

THE MATTER OF THE INTEREST) ARBITRATOR'S
)
ARBITRATION BETWEEN) OPINION & INTEREST AWARD
)
CITY OF KENNEWICK)
)
"THE CITY" or "THE EMPLOYER")
)
AND)
)
IAFF LOCAL 1296 - CITY OF KENNEWICK)
FIREFIGHTERS)
)
"IAFF LOCAL 1296" OR "THE UNION")

HEARING: October 31st & November 1st, 2017
Kennewick, Washington

HEARING CLOSED: December 8, 2017

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Seattle, WA 98121

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APPEARING AS WITNESSES FOR THE UNION:
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Ted Rail LEOFF Trust
Joe Roberts, LEOFF Trust
Chad Blashill, Firefighter

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BACKGROUND

The City of Kennewick (The City) and IAFF Local 1269 - City of Kennewick Fire Fighter's Association (Union) have a collective bargaining relationship. The 2014-2016 collective bargaining agreement (CBA) expired on December 31, 2016. They are in the process of completing the negotiations for a

successor agreement retroactively effective January 1, 2017. Negotiations have been unsuccessful at resolving all issues.

Under the State of Washington public sector collective bargaining statute, the instant bargaining unit has access to interest arbitration in order to resolve a continuing dispute over the terms of a collective bargaining agreement. The Parties can proceed to arbitration on issues certified by the Public Employment Relations Commission (PERC). By letter dated June 28, 2017, PERC certified ten issues for arbitration:

- Article 1 Term and Scope of Agreement (Term)
- Article 9 Hours Worked
 - Additional Kelly Days
- Article 11 Medical and Dental
 - Healthcare plan selection and design
 - Employee healthcare contributions
 - Annual wellness physicals
- Article 14 Temporary Assignment
 - Task Book
- Article 15 Sick Leave
 - Accrual rate
 - Conversion upon separation
- Article 16 Vacation
 - Accrual and buyout
- Article 20 Salaries
 - Base Wages
 - ICMA (deferred compensation) contributions
 - Pay step increases (JATC)
 - Fire inspectors
 - Specialty Pay
 - Officer Differential
 - Paramedic Differential
 - Assignment Pay for Aerial Operator

- Article 25 Forty Hour Week Personnel
 - Alternative Schedules

- Article 26 Firefighter Classification Program
 - Education and Longevity

- Article 28 Fit for Duty Evaluation
 - Protocol

At hearing the Parties informed the panel that they had been able to TA the following¹:

- Article 20: Fire Inspectors - now Appendix A
- Article 25.3: Forty Hour Week Personnel
- Article 28.2: Fit for Duty Evaluation.

Also, one of the issues PERC certified was Article 20: Pay step increases (JATC). The City's written position (October 16, 2017 letter) on this issue is to "maintain current contract language, except as necessary to bring in line with the current JATC procedures." The Union's written position statement contained no language with regard to pay step increases (JATC). Neither the City nor the Union provided any argument on this matter. Thus the Panel concludes that there is no continuing dispute over maintaining current contract language.

RCW 41.56.450 requires that "a recording of the proceedings shall be taken." Per this requirement, an official audio

¹ The Union's pre-hearing submission provided that Article 27.1 was at issue and that the Union's position was "current language" (Union 3). The Union's brief states that "Art 27.1, Wellness and Fitness" had been TA. The Arbitrator notes that the Employer does not identify Article 27.1 as an issue in conflict and that Article 27.1 is not included in the certified issues from PERC. As a result, this interest award is silent regarding Article 27.1.

recording was made by the Arbitrator with copies given to the City and the Union.

In accordance with WAC 391-55-205, each Party had the right to name one partisan Arbitrator to serve as a member of an arbitration panel. Both Parties chose their partisan arbitrators and Arbitrator Timothy Williams was selected as the neutral chairperson. For the purposes of this document, the terms "neutral chairperson" and "interest arbitrator" or "arbitrator" shall be interchangeable; "arbitration panel" or the "panel" references the neutral and partisan arbitrators as a group.

A hearing was held on October 31 and November 1, 2017 in Kennewick, Washington. At the hearing, both Parties had full opportunity to make opening statements, examine and cross-examine sworn witnesses, present documentary evidence, and make arguments in support of their positions. The Parties agreed to file post-hearing briefs on December 8, 2017.

Additionally, the Parties mutually requested that the panel address the issue of medical insurance in an expedited format. This request was necessitated by the fact that the City's insurance carrier had informed the City that the current policy was being discontinued effective January 1, 2018. The Arbitrator agreed to issue an expedited partial decision covering Medical Insurance so long as the Parties orally argued

the issue at hearing. The Parties complied with this request and, therefore, the interest award is provided in two steps. The first contained the decision on medical insurance and was submitted to the Parties on November 17, 2017. The full decision, completed after receipt of briefs, is provided in this document.

Finally, the Panel convened either in person or by conference phone call to work on the issues. The ultimate decision on each issue is the conclusion that this Arbitrator took from the work sessions. The analysis that is provided on each issue reflects the discussions that occurred during the work sessions. The text that is provided in this award is specifically the work of the Arbitrator.

INTEREST ARBITRATION OVERVIEW

Interest arbitration is a process commonly used in the public sector for bargaining units that provide critical public services and whose work is deemed essential for public safety. Police, fire and prison guards usually fall into this category and interest arbitration is granted by statute in exchange for a prohibition against a work stoppage (strike). The statutes that provide for interest arbitration inevitably include a set of criteria that the arbitrator must use in fashioning his or her decision. The State of Washington follows this model in that it

does provide for interest arbitration and in RCW 41.56.465 sets forth the following criteria for uniformed personnel:

- (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. For those employees listed in RCW 41.56.030 (7) (a) who are employed by the governing body of a city or town with a population of less than fifteen thousand, or a county with a population of less than seventy thousand, consideration must also be given to regional differences in the cost of living.
- (f) (2) For employees listed in RCW 41.56.030 (7) (a) through (d), 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 like employers of similar size on the west coast of the United States.
- (g) (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 exist within the state of Washington, other west coast employers may not be considered.

The Arbitrator's opinion and awards are submitted, having given careful consideration to the above criteria, on an issue-by-issue basis. The Arbitrator's interest award is based on a careful analysis of the evidence and argument presented during the hearing, the oral discussions of the panel and the arguments found in the written briefs. On each of the issues, the Arbitrator will set forth the position of the Parties, a discussion of the Parties' arguments, the basis of the Arbitrator's award and the award.

As is true in most interest arbitration proceedings, the record in the instant case is voluminous with both Parties presenting extensive documentary and testimonial evidence. The Arbitrator has carefully reviewed this evidence in the context of the above stated statutory criteria. While he has given consideration to the whole record, the Arbitrator will not attempt to provide an exhaustive discussion of all points raised or respond to every piece of documentary evidence. Rather, the discussion will focus on those factors that ultimately were primary in determining the award.

POSITIONS, ARGUMENTS, OPINION AND AWARD

The Parties' 2014-16 collective bargaining agreement expired on December 31, 2016. Negotiations on a successor agreement have resolved all issues with the exception of those

that are before this arbitration panel. This document contains the Panel's final award on each of the remaining issues.

The Parties briefs both begin by extensively discussing the matter of comparators. A review of the issues before the Panel clearly reveals that the comparators are often the bases for the differences between the Parties two positions. Thus this section of the panel's decision will begin by examining the matter of an appropriate set of comparators. Next the decision will turn to the financial issues including the matter of medical Insurance. The remaining issues will be addressed sequentially. On each issue, the Panel will first provide a general overview, then proceed to a detailed discussion of the merits of the Parties arguments and conclude by setting forth the Panel's award.

Comparators

The Panel begins its discussion of comparators by emphasizing that the Washington's collective bargaining statute provides in pertinent part:

...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 exist within the state of Washington, other west coast employers may not be considered.

The Panel concludes that there are more than an adequate number of comparable employers within the State of Washington. As such, the analysis on comparators will focus on those jurisdictions within the state.

Each party presents a list of potential comparators. Combining the two lists provides the following:

Bothell [on both lists]

Olympia [on both lists]

Pasco [on both lists]

Richland [on both lists]

Yakima [on both lists]

Walla Walla [added by the City as a regional labor market comparator]

Shoreline [added by the Union]

Lacey [added by the Union]

Bellingham [added by the Union]

Spokane Valley [added by the Union]

Spokane #9 [added by the Union]

The Panel takes specific note of the statutory requirement for "similar size" fire departments and an "adequate number" of comparators. Looking first at the matter of similar size jurisdictions, the City relies on 50% - 150% (50% smaller population size to 150% bigger) while the Union looks to 50% - 200%. The Panel concludes that an adequate number of comparators can be obtained using the narrower range (50% -

150%) as opposed to the larger range. A narrower range, from the Arbitrator's perspective, is a better response to the statutory requirement of similar.

Applying the narrower range eliminates Walla Walla and Spokane Valley Fire District #1. Of the remaining list of 9 potential comparators the Arbitrator finds Bothell and Shoreline Fire District #4 to be a poor match for the City of Kennewick for reasons that are explained below. That leaves the following list of seven comparators that the Panel will use in evaluating each of the issues.

Olympia
Pasco
Richland
Yakima
Lacey
Bellingham
Spokane #9

As noted above, the arguments with regard to the appropriate comparators were extensively and thoroughly laid out by both Parties. Full consideration was given to what the Parties provided. Ultimately, the decision to use the above list of seven comparators was based on the following multipoint analysis. First, the City's list of five is simply too small particularly considering that there are other reasonable State

of Washington comparators that can be used. Moreover, since the Arbitrator has determined that Bothell is not a good comparator, it leaves the City's list with only four - not enough.

Second, the City argues to exclude fire districts contending that they so differ from a city fire department that they make a poor comparator. Specifically fire districts have their own source of funding unlike fire departments which must compete against other city departments for available funds. The Arbitrator was not swayed by this argument. For one thing, there is nothing in statute to support it. To the extent that a fire district provides services to a population of similar size to a fire department, the statute makes no distinction between the two. More importantly, the work of a firefighter in a fire district is exactly the same as the work of a firefighter in a fire department. As a result, the Arbitrator concludes that Spokane (fire district #9) and Lacey (fire district #3) should be included in the list of comparators.

Third, interest arbitrators in Washington, certainly including this one, have often struggled with what is called the east-west divide. Basically, Washington has two economic zones; an economic zone west of the mountains and a different economic zone east of the mountains. Generally speaking, a point emphasized by the City in the instant case, west of the mountains is characterized by a more robust economy, a higher

cost of living and higher wages for employees. This leads the City to object to comparators such as Bellingham, Shoreline and Lacey. The difficulty, from this Arbitrator's perspective, is that Kennewick's population size makes it impossible to find a reasonable number of comparators east of the mountains. In fact, a review of the size of the above list of comparators establishes that all of the comparators east of the mountains have population sizes less than Kennewick. It is only the comparators in this list west of the mountains that have population sizes greater than Kennewick but still within the accepted range. While the Arbitrator would have preferred to have created a list of comparators all from the east side of the mountains, such a list was too small and led him to pick two² additional comparators from the west side of the mountains. Thus the comparators have four jurisdictions east of the mountains (Yakima, Pasco, Richland and Spokane FD #9) and three west of the mountains (Bellingham, Lacey and Olympia).

Fourth, a close review of the data provided by the two Parties establishes the somewhat obvious point that the east-west dichotomy is an oversimplification. Merriam-Webster defines a megalopolis as a "thickly populated region centering in a metropolis." Wikipedia posits that a "megalopolis

² The Parties mutually selected Olympia which is west of the mountains and smaller in size than Kennewick.

(sometimes called a megapolis... or supercity) is typically defined as a chain of roughly adjacent metropolitan areas." In this Arbitrator's view, Seattle is the metropolis and it along with all of the many surrounding cities form a megapolis; the Seattle megapolis. The critical point is that while there may be a number of different cities within the megapolis, the population distribution is basically seamless. Does one really know when a person moves from Redmond to Bellevue, from Bellevue to Renton, from Renton to SeaTac, from SeaTac to Burien, from Burien to Seattle, from Seattle to Shoreline, etc. It is simply one large megapolis.

Most important, the Seattle megapolis has a booming economy, a very high cost of living and commensurate wages. Bottom line, any political jurisdiction within the Seattle megapolis makes a poor comparator to the City of Kennewick. For one thing, the population size of an individual political jurisdiction such as the city of Renton or the city of Redmond is somewhat meaningless as regards a comparator; they're all part of the giant megapolis.

Bothell and Shoreline are part of the megapolis and it certainly shows in the wages paid to firefighters. Data provided by the Union indicates that in 2016 top step firefighter in Shoreline had an hourly wage of \$47.72 and Bothell of \$46.30. Lacey was the next closest at \$42.19;

Kennewick \$38.62 (Union 23). Also important to point out that Pasco, Yakima and Spokane #9 all had hourly wages less than Kennewick. Not a surprise, the Seattle megapolis pays the highest wages by a big percentage, other west of the mountains jurisdictions are next in line and east of the mountains are last in line.

Fifth, real estate values are another way to demonstrate why a political jurisdiction within the megapolis is not a good comparator to the City of Kennewick. Real estate values are important because property taxes based on those values help support the fire service. The assessed valuation³ of a city or fire district provides some insight into the financial resources that will be available to pay for wages and benefits of a firefighter. But, the face value of the assessment can be deceiving if it does not factor in the size of the population being served. Two political jurisdictions with exactly equal assessed valuation can have significant disparities if the population size of one is much larger than the other. A fire department or district provides its services to the population in a jurisdiction. The bigger the population the greater the service demands. Dividing assessed valuation by the population of a jurisdiction gives a rough estimate of the jurisdiction's

³ Both Parties provide data on assessed valuation and urge the Arbitrator to make it a part of the analysis behind selecting the appropriate comparators.

financial well-being; an estimate that can be used to compare different jurisdictions. Bothell, for example, has an assessed valuation of \$7,627,771,452 and a population of 42,640 which equals \$178,887 of real estate wealth per person being provided fire services. Shoreline is \$7,426,551,725 with a population of 53,990 which equals \$137,554 per person. Next in line is Olympia with substantially less assessed valuation per person of \$111,157; Kennewick is way less at \$69,024 and Yakima \$60,699⁴. Kennewick has almost twice the population of Bothell (78,290) and 41% less assessed valuation (\$5,403,889,187).

Assessed valuation as related to the size of population leads the Arbitrator to conclude that Bothell and Shoreline are very poor comparators to Kennewick.

Finally, the assessed valuation per person is also a rough estimate, in this Arbitrator's view, of the cost of purchasing a home in that political jurisdiction. To put it bluntly, firefighters in Bothell and Shoreline, even with their substantially higher wage, may find it extremely difficult to afford a house in the City in which they work. In other words, they make more money but cost of living is also much higher particularly when it comes to real estate. This means that they are, in most cases, not financially better off than a

⁴ Data is taken from the Union exhibit number 10 and reflects 2015 information; the Arbitrator did the math.

firefighter who makes a lesser wage but contends with a lower cost of living.

This Arbitrator has strongly emphasized in other interest arbitration awards that the value of money is in what it can be exchanged for; it has little if any intrinsic value. The higher wages paid to a firefighter in a district or city with a very high cost of living - think megapolis, does not necessarily translate into a better wage when compared with a firefighter working for a district or city with a much lower cost of living. This fact simply reemphasizes the basic conclusion that a city that is part of the Seattle megapolis does not make a good comparator to the city of Kennewick.

To summarize, Bothell and Shoreline were left off the list of comparators because they are part of the Seattle megapolis and as a result are substantially dissimilar to the City of Kennewick. In arriving at this conclusion, the Arbitrator is aware that both the City and the Union viewed Bothell as an appropriate comparator. While unusual, the Arbitrator simply finds other jurisdictions west of the mountains to be substantially better comparators. Bellingham and Lacey are geographically removed far enough from the megapolis to make for a more realistic comparison.

As appropriate, the Panel will proceed to apply the above referenced comparators on an issue-by-issue basis.

Article 1 Term and Scope of Agreement

Position of the City

Four year term of agreement, 1-1-2017 through 12-31-2020.

Position of the Union

Three year term of agreement, 1-1-2017 through 12-31-2019

Analysis

The City makes a strong argument that a four year agreement is appropriate because of the fact that this arbitration decision will not be provided until after the beginning of the second year leaving much of a three year agreement already expended. It would be beneficial, claims the City, for both Parties to have a period of time in which there is no ongoing negotiations.

The primary problem with the four year agreement, as pointed out by the Union, is the uncertainty over medical insurance fueled by in part the recent change in tax law. Stability in terms of cost of living, medical insurance premiums and other factors support longer collective bargaining agreements. Uncertainty is better resolved by shorter agreements that call for new bargaining to address in real time whatever happens. For the instant case, the Arbitrator simply notes that there is a large amount of contradictory material

available in the news media regarding the impact on insurance programs and insurance premiums that will result from changes recently passed into law. Moreover, as will be further discussed under the medical insurance issue, if premiums do rise substantially in the next year then the Parties may well want to look at restructuring the medical insurance program to mutual benefit. These factors lead to an award providing a three year agreement.

Award

Three year term of agreement: 1-1-2017 through 12-31-2019

Article 9 Hours Worked

Position of the Union

Section 9.1, as found in the expired agreement, provides that the "Fire Department schedule per year will be 108 shifts." The Union proposes to change the 108 to 107.

Position of the City

The City argues to retain 108 shifts as the department's yearly schedule.

Analysis

A review of the data regarding the number of hours actually worked at the seven comparables shows that the Kennewick Firefighter do work slightly more hours in a year than the

average -- average at 2302, Kennewick at 2376 (U 23). But, the Arbitrator is also aware that when annual total compensation is compared, Kennewick top step Firefighter in 2016 received greater than the average for the seven comparators - average at \$90,063, Kennewick at \$91,767 (U 23). In other words, slightly more hours than the average and slightly higher total compensation. That appears to the Arbitrator to be a reasonable exchange and one that would not warrant a reduction in the annual hours of work.

Award

The Parties are directed to retain the 108 shifts found in Section 9.1 of the expired agreement.

Article 11 Medical and Dental

Position of the Union

Section 11.2 The City shall make available a consumer medical and vision insurance plan for its employees and dependents. The City shall make available dental insurance for its employees and dependents and shall pay the total premium for such insurance.

Employees covered by this Agreement shall be insured by a medical and vision insurance plan that includes dependent coverage for employees and dependents.

As part of this proposal, Local 1296 is asking the arbitrator to adopt any one of the following three options, all of which Local 1296 deems appropriate:

Option A

Local members will remain on the existing HealthFirst \$0 deductible plan through December 31, 2017 and will continue to contribute to the health insurance premium costs at current levels.

Effective 1/1/2018, the Local agrees to switch insurance from the AWC HealthFirst Zero Plan to the LEOFF Trust Plan F.

Employees shall contribute toward health insurance costs as follows:

0/month (single)
\$50/month (married)
\$100/month (married with dependents)

"Single" includes employee only, or employee plus one dependent. "Married" includes employee and spouse, or employee plus two or more dependents. "Married with dependents" includes employee, spouse plus one or more dependents.

The City's total contribution toward Local members' health insurance premiums through LEOFF Trust will be capped each year at an amount to be determined by application of the following formula: each year, at the end of the health insurance open enrollment period for the following year, a comparison will be made between the total premiums applicable to bargaining unit members under LEOFF Plan F for the next year and the total premiums that would be applicable to bargaining unit members if those members would have been enrolled into AWC Health First \$250 Plan for the next year.

The comparison will then be further adjusted by deducting the following amounts from premium total for each member under each plan: LEOFF Plan F: \$0/month for single; \$50/month for married or single with dependent; \$100/month for married with dependents; AWC Health First Plan \$250 Plan: \$140/month for single; \$150/month for married or single with dependent; \$160/month for married with dependents.

If when this formula is applied the City's total contribution toward Local members' health insurance through LEOFF Trust does exceed the amount the City would be contributing towards AWC HealthFirst \$250 Plan, the Local members will be charged the difference between these amounts through increased employee contributions toward premiums.

If this occurs, the Union will notify the employer prior to December 31 regarding the manner in which those increases in premium contributions will be distributed amongst the Local's members. In addition, the parties will also by December 31 enter collective bargaining negotiations regarding whether a change in insurance plans should be made, and regarding all of the other impacts and effects associated with the fact that the costs of the LOEFF Trust Plan F have exceeded the costs of the SWC HealthFirst \$250 Plan under the parties formula.

Option B

Local members will remain on the existing Health First \$0 deductible plan through December 31, 2017 and will contribute to the health insurance premium costs at the current levels.

Effective 1/1/2018, the Local agrees to switch insurance from the AWC HealthFirst Zero Plan to the AWC HealthFirst 250 Plan.

Employees shall contribute toward health insurance premium costs as follows:

140/month (single)
\$150/month (married)
\$160/month (married with dependents)

"Single" includes employee only, or employee plus one dependent. "Married" includes employee and spouse, or employee plus two or more dependents. "Married with dependents" includes employee, spouse plus one or more dependents.

The City shall make a yearly contribution of \$1000/employee or \$1500/employee + dependents(s) into an HRA account for each employee to cover medical expenses. Upon the end of each calendar year any remaining HRA funds for each employee shall be transferred into a VEBA account in the employee's name

Option C

Local members will remain on the existing Health First \$0 deductible plan through December 31, 2017 and will contribute to the health insurance premium costs at the current levels.

Effective 1/1/2018, the Local agrees to switch insurance from the AWC HealthFirst Zero Plan to the AWC HealthFirst 250 Plan.

The City shall contribute 100% towards health insurance premium costs for the employee and all dependents.

In addition to any of the three options listed above, the City shall compensate any firefighter who opts out of the City's health insurance coverage as a result of dual coverage with an incentive equal to 20% of the cost savings to the City. This is a benefit currently available to firefighters and all City employees, but not memorialized in the Collective Bargaining Agreement.

The City agrees that there shall be no decreases in medical benefits for the life of this Agreement, with the exception of those made by the benefit trust board of the company providing the insurance. If the benefit trust board does make changes as described above, the City agrees to bargain with the Union over the impacts of those changes.

Position of the City

11.2 Effective 1/1/2018 the City will transition to the AWC HealthFirst 250 insurance plan; employees will be responsible for ten percent (10%) of the premiums for the coverage selected.

Analysis

As previously outlined, by request of the Parties this award is bifurcate with an expedited decision related to medical insurance provided by the middle of November, 2017 and the remainder of the award following at a later date. Also, the term of the agreement is in dispute before the panel with the City arguing for a four year term and the Union contending for a three year term. Thus, the award at this time on medical insurance is limiting itself to January 1, 2018. The issue of medical insurance for the additional year(s) will be revisited by the panel once a decision has been made on the term of the agreement.

The panel recognizes that the City is in a position where it must change its medical insurance program effective January 1, 2018. The single most significant issue to the panel was the problem of the transition from the existing program to a new program. Moving from the AWC HealthFirst Zero Plan (current plan) to the AWC HealthFirst 250 Plan is completely seamless and can easily be accomplished by January 1, 2018. Testimonial evidence convinced the panel that transition to the LEOFF Trust Plan F would not be equally seamless. This fact alone was sufficient to convince the Arbitrator that the City should be permitted to transition to the AWC HealthFirst 250 Plan beginning January 1, 2018.

The panel notes that the AWC HealthFirst 250 Plan is less expensive than the current medical plan. The City calculates it will save \$40,000 by moving from the AWC HealthFirst Zero Plan to the AWC HealthFirst 250 Plan (City #144). The savings occur because the AWC HealthFirst 250 Plan shifts some of the costs for medical care from the insurance policy to the employee. The Arbitrator notes that the City provided no rationale as to why it should profit at the expense of its employees. The Arbitrator further notes that the Union's alternate proposals focus on directing the savings back to the firefighters.

In response to the issue of who should benefit from the savings generated by moving to a lesser medical plan, the

Arbitrator in part addresses this by reducing each employee's monthly contribution to the medical plan. The Arbitrator notes that even with this reduction the City will still see substantial savings in 2018.

The Arbitrator did agree with the City's reasoning behind switching from a fixed contribution by the employee to a percentage contribution. The percentage contribution allows for greater equity in terms of each fire fighters contribution and it diminishes the need to renegotiate the contribution on an annual bases.

Finally, the issue of the savings generated by the change of medical plan will be further addressed when the Panel completes its work on the award related to medical insurance commencing January 1, 2019 and potentially for January 1, 2020.

Additional Analysis

The Panel, having set the term of the collective bargaining agreement for three years, now addresses the third and final year of the agreement with regard to medical insurance. The award is to maintain the same insurance program implemented on January 1, 2018; no changes for the third year of the agreement. The rationale behind maintaining the same insurance program is laid out in the following multipoint analysis.

First, there is no question that the Medical Insurance provided by the City to the firefighters in 2018 costs the City substantially less than if it had maintained the insurance plan provided in 2017. In its brief the City points to the fact that because the award reduced the amount contributed towards the medical insurance by employees, the City's costs in 2018 are still higher than in 2017; higher in the amount of \$24,200 (C Br 4). Per the City's data, this is a 1.6% increase in cost (C Br 4). Evidence provides that the 2018 increase⁵ in insurance premium for the AWC HealthFirst 250 Plan is 7.2%⁶ (C 143). Obviously the City, even though it is paying more in 2018 than in 2017, saved money by moving to a less expensive policy even with the reduction in employee contributions.

Second, as was previously noted earlier in this analysis, savings to the City are generated by shifting some of the cost of medical care for firefighters and their families from the insurance policy to the pocketbook of the employee. The shift was not a discretionary move on the part of the Employer but was necessitated when the HealthFirst Zero Plan was no longer

⁵ Over 2017 -- not directly applicable to the City because it was on a different plan in 2017.

⁶ It is unknown what the cost increase would have been for the HealthFirst Zero Plan that was discontinued, but there is no reason to believe that it would have been less than 7.2% and at least some reason, in this Arbitrator's view, to believe that the increase would have been more; cadillac plans increasing at a higher rate than non-cadillac plans. Thus, it is quite possible that the Employer saved substantially more than what is outlined above had the firefighters remained in the HealthFirst Zero Plan.

available and the next best choice was the AWC HealthFirst 250 Plan.

Regardless of the reason for the shift to a less expensive Medical Insurance plan, the shift constituted a benefit rollback. At no place does the Employer ever contend that a benefit reduction was necessitated for some economic or other reason; the more expensive, "cadillac" plan was simply no longer available. Thus the Arbitrator arrived at the conclusion that any savings that resulted from the shift should be redistributed to the employees in some other way. The award previously given for the Medical Insurance program that commenced on January 1, 2018 gave some of the savings back to the firefighters by reducing the employee contribution towards the cost of the Medical Insurance.

Third, the Union strongly argues that the Employer ought to address the above described benefit reduction by implementing a health savings account (HRA). While the Arbitrator is a great fan of using an HRA, for a number of reasons he believes that the time is not ripe to include one in this award. For one thing, the Arbitrator finds that both Parties are better served when they negotiate an HRA as part of a whole medical insurance package. Questions such as how does the HRA relate to deductibles and co pays need to be addressed. If properly done,

an HRA provides a better benefit at less cost but the operative phrase is "properly done."

The point, of course, is that the Parties need to do more work at the bargaining table if they are to implement an HRA. Moreover, the Arbitrator notes that the Union actually presents the Panel with three separate choices - all of which are acceptable to the Union. While they all may be acceptable to the Union, the fact that the Union has not refined and focused on one is a strong indicator that more negotiations should occur if there is to be a significant change to the medical insurance program.

Also, the Panel takes arbitral note that, since the time of the hearing on this matter, changes to the Affordable Care Act at the national level may have a substantial but unquantifiable impact on the cost of health insurance premiums. This ambiguity speaks strongly against making any significant changes in the medical insurance program at this time. Additionally, the uncertainty supports the decision of the Panel to award a three year agreement; an award that will put the Parties back at the bargaining table in the near future. Negotiations over a successor agreement will provide the opportunity, if the Parties so choose, to revisit the medical insurance program.

Finally, the Union expresses a concern over the switch directed by the Arbitrator from a specified employee

contribution towards the medical insurance premium to a percentage contribution where the liability of the employee is uncapped. The Union is correct to express a concern from the standpoint that with a fixed contribution, when the cost of the insurance premium goes up, only the Employer is stuck with the increase. When the employee's share is a percentage of the total premium, then the amount of employee contribution increases automatically. Of course, in either case (fixed or a percentage) the Parties can return to the bargaining table to renegotiate the amount of the contribution.

Basically the Union wants protection against future increases that may be excessive. While the Arbitrator understands the Union's argument, he does not find it persuasive. By setting the employee's contribution at the very low level of 5%, employees do receive substantial protection against future increases because whatever the increase their part of it is extremely small. Moreover, if the 5% yields an increase so egregiously high that the Union desires to negotiate with the City, the Arbitrator is certain that the City will also want to enter into negotiations for purposes of seeking cost savings. After all, 95% increase of an egregiously high rate increase would be staggering compared to a 5%.

The bottom line to this discussion on medical insurance is that the award for 2019, the third year of the agreement, is to

retain, unchanged, the medical insurance program implemented in 2018

Award

[Award provided on November 17, 2017] Local members will remain on the existing Health First \$0 deductible plan through December 31, 2017 and will contribute to the health insurance premium costs at the current levels.

Effective 1/1/2018 the City will transition to the AWC HealthFirst 250 insurance plan; employees will be responsible for five percent (5%) of the premiums for the coverage selected.

[Award provided on February 5, 2018] Effective 1/1/2019 the City will remain on the AWC HealthFirst 250 insurance plan so long as it continues to be available; employees will be responsible for five percent (5%) of the premiums for the coverage selected. If the AWC HealthFirst 250 insurance plan should be discontinued, then the Parties will meet to negotiate the medical insurance provision for 2019.

Article 20 Salaries

Article 20, titled "Salaries," contains provisions both with regard to base wages and to a number of wage enhancement issues. A review of the Parties positions indicates that with regard to base wages there is almost no difference in what they are proposing, the significant differences are in the wage enhancements where the Union seeks substantial improvement and the Employer takes a position that there should be no improvement on any of them. In its brief, the Employer emphasizes its concern about these enhancements when it writes: "While the Union proposed modest wage increases the cost of

their additional proposals (the hidden money) was off the charts" (U Br 2).

The Union, of course, sees the matter quite differently. The Union argues that a review of the comparables establishes that Kennewick firefighters' wages lag behind and that catch up in the 2017-19 contract period is needed to help rectify this inequity (U Br 35). Base wages, however, are not the Local's primary concern. Rather the Union seeks improvements in the different forms of pay enhancement that are found in the various Sections of Article 20. Specifically the Union seeks to enrich the ICMA (deferred compensation) contributions, Officer Differential, Paramedic Differential, Assignment Pay for Aerial Operators, Specialty Pay found in Appendix A and the Education and Longevity provision found in Article 26.

The critical question, therefore, is whether the list of seven comparators supports the Union. Do Kennewick firefighters' wages lag behind? The Arbitrator notes that the answer to that question is not readily apparent because the Union based its position and arguments on ten comparators while the City used five for its conclusion that wages did not lag behind. Thus the key task for the Arbitration Panel is to take a fresh look at each of the compensation items that are in dispute; a review based on the approved list of seven comparators.

Also, while the statute specifically requires the Arbitrator to give consideration to an appropriate set of comparators, there is nothing that mandates how the comparators should be used; nothing for example that indicates that the Union is entitled to the average of an approved set of comparators or that the City is restricted to pay the average. Also, the same statute that requires the Panel to consider comparables also compels the Panel to consider those factors "that are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment."

The Panel's application of the comparators, therefore, will be a judicious one. Careful thought will be given not only to what the comparators show but also consideration will be given to whether or not there is some unusual element that should be given due consideration when determining how the comparators influence the award provided by the arbitration Panel.

Section 20.1 -- Base Wages

Position of the Union

The Union proposes the following salary schedule increases:

2017 January 1	3%
2018 January 1	2%
2019 January 1	2%

Position of the City

The City offers the following salary schedule increases:

2017 January 1	2.4%
2018 January 1	2.4%
2019 January 1	2.4%

Analysis

As is obvious, there is almost no difference whatsoever between the position of the Union and the position of the City. Most unusual, since wage increases compound one year to the next, the City is actually offering by the third year of the agreement slightly more of an increase to base wages (Union = .072, City = .074).

Both Parties provide extensive wage data to support its position for base wages and for the other areas of wage enhancement. The Arbitrator carefully reviewed all of this data and finds that the only significant difference is the list of comparators. The Union contends that it needs an increase of approximately 5.7% in order to catch up to its comparators - its list of 10 comparators. Having studied the data provided by the Union it is clear that this gap is created by including the two comparators from the Seattle megapolis; comparators that the Arbitrator has removed from the final list of seven. Applying the data from the approved list of comparators shows that the top step Firefighter's annual base salary for Kennewick was 1.2%

greater than the average in 2016 and 1.9% greater than the average annual compensation⁷.

In other words, the Kennewick Fire Department wages are precisely where they should be when viewed in the context of comparators that include both sides of the mountains and jurisdictions larger and smaller. Thus, from the Arbitrator's perspective, the issue for the 2017-2019 CBA is determining a wage increase that keeps pace with the current position. The award grants the Union's request of 3% for 2017. That will provide an annual base salary 1.4% greater than the average (data from U 23) - it will more than hold place.

The award for 2018 is a second 3% increase. This is obviously somewhat unusual as the City is offering 2.4% and the Union requesting only 2%. The Union's 2%, however, must be viewed in the context of the money the Union desires to place elsewhere in the contract. The City costs these other enhancements at \$1,245,200. As will be explained later, this award provides very little increase to the enhancements. For this reason and for the additional reason that the Arbitrator concluded 3% was necessary to keep pace with the comparators (see Union brief at page 33), the award was greater than what either party was requesting. Simply put, the Arbitrator took a little of the money the Union was requesting for wage

⁷ The Arbitrator did the math using the data found in U-23.

enhancements and put it back to base wage because he concluded that this action was justified by the seven comparators.

Also, another consideration for a base wage increase greater than requested by both Parties rests in the fact that 2018 is the year that the Firefighters received the cost shift in their medical insurance. Greater out of pocket costs for Firefighters with regard to medical care helps justify a slightly higher increase in base wage.

Finally, for 2019 the City offers a 2.4% base wage increase while the Union requests a 2%. For the reasons noted above, primarily the concern over keeping pace with the comparators, the Arbitrator awards the higher of the two proposed increases.

Award

The Salary schedule should reflect the following increases; the increases are to be fully retroactive.

2017 January 1	3%
2018 January 1	3%
2019 January 1	2.4%

ICMA (deferred compensation) contributions

Position of the City

Article 20.1 from the expired agreement provided in part that, "The total contribution to the ICMA deferred compensation

program will be 4%.” The City argues to continue this provision at 4%.

Position of the Union

The Union requests a 1% increase from 4% to 5%.

Analysis

Using the comparability data provided in Union exhibit 24, the Arbitrator concludes that an increase of 1% in deferred compensation is not justified. The Union’s strongest argument for the increase is the fact that the City has agreed to provide the 5% benefit to its police officers. So, why not the Firefighters? The answer to that question is that the Arbitrator was convinced by City arguments related to differences in the two labor agreements (Police and Fire) that justified the 1% difference. Parity between the two groups is generally best viewed on a whole contract bases not just a single item.

Award

The Parties shall maintain the provision at 4%; no change from the old agreement.

Appendix A -- Specialty Pay

Position of the City

Appendix A from the expired agreement contains the salary schedule. Additionally Appendix A provides:

Fire Fighters who qualify for Hazmat, Technical Rescue, SCBA Technician and Fire Investigator specialty pay, shall receive an additional 2.1% of top step Fire Fighter added to their salary.

The City argues to keep this language and the practice exactly as it is in the new agreement.

Position of the Union

The Union bargains for two significant changes; change the 2.1% to 2.6% and have a firefighter receive the 2.6% for each of the specialties for which he or she is qualified. Under the old agreement, a firefighter was entitled only to a single 2.1% increase regardless of how many specialties the firefighter might have.

Analysis

A review of the Parties arguments and the evidence does not, in this Arbitrator's view, support an increase in the percentage amount of specialty pay. The Arbitrator notes, however, that the existing practice of providing a set amount of specialty pay, regardless of the number of specialties acquired by a Firefighter, seems inconsistent with the value of those

specialties to the Department. The award rectifies this inconsistency by doubling the specialty pay if the Firefighter has two or more specialties.

Award

The Parties are directed to replace the specialty pay provision found in the old agreement with the following:

Specialty pay is provided to Fire Fighters who qualify for Hazmat, Technical Rescue, SCBA Technician and Fire Investigator. Specialty pay is added to the Fire Fighter's salary at 2.1% of top step Fire Fighter. Commencing March 1, 2018 Fire Fighters that qualify for two or more specialties will receive 4.2% of top step Fire Fighter.

Pay for Aerial Operator

Position of the Union

The specialty pay provision found in Appendix A provides for additional pay if the firefighter has one or more of four defined specialties. The Union requests to add a fifth specialty, the specialty of Aerial Operator. Compensation for this specialty would be the same as that provided for the other four specialties.

Position of the City

The City does not recognize aerial operator as a specialty and supports limiting specialties to the current list of four; no change to the language from the old agreement.

Analysis

The Union emphasizes that the City has had a qualifications program for aerial operators in place for many years and that this is a valuable skill set that not all firefighters possess. The Union further asserts that the "Aerial Operator (A/O) position has been an identified position within the department for several years" U Br 44).

The City sees the matter quite differently and notes that the aerial operator specialty "is a difficult issue to address as the position does not exist nor are there any accepted qualification levels or certifications..." (C Br 20). The City also emphasizes that the "Union does not have the right to create a position or specialty where one does not exist" (C Br 20).

The Arbitrator believes that the City over states the case when it contends that it cannot identify who would be included in this specialty; the City does seem to know who can operate the equipment and who cannot. However, the Arbitrator is convinced that there exists a basic difference between the general skills a Firefighter should develop as part of being a Firefighter and a skill set that genuinely involves a specialty; a distinct area of expertise. While the evidence is clear that not all Kennewick Firefighters have the training to be an aerial operator, the Arbitrator is not convinced that this is truly a

specialty. Thus the award does not add the specialty of Aerial Operator.

Award

The Parties should retain the four specialties found in the expired agreement.

Section 20.5 -- Paramedic Differential

Position of the Union

Section 20.5 in the expired agreement provides that:

Certified paramedics, authorized by the City, shall receive additional compensation, calculated as 10% of top step fire fighter salary. Such additional compensation shall be included as part of their base wage for fire fighter or captain.

The Union argues to retain this language but change the compensation from 10% to 12%.

Position of the City

The City argues to retain this language as is including the compensation rate of 10%.

Analysis

The argument of the Union is almost entirely based on a review of the comparators. Once again, however, when the approved list of seven comparators is used instead of the Union's list of 10, the case for an increase in the compensation

rate disappears. Of the seven comparators, one does not offer a paramedic differential (Yakima), one does provide a 12% differential (Spokane #9), one provides 15% (Bellingham) and the rest come in at 10% (U 26). Thus the norm for the comparators is 10% which is what the City is currently providing.

Award

The Parties are directed to retain the language as is from the old agreement including the compensation rate of 10%.

Section 20.6 - Captain Salaries

Position of the Union

Currently Captains receive upon promotion or hire a base wage 4% greater than top step Fire Fighter, 9% after one year and 14% after the second year. The Union proposes to change this progression to 17% greater than top step Fire Fighter at hire, 22% after one year; Union's proposal includes eliminating the third step increase.

Position of the City

The City argues to retain the three step Captain schedule at the existing rate.

Analysis

This analysis is entirely driven by the seven comparators. The Arbitrator applied the data found in Union exhibit 27, eliminating those jurisdictions not a part of the approved seven. The result showed that Captain's wages lag behind significantly at all three steps. The increase provided in the award does not totally close the gap but it makes a good start in that direction. The Arbitrator retained the three step schedule as he did not find a sound basis upon which to change it to a two-step schedule.

Award

The Parties are directed to use the following percentage figures for Captain salaries; increases are to be fully retroactively applied.

Hire: 107%, 1st Year: 112%, 2nd Year: 117%

Section 20.7 - Administrative Captain Salaries

Position of the Union

Currently Captains receive upon promotion or hire a base wage 18% greater than top step Fire Fighter, 21% after one year and 24% after the second year. The Union proposes to change this progression to 27% greater than top step Fire Fighter at

hire; Union's proposal includes eliminating the second and third step increase.

Position of the City

The City argues to retain the existing language for Section 20.7 including the three steps and the amount of pay step increases.

Analysis

The City does not provide a separate analysis or argument related to this specific position. Rather, it simply argues that current wages for Department officers are comparable. The Union provides comparability data that shows Administrative Captains lagging slightly behind the average for the comparables. The Arbitrator reworked the comparability data to include only the seven approved comparables. The results did not change the conclusion that Administrative Captains lag somewhat behind the average (U 27). The award addresses this matter by increasing each step by 3%.

The Arbitrator specifically notes that the Union seeks to alter the existing three step wage progression. The Union desires but a single wage for Administrative Captains. The Arbitrator is not convinced that the comparators support that change. More importantly, this change would alter the internal logic of the City's compensation program. The Arbitrator finds

no persuasive argument as to why that should occur and therefore the award retains the traditional three step progression.

Award

The Parties are directed to use the following percentage figures for Administrative Captain salaries; increases are to be fully retroactively applied.

Hire: 121%, 1st Year: 124%, 2nd Year: 127%

Section 20.9 - Battalion Chief Salaries

Position of the Union

Currently Battalion Chiefs receive base wages 25% greater than top step Fire Fighter the first year, 29% the second year and 32% the third year. The Union proposes to change this progression to 32% greater than top step Fire Fighter the first year, 35% the second year; Union's proposal includes eliminating the third step increase.

Position of the City

The City argues to retain the three step Battalion Chiefs schedule at the existing rate.

Analysis

This analysis is entirely driven by the seven comparators. The Arbitrator applied the data found in Union exhibit 27,

eliminating those jurisdictions not a part of the approved seven. The result showed that Battalion Chiefs' wages lag behind only at the first step. Thus, the award provides for a small increase at the first step. The Arbitrator retained the three step schedule as he did not find a sound basis upon which to change it to a two-step schedule.

Award

The Parties are directed to use the following percentage figures for Battalion Chiefs salaries; increases are to be fully retroactively applied.

Hire: 126%, 1st Year: 129%, 2nd Year: 132%

Section 20.10 - Battalion Chief Training Officer Salaries

Position of the Union

Currently this is an unfilled position. If filled, it is an administrative position which means that the employee works a 40 hour week instead of a shift. Section 20.10 from the expired agreement provides a formula by which to calculate the appropriate wage, when and if the position is filled. The formula is based on the three step progression for a Battalion Chief and adds back in holiday pay. The Union proposes to remove the formula and provide a single wage of 42% greater than top step Fire Fighter.

Position of the City

The City argues to retain the existing language for Section 20.10.

Analysis

The analysis begins by noting that only four of the comparables have this position. Also, the Union's request for 42% is not unreasonable and light of what the four comparables pay. However, as noted above, the award will not modify the existing three step progression for the various officer positions. Since this is a three year agreement and the position is unfilled, the award will leave Section 20.10 exactly as it is. Negotiations over a successor agreement can address any inequities in wages.

Award

The Parties are directed to retain Section 20.10 without changes.

Article 26 Firefighter Classification Program
Education and Longevity

Position of the City

Section 26.1 from the expired agreement provides the following matrix combining an education and longevity wage enhancement:

	<u>8 Years</u>	<u>13 Years</u>	<u>18 Years</u>	<u>23 Years</u>	<u>28 Years</u>
45 college credits	1.0%	2.0%	2.5%	3.0%	3.5%
90 college credits	2.0%	3.0%	4.0%	5.0%	6.0%
135 college credits	3.0%	4.0%	5.0%	6.0%	7.0%
180 college credits	4.0%	5.0%	6.0%	7.0%	8.0%

The City's position is to retain the above matrix without change.

Position of the Union

The Union requests that the matrix be enhanced by changing it to the following:

	<u>Hire</u>	<u>5 Years</u>	<u>10 Years</u>	<u>15 Years</u>	<u>20 Years</u>
45 college credits	1.0%	2.0%	2.5%	3.0%	3.5%
90 college credits	2.0%	3.0%	4.0%	5.0%	6.0%
135 college credits	3.0%	4.0%	5.0%	6.0%	7.0%
180 college credits	4.0%	5.0%	6.0%	7.0%	8.0%

Analysis

While the Arbitrator found the Union's arguments related to tightening up the matrix to have some merit, ultimately he reviewed Union exhibit 23 and notes that annual compensation for the Kennewick top step, 11th year with 90 credits Firefighter is slightly above the average for the comparators. So, even if the Local is "woefully behind" with regard to annual compensation provided by the matrix, there are other ways in which the members of Local must be exceeding the comparators in order to be positioned above average. This leads the Arbitrator to conclude that no change should be implemented to the matrix; it should be carried over in its existing form into the new agreement.

Award

The Parties are directed to retain the language as is from the old agreement; no change to the matrix. The award is fully retroactive.

Article 14 Temporary Assignment

Position of the City

The City argues that a change should be made in section 14.1 such that the procedures found therein are additionally subject to the completion of the Task Book.

Position of the Union

The Union's position is to retain the existing language in Section 14.1 without change.

Analysis

In its brief the City takes the position that:

There seems to be little to argue against in this new process and we are surprised that the Union is not in full support of the proposal. We are especially surprised given that bargaining unit members are who drafted the task book. (City Br 25)

The Union, in its brief, responds by stating:

Local 1296 has a number of concerns about the utilization of the task book as a means to identify those individuals who are allowed to upgrade to an officer position, because the following unresolved issues make the task book unusable for the upgrade of a firefighter to a captain or a battalion chief **at this time...** [emphasis added] (Union Br 47)

Bottom line to the Arbitrator is that the utilization of the task book as the basis for an upgrade to an officer position is considered by both Parties a good idea. The evidence however also indicates that the task book is not yet ripe for implementation. Thus, the Arbitrator is directing the Parties to place additional language in the agreement under Section 14.1 that simply calls on the Parties to continue their work towards being able to rely on the Task Book as part of the upgrade process.

Award

The Parties are directed to place the following language as an addition to the language in Section 14.1:

The Parties will continue in good faith their work on the Task Book with the intent of utilizing it as part of the requirements for a temporary assignment to an officer position. The Parties are committed to completing this process by January 1, 2019.

Article 15 Sick Leave

Position of the City

The current sick leave accrual system has employees with less than 1000 accrued hours of sick leave accrue at the rate of 24 hours per month while those with over 1000 hours accrue at the rate of 12 hours per month. The Employer requests that this be changed back to the old system which had all employees accrue at the rate of 12 hours per month. For 40 hour per week employees, the accrual rate should remain at 8 hours per month. All other parts of article 15 should remain as in the expired agreement.

Position of the Union

The Union bargains to have 40 hour per week employees accrue at 10 hours per month and to modify the benefit for 24 hour shift employees so that all of them accrue at 24 hours per month. Finally, the Union desires to modify section 15.8 such

that the conversion benefit is applied to the maximum accrual of 1664 hours.

Analysis

The Arbitrator's conclusion is that the changes that are directed in the award reflect a reasonable assessment of the comparators and a response to the specific arguments made by the Parties. Two of those arguments are worth noting. The first is the City's concern over the unintended consequence to the change in a prior contract to bifurcate the accrual rate (24 hours per month versus 12 hours per month). The City provides arguments and evidence that the bifurcation has led to employees maintaining an accrual of less than 1000 hours in order to keep receiving 24 hours a month. The City also indicated that it did not have a problem with the faster accrual for new employees but that the unintended consequence was having a serious impact on its overtime budget. The Arbitrator believes that he has provided an award that fixes the unintended consequence while addressing the need of new employees to rapidly accumulate sufficient sick time to protect them against an unusual and lengthy illness or off work injury.

The second issue of note is the Union's request to allow employees to cash out, when leaving employment, the maximum accrual of 1664 hours. The existing language provides that

while employees can accrue to 1664, they can only cash out 1008. The City objects because of the additional cost of this proposal. The Arbitrator finds the City's objection, however, not particularly persuasive in light of its overtime budget problem. A cash out provision in a labor contract related to sick leave is typically there as an incentive for employees to avoid taking sick leave. Under the current system, that incentive disappears once the employee has reached 1008 hours. Thus, while the City may be right that the larger cash out at the end of employment does create additional financial liability, that liability ought to be offset by reduced overtime compensation when the employee is at work accumulating the unused sick leave hours.

Award

The Parties are directed to implement the following changes to Article 15 - Sick leave:

Maintain 8 hours accrual per month for 40 hour per week employees.

24 hour shift employees are to accrue at the rate of 24 hours per month for the first 3 years of employment and thereafter at the rate of 12 hours per month. The faster conversion for new employees is not intended to override the specific provisions found in Section 15.9.

Conversion right found in Section 15.8 should be changed to 1664 hours.

These changes should take effect the first full month after the date of this award.

Article 16 Vacation

Position of the Union

The Union proposes to change Section 16.4 by increasing the accrual limit and to add a new Section 16.7. Specifically the Union requests the following:

Section 16.4 No vacation shall be taken during the first six (6) months of probationary employment. No accumulation of accrued vacation credit in excess of four hundred (400) hours will be permitted.

Section 16.7 At the conclusion of each calendar year, the employee can sell back accrued vacation hours in excess of 300 hours but not greater than 400 hours. The employee can only sell back the number of hours that will bring the total number of accrued hours back down to 300 hours. Sell back will be at the employee's hourly rate (including any applicable differential, specialty and/or classification pay).

Position of the City

The City argues to retain the vacation benefit as is with an accrual limit of 300 hours and no sell back provision.

Analysis

A review of the comparators indicates that the norm is not to have a vacation sell back provision. The purpose of vacation time is to take the vacation. It benefits the employer and it benefits the employee. A sell back provision is an important and necessary part of a collective bargaining agreement were operating necessities make it almost impossible for employees to utilize the vacation benefit. The Union provided no evidence,

however, that such was the case for the City of Kennewick. No evidence was provided that effort by employees to take vacation time was being routinely nixed by the City forcing a loss of unused vacation time. Also, a sell back provision can have a dark side of incentivizing employees to avoid taking vacation.

As to increasing the limit, no evidence was provided that the current limit of 300 hours was insufficient to meet the needs of employees. As a result the Arbitrator will direct the Parties to retain the same vacation benefit that was found in the expired agreement without any changes.

Award

The Parties are directed to retain the vacation benefit without changes.

This interest arbitration award is respectfully submitted on the 6th day of February, 2018 by,

Timothy D. W. Williams
Arbitrator