

No new longevity premium shall be awarded. With the awarded wage increase, the City's firefighters will match the average total compensation of the comparators. Considering the difficult economic circumstances for public sector employees generally, and the declining revenues over a period of years for the City of Mukilteo specifically, this is not the time to introduce a costly new benefit, particularly one which would result in total compensation being above the average of the comparators.

HEALTH INSURANCE

Currently, the City contributes 100 percent of the health insurance premiums for its firefighters and 90 percent of the premiums for their dependents. The City proposes for the new contract an employee contribution of 5 percent for employee health insurance premiums (a 95/5 split). The City argues that its proposal is supported by its efforts to address its long-term financial issues, particularly because over the last decade, its annual premiums for family coverage has escalated from $5,681 to $22,003. The City maintains that its proposal would bring it more in line with other employers across the nation. In this regard, it produced two published surveys, one of which indicated that employees contribute, on average, 18 percent of the premium for individual coverage, and another which indicates that employees of large cities contribute, on average, 16 percent toward their individual coverage. The City urges the Arbitrator to disregard the Union's evidence regarding the net value of health insurance provided by the comparators, since such a comparison fails to account for differences in plan design.

The Union opposes the City's proposal to modify its health insurance benefit. In this regard, the Union points out that the City pays 100% of the employee health benefit premiums for all employees in its four other bargaining units, and only one of the comparators require its firefighters to pay any part of their employee medical insurance.

The comparators pay the following monthly amounts for their employees' health benefits:

Department	Monthly Payout for Health Benefits
Anacortes	$1,593
Arlington	$1,568
Lynnwood	$1,473
Mt. Vernon	$1,641
SeaTac	$1,705
Tukwila	$1,530
Tumwater	$1,637
King County F.D. 11	$1,951
King County F.D. 44	$2,284
Snohomish County F.D. 4	$1,697
Average	$1,708
Median	$1,639
Mukilteo	$1,593

No change to the City's share of the health insurance premiums for its firefighters shall be awarded. As previously observed, an employer's payments for its employees' health benefits is an element of total compensation, and the total compensation for individual firefighters employed by the City, with the awarded wage increase, is no higher than the average total compensation paid by the comparators to their firefighters. Moreover, the cost to the City for health benefits for its firefighters is less than the average paid by the comparators. The City has correctly pointed out that the specific health benefits provided by the various plans offered by the comparators may differ. However, the cost of those plans can be compared and are relevant to the statutorily required comparison of wages, hours, and conditions of employment. It is also

significant that the City's contracts with its four other bargaining units provide that the City will pay 100 percent of the employee's health insurance premiums. There is insufficient basis to alter the City's contribution for its firefighters' health care benefits so as to treat them differently than all of the City's other bargaining units, and less favorably than the average of the comparators.

MAXIMUM VACATION ACCURAL

Section 9.2 of the previous Collective Bargaining Agreement provides:

> Vacation time shall be taken within the twelve (12) month period following the period for which it is accumulated; provided however, an employee may carry over to a subsequent year up to one (1) year's vacation accrual. An employee may carry over more than one (1) year's vacation upon the approval of the Employer.

The City proposes to delete this language and replace it with the following:

> Vacation time may be taken as accrued and agreed to by the Employer. However, accumulated vacation time shall not exceed one (1) year vacation accumulation at the beginning of any calendar year. The Employer may grant carry-over of more than one (1) year vacation accrual should unforeseen circumstances arise.

The City contends that its proposal is intended merely to maintain the status quo, by clarifying that accumulated vacation time shall not exceed one year's worth of accumulation at the beginning of a calendar year. It asserts that the Union's interpretation would permit two years of vacation accumulation per calendar year, and that does not comport with the plain language of Section 9.2. Shirley Engdahl, a City Human Resources employee, testified that the City's interpretation of Section 9.2 is that employees are allowed up to one year of vacation accrual to carry over to the next year. The City argues that this establishes that the past practice favors the City's position. The City points out that its contracts with its police and its public works employees both contain the same language as is in its firefighters contract, while the contracts for

the law enforcement support and the office clerical/technical employee groups both have contract language which specifically permits two years' vacation accrual to be carried over. The City thus observes that when a contract provides for two years of vacation accrual, the language is different. The City argues that while Section 9.2 "is unambiguous," the contract language should be modified "to resolve any ambiguity."

The Union opposes any change to Section 9.2. The Union points to Ms. Engdahl's testimony that in 1991 the City needed more coverage to deal with a big annexation, and as a result, the firefighters were allowed to carry over more than one year of vacation accrual. Ms. Engdahl testified that she believes that the practice of allowing firefighters to carry over more than a single year of accrued vacation has continued since then because that time had already accumulated. The Union argues that the City has provided no argument or evidence which would justify a reduction in its vacation accrual benefit.

No change to Section 9.2 shall be awarded. The City has not sufficiently established a need to change the existing language in order to clarify it. First, the City asserts that the existing language is already unambiguous. It is the same language that is in its contract with its law enforcement officers. There is no evidence that there have been any grievances filed with regard to the City's application of Section 9.2. There is also no evidence that the existing language has caused any problems for the City. There is just insufficient basis to modify contract language which has existed for over 20 years.

PARAMEDICS CERTIFICATION

Section 25.2 of the previous contract provides:

> 25.2 As a condition of employment, employees hired as Firefighter/Paramedics will be required to maintain Washington State Emergency Technician-Paramedic certifications.

The Union proposes to add the following provision to Article 25:

> In the event a certified Paramedic, based upon his/her seniority rank, fills a vacant Firefighter/Emergency Medical Technician position, or a newly created position, or promotes to Captain/ he/she will no longer be required to maintain his/her Paramedic certification, provided he/she has maintained required certifications and performed the duties of a Paramedic for at least five (5) years.

The Union argues that firefighters should be freed from the burden of being required to maintain the paramedic certification once they leave a paramedic position because such certifications require up to 50 hours of continuing education annually, removing this requirement would have little effect on the Department's operations, and most comparators which employ paramedics allow them to waive certification under conditions similar to the Union's proposal. The City opposes the Union proposal, arguing that allowing paramedics to drop their certification would adversely impact staffing levels and cause increased overtime costs as well as training costs for replacement paramedics. The City asserts that the Union's proposal is not supported by comparisons to other jurisdictions.

The City employs nine firefighter/paramedics, nine firefighter/EMTs, and seven captains in the bargaining unit. All of the captains are EMTs. According to the City, its Advanced Life Support licensing (ALS) agency sets certain benchmarks for the City to meet, including having two paramedics respond to an ALS emergency call within 8 minutes, 90 percent of the time. The City represents that it has only enough paramedics to fill current staffing needs, and any

reduction in the number of its paramedics would significantly increase its overtime needs. In order to fill paramedic vacancies, the City would have to hire pre-certified paramedics, or else send current employees for a 3,000 hour course of instruction at Harborview Medical Center at a costs of $22,000 per trainee. Michael Springer is the City's fire chief. Chief Springer testified that all nine firefighter/paramedics, when hired, were prequalified as paramedics. Chief Springer testified that if the City needed to fill a vacancy in a firefighter/paramedic position, he expected that he would have no difficulty in finding applicants who were prequalified as paramedics.

Captain Kirk Galatas is president of the Union. Captain Galatas testified that King County EMS provides paramedic services for all of the King County comparators. Thus, SeaTac, Tukwila and King County Fire Districts 11 and 44 do not employ paramedics. Lynnwood, Arlington, and Snohomish Fire District 4 permit its paramedics who transfer or are promoted to drop their certification, with varying conditions. Anacortes does not permit its paramedics to drop their certification. The parties presented conflicting evidence regarding the practice in Mt. Vernon and Tumwater, with the Union claiming that they do allow paramedics to drop their certification, and the City claiming that they do not. Neither the Tumwater contract, nor the Mt. Vernon contract, contains specific contract language dealing with the right of an employee to discontinue their paramedic certification. Based on the evidence presented, the actual practice in Mt. Vernon and Tumwater cannot be discerned.

No change to Article 25 is awarded. The evidence presented does not establish a pervasive trend among the comparators to include language similar to that proposed by the Union. Moreover, there is no evidence that any employee has actually suffered harm or inconvenience as a result of the current contract language. In fact, there was no evidence that any

bargaining unit member had or has any intention of dropping their paramedic certification. There is insufficient basis to change the longstanding previously negotiated contract language.

AWARD OF THE ARBITRATOR

It is the award of the Arbitrator that:

I. Section 7.1 shall be changed to reflect an increase in base wages of 2.3 percent effective January 1, 2012. Appendix A shall be amended accordingly.

II. There shall be no new longevity pay premium.

III. There shall be no change to Article 11 regarding the City's 100 percent share of the health insurance premiums for employees only.

IV. There shall be no change to the maximum vacation accrual language in Section 9.2.

V. There shall be no change to Article 25 with regard to paramedic certification.

Sammamish, Washington

Dated: March 8, 2013

/s/ Alan R. Krebs
Alan R. Krebs, Arbitrator