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IN THE MATTER OF
INTEREST ARBITRATION

BETWEEN

THE INTERNATIONAL ASSOCIATION
OF FIREFIGHTERS, LOCAL 448,

Union,

and

CITY OF HELENA, MONTANA,

City.

ARBITRATOR'S OPINION

AND AWARD

2002-2004

COLLECTIVE BARGAINING

AGREEMENT

HEARING SITE:

Helena, Montana

HEARING DATE:

July 15, 2003

POST-HEARING BRIEFS DUE:

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REPRESENTING THE UNION:

Karl J. Englund
Attorney at Law
401 North Washington Street
Post Office Box 8358
Missoula, Montana 59807

REPRESENTING THE CITY:

David L. Nielsen
City Attorney
316 North Park Avenue
Helena, Montana 59623

INTEREST ARBITRATOR:

Gary L. Axon
P.O. Box 190
Ashland, OR 97520
(541) 488-1573

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I. INTRODUCTION

The International Association of Firefighters, Local 448 (Union) and the City of Helena, Montana (City) are signatories to a Collective Bargaining Agreement effective July 1, 1998 through June 30, 2002. Un. Ex. B. The 1998-2002 agreement continued in effect during the negotiations for a successor agreement. The parties were unable to resolve all of the issues in dispute through negotiation and mediation. In a letter dated March 6, 2003, the parties notified this Arbitrator he had been selected to resolve an impasse on wages, benefits, and working conditions. The dispute was to be resolved pursuant to MCA, Title 39, Chapter 34. The case was scheduled for hearing before this Arbitrator for a final and binding resolution.

The City of Helena is located in Lewis and Clark County. The City has a population of approximately 26,000 residents, with another 20,000 in the surrounding area. Helena is the county seat of Lewis and Clark County and the state capitol of Montana.

Thirty-two bargaining unit members working out of two stations provide fire and rescue services to the citizens of Helena. The Fire Chief, along with three assistants, oversee the operation of the fire department. Fire and rescue services are delivered by what are referred to as combat firefighters. Two fire prevention bureau employees work 40 hours per week, 2,080 hours per year. Combat firefighters work 24 hours on duty, followed by 48 hours off duty, with every sixth workday off as an unpaid Kelly

day. The fire department responded to a total of 2,500 calls in calendar year 2002.

On April 6, 2002, the Union notified the City in writing of its desire to open negotiations and begin the process of bargaining for a successor contract. On May 28, 2002, the parties met for the first time and began the process. During the negotiation period, the parties met for a total of 14 times. On January 16, 2003, they negotiated through a state mediator. At the end of the negotiation session, the mediator confirmed the parties were at impasse.

At the arbitration hearing, seven issues were presented to the Arbitrator. The seven issues are as follows:

1. Wages
2. Cost of Living Adjustment
3. Longevity
4. Additional Pay
5. Clothing
6. Residency
7. Alternative Duty

Issue 7, Alternative Duty, was submitted by the Union over the City's objection. The City claimed the Union's alternative duty proposal was a permissive subject for bargaining and the Arbitrator had no jurisdiction to decide Issue 7. Without waiving its jurisdictional objection, the City did respond to the proposal. The Arbitrator will address the City's objection in the discussion on Issue 7.

Section 39-34-103(4), MCA, created an interest arbitration procedure for firefighters commonly referred to as

final offer or last and best offer arbitration. Pursuant to this system, the Interest Arbitrator must choose the final offer of one party to the dispute. The Interest Arbitrator has no power to modify or fine-tune one or both sides' final offers. For better or worse, the Arbitrator must award the proposal submitted by one of the parties.

While Section 39-34-103(4), MCA, makes it clear the process is final offer interest arbitration, the statute does not expressly define whether the Interest Arbitrator must choose the final offer package of one party or to select the final offer on an issue-by-issue basis. The parties stipulated this Interest Arbitrator should decide the case on an issue-by-issue basis. At the commencement of the arbitration hearing, the pre-hearing conference between the Arbitrator and counsel, and opening statements, revealed a sharp difference of opinion between the parties over methodology, calculations, and use of the comparators. However, the parties did stipulate to a list of six Montana cities with which to compare Helena for the purpose of determining wages, benefits, and working conditions for Helena firefighters. The parties agree that the appropriate comparable jurisdictions are the other Montana first class cities:

1. Billings
2. Bozeman
3. Butte
4. Great Falls
5. Kalispell
6. Missoula

Pursuant to the stipulation of the parties, the Arbitrator will utilize the six agreed-on cities as a guide to developing the Award in this case.

The hearing in this case required one day for each side to present their evidence and testimony. The hearing was tape-recorded by the Arbitrator as an extension of his personal note-taking and the tapes were not made available to the parties. Testimony of the witnesses was received under oath. At the hearing, the parties were given the full opportunity to present written evidence, oral testimony, and argument regarding the issues in dispute. Both the Union and the City provided the Arbitrator with substantial written documentation in support of their respective positions on the seven issues.

Moreover, the parties submitted comprehensive and detailed post-hearing briefs in further support of their positions taken at arbitration. The approach of the Arbitrator in writing this Award will be to summarize the major, most persuasive evidence and arguments presented by the parties on the seven issues. After the introduction of the issue and the position of the parties, I will state the basic findings and rationale which caused your Arbitrator to make an Award on each issue.

This Arbitrator has carefully reviewed and evaluated all of the evidence and argument submitted pursuant to the criteria established by the statute. Since the record in this case is so comprehensive, it would be impractical for the Arbitrator in the discussion and Award to restate and refer to each and every piece

of evidence, testimony, and argument presented. However, when formulating this Award, the Arbitrator did give careful consideration to all of the evidence and argument placed into the record by the parties.

The statutory criteria and powers of the Arbitrator are set forth in Section 39-34-103, MCA, which state:

39-34-103. Powers and duties of an arbitrator for firefighters and public employers. (1) The arbitrator shall establish dates and a place for hearings and may subpoena witnesses and require the submission of evidence necessary to resolve the impasse.

(2) Prior to making a determination on any issue relating to the impasse, the arbitrator may refer the issues back to the parties for further negotiation.

(3) At the conclusion of the hearings, the arbitrator shall require the parties to submit their respective final position on matters in dispute.

(4) The arbitrator shall make a just and reasonable determination of which final position on matters in dispute will be adopted within 30 days of the commencement of the arbitration proceedings. The arbitrator shall notify the board of personnel appeals and the parties, in writing, of his determination.

(5) In arriving at a determination, the arbitrator shall consider any relevant circumstances, including:

(a) comparison of hours, wages, and conditions of employment of the employees involved with employees performing similar services and with other services generally;

(b) the interests and welfare of the public and the financial ability of the public employer to pay;

(c) appropriate cost-of-living indices;

(d) any other factors traditionally considered in the determination of hours, wages, and conditions of employment.

(6) The determination of the arbitrator is final and binding and is not subject to the approval of any governing body.

Un. Ex. A.

Because of the large amount of written documentation, oral testimony and extensive post-hearing briefs, the parties waived the 30-day period an arbitrator would normally have to publish an Award under the statute.

ISSUE 1 - WAGES

A. Introduction

Both sides agreed wages for members of this bargaining unit are low when compared to the agreed-on six Montana first class cities. The crux of this dispute is how to reach the appropriate salary level. The City proposed a three-year salary schedule to bring firefighters to what it termed the "market rate" or "market median." See Attachment A.

At the arbitration hearing, the City presented an alternative proposal. Pursuant to the alternative proposal, the City would agree to implement its first and second year proposals. The third year wage rate would be subject to a reopener.

The Union offered a two-year agreement. See Attachment B. It was a stated goal of the Union to move Helena firefighters' compensation to rank "between three and four" of pay for Montana's first class cities. The cost of living part of the Union's salary proposal at the bottom of the page is the topic of a separate issue.

B. The Union

The Union's proposal is based on the theory that Helena's firefighter pay should rank between third and fourth in ranking of pay in Montana's first class cities. According to the Union, its two-year proposal is designed to get Helena's pay third or fourth in the rankings of the six comparator jurisdictions.

The Union argues its proposal accomplishes the stated goal. Under the Union's proposal, by fiscal year 2004, in all of the benchmarked positions, Helena firefighters will be ranked third or fourth compared to their counterparts in Montana. The Union calculated the impact of the salary proposal for all of the ranks. Un. Ex. L. The Union also calculated what the City's proposal would accomplish by way of rankings in the comparator jurisdictions.

The benchmark position of top firefighter was calculated by the Union to be as follows:

Top Firefighter -- Hourly Base Wages
IAFF Local 448 Proposal

<u>City</u>	<u>FY 2002</u>	<u>FY 2003</u>	<u>FY 2004</u>	<u>Rank*</u>
Billings	16.86	17.89	18.83	Tie 1st/1
Bozeman**	13.97	14.39	14.97	6/7
Butte	14.63	15.07	15.52	3/5
Great Falls	15.88	16.65	17.15	2/3
Helena	14.58	15.51	16.50	4/4
Kalispell	14.46	14.80	15.02	5/6
Missoula	16.86	17.20	17.68	Tie 1st/2

*In FY 2002/FY 2004 respectively.

**As offered by the cities' negotiating teams. Bozeman was in fact-finding in June 2003 and Kalispell is scheduled for arbitration in October 2003.

Un. Ex. L.

The Union also made similar comparisons for the other ranks in the wage scale. The results of those calculations placed the Union in a middle range of the rankings when compared to the other six jurisdictions.

Turning to the City's proposal, the Union asserts the three-year salary proposal does not get Helena wages to the median. When one considers the City's comparative analysis inflates its wage proposal and inaccurately states the wages paid in other communities, the Arbitrator should ignore the City's calculations. The City's comparative analysis inflates its wage proposal by including special certification pay for employees who have the base Emergency Medical Technician certification in the calculation of base pay starting in fiscal year 2004. While the parties agreed at the table to include EMT-B pay in base pay starting in fiscal year 2004, one must compare base pay to base pay in the other cities. The Union predicated all of its comparisons on base wage rates. Un. Ex. L. The City mistakenly compared Helena's base pay plus EMT-B pay to the base pay of other cities. City Ex. 18. The Union submits this is not a fair comparison.

The Union next argues the City's calculation of wages paid in the comparable cities is highly suspect. The Union's comparative analysis used data from current collective bargaining contracts. Billings, Bozeman, and Kalispell were all in bargaining during the same period as the parties to this case. When the other cities reached agreement, the Union updated its data to reflect contracts which were settled, or presented the city's last offer in the wage negotiations from the other jurisdictions.

The City's numbers were derived from phone calls from unidentified Helena personnel officers to unidentified persons in the comparator jurisdictions. The City's numbers were not and

cannot be verified. They were not confirmed by reference to collective bargaining agreements. Further, the City's data does not take into account that Billings settled its contract. The City's numbers are constant in that they include only information that was gathered in October 2002. The Union submits the City's proposal to be at "market median" is in reality based on a 2002 "median." Adoption of the City's proposal will mean Helena firefighters will reach the 2002 market "median" in 2004.

A significant problem with the City's last proposal is that it is incomplete. The parties have traditionally stated wages as a monthly salary for every rank in the department. The Union's final offer states wages as monthly salary and provides a salary for every rank in the department. Un. Ex. C, p. 1. The City's final offer proposes monthly salaries for positions that are currently filled, but does not provide a wage for four positions that are currently not filled in the fire department. At the hearing, the City asserted that wages for these positions would be the same as the wages for comparable fire suppression ranks. City Exhibit 18, Exhibit B, does not say what the City asserted at the arbitration hearing.

At the arbitration hearing, the City presented comparisons to some unidentified group of "other City employees." City Ex. 10. None of these issues were raised at the bargaining table and should be rejected by the Arbitrator as an attempt by the City to play a game of "gotcha." Game playing is entirely inconsistent with the fundamental obligation to bargain in good

faith, and thereafter attempt to bring analysis and argument which was never shared with the Union.

Regarding the City's testimony about ability to pay, the Union maintains it was a particularly weak position. City witnesses boldly asserted Helena does not have the ability to pay if the Arbitrator accepts the Union's proposal. While never presented or discussed during negotiations, the City calculated the Union's proposal would cost \$151,761.78 more than the City's offer over two years. City Ex. 6. The City has not reached its maximum taxing authority. Inability to pay is not established by the City's adoption of an annual general fund budget of \$11.4 million and an annual fire department budget of \$2.6 million. Budget priorities might have to be shifted, but budget amounts are not proof of inability to pay. The Union submits the additional cost, as calculated by the City, of about \$152,000 over two years, averages to \$76,000 per year, just less than 3% of the fire department's budget and less than 0.66% of the City's general fund budget.

Based on all of the above-stated arguments, the Arbitrator should award the Union's wage proposal.

C. The City

The City begins by claiming it has a policy of fairly compensating all of its employees at rates comparable to other Montana cities. According to the City, that policy was equally applied here when developing its wage proposal. The general methodology used in the present case was the same the City used in

other market studies for determining market rate of pay for all classes of City employees.

The City explained in the post-hearing brief its methodology as follows:

From the testimony of Keith Simendinger, chief negotiator for Association, the parties agreed during negotiations that wages were below a market rate based on wages in six principle cities in Montana - Billings, Bozeman, Butte, Kalispell, Great Falls, and Missoula. It was agreed that these six cities would be used to determine a market rate. It was further agreed that the market rate, on an hourly basis, would be the median between the hourly wages paid by the three highest cities and the three lowest. In other words, the six cities would be ranked by salary in each job classification, and after eliminating the top two and the bottom two in the ranking, the market is the number between the cities ranking third and fourth. The City employed this agreed-upon method and took a numerical average of the hourly wages of the third and fourth ranked cities. This resulted in the numbers shown on the line entitled "Median" on City's Exhibit 3. This median number was calculated by the City pursuant to the agreed-upon methodology, which was consistent with the methodology the City used in pay studies for all of its employees.

Brief, pp. 2, 3.

The City attacked the Union's calculations and methodology because no Union member could adequately explain how the proposal was developed, especially in relation to market rate. The Union further confused the issue by introducing analysis done in Union Exhibit L. This analysis was prepared two weeks before the hearing and never presented to the City during negotiations. The hourly rates in the six cities used in the analysis were

obtained from Union contracts of those cities. In comparing the Union's hourly wage rate offer with its market rate analysis, the conclusion is clear that the Union's proposed hourly rate has no logical or mathematical basis which is consistent with its agreement as to general methodology.

To adopt the Union's proposed wage rate in blind faith, is contrary to the agreed-on methodology reached during bargaining. The hourly wage rate proposed by the Union appears to be arbitrary and not remotely linked to any methodology. The City submits this is a poor basis with which to award the Union's wage offer in binding arbitration.

The City agreed, in good faith, to use the market rate based on the median shown on City Exhibit 3. The evidence clearly shows the City adhered to its agreement to use the median of wages from the six cities and based its offer on hourly wages on a three-year phase-in of that market rate. The reason the City proposes a three-year contract is solely for the purpose of phasing in the hourly wages to a market rate over a time the City can reasonably afford.

The City next contends it does not have unlimited resources for a two-year phase-in. The fire department budget is funded 95.34% from the general fund, which is property tax generated. Legally imposed caps on property taxation by local government prevents the City from levying sufficient money for a two-year phase-in, especially since the current City general fund budget is \$84,000 short for fiscal year 2003. To accept the

Union's wage proposal would add an additional \$66,238.96 to the City's budgetary imbalance.

It is also the position of the City that to determine a market rate limited to hourly wage rates using the six comparators does not truly show comparison of total wage packages between the six cities. This is because there are four variables in determining the total wage package for any city: hourly rate, number of hours per year, longevity, and additional EMT pay. To find the true common denominator for the comparison of the six cities, all these variables must be included. A total compensation analysis includes the package of all economic benefits paid to employees as a whole. As seen in City Exhibit 2, there is a substantial variation in the number of work hours per year between the six cities. City Ex. 4. The exhibit also shows a better comparison of Helena's standings than simply using an hourly wage rate without regard to the number of working hours per year.

The Union's calculations are also flawed because members receive \$75 per month for EMT-B certification which the parties have agreed to roll this additional computation into the fiscal year 2003 wage package. The Union has ignored this benefit which adds another \$0.37 per hour for fire suppression firefighters and \$0.43 per hour for other bargaining unit members. The Union has neglected to include this in its comparison studies. City Exhibit 17 reflects many other cities either do not pay this additional compensation or have rolled it into the base salary. Therefore, the City submits the wages from the other comparators require the

EMT-B compensation to be added into Helena's wage rate, as well as adjusting for the differential in number of hours worked per year.

The real sleeper in the Union's request is a cost of living adjustment for fiscal year 2003, in addition to the market phase-in. This sleeper increases the Union's two proposals by 1.6% for fiscal year 2003. The Union's wage rate offer does not reflect the hourly amount being sought by the Union in this round of bargaining. See Exhibit A attached to City's brief. This evidence further demonstrates the fallibility of the Union's proposal. The true impact of including the EMT-B in the base, plus adding the COLA desired by the Union is shown in Column 7 of Exhibit A attached to the brief.

The City submits the total compensation package is shown in detail on City Exhibits 5, 6, and 7. When the Arbitrator reviews these exhibits, he will discover that the City's proposal is reasonable and in accordance with the statutory criteria. The Arbitrator should award the City's proposal on wages.

D. Discussion and Findings

The Arbitrator is charged by statute "to make a just and reasonable determination of which final position on matters in dispute will be adopted." The parties have agreed the Arbitrator shall make a determination of each of the seven issues separately, including wages. Even though there are flaws in both parties' proposals and the evidence which both parties allege justified adoption of their proposals, your Arbitrator is duty bound to select the final wage proposal of one of the parties. In deciding

the issues, the last best offer procedure is the only alternative for this Interest Arbitrator.

Pursuant to the last best offer system, the burden on the City and the Union is to demonstrate their respective offer best conforms to the statutory criteria. Final offer interest arbitration is a high risk procedure because the Interest Arbitrator may be forced to select the lesser of two extreme proposals which might be based on incorrect data and calculations. The Award of the Interest Arbitrator must be grounded on the record developed by the parties at the arbitration hearing, and not by independent research of the Arbitrator.

The Interest Arbitrator finds after review of the evidence and argument as applied to the statutory criteria--the Union's wage proposal as set forth in Attachment B to this Award shall be implemented. The adoption of the Union's proposal will place bargaining unit members in the middle range of the six comparator jurisdictions by the second year of the contract.

Comparability

The starting point for review of this factor is the stipulation by the parties to six Montana jurisdictions with which to compare Helena for the purpose of establishing wages, benefits, and working conditions.

The Interest Arbitrator is bound by the stipulation of the parties to use the six cities agreed-upon as the comparator group for this interest arbitration. In this case, the Union's methodology of using the top step base rate paid to the members of

this bargaining unit when performing comparison studies is the preferred method to be used by this Interest Arbitrator in formulating the Award. While individual premium pay should not be ignored, including premium pay with the base pay improperly skews an accurate comparison of wages. The use of premiums in one jurisdiction and not including them in another jurisdiction to perform the calculations is not an appropriate way to compare wages.

The first matter to be addressed is the City's claim that during negotiations the parties agreed to a process to determine "market rate." See page 12 of this Award for the City's description of the market rate procedure. The Union denied there was any such agreement. The Arbitrator finds the City failed to prove the parties entered into any agreement of the sort described on page 12 of this Award.

The Arbitrator finds the City's calculations and wage comparison data should not be credited for five basic reasons. First, the City's proclaimed approach based on market rate or market median method to establish comparisons and to determine a wage rate was not shown to be an accepted theory to determine wages for Helena firefighters or for any other group of employees.

Second, the City's calculation of the rankings was seriously flawed because it froze the comparator data as of October 2002. One of the advantages of delay in reaching agreement for a new collective bargaining agreement is the parties have the benefit of knowing what the comparator jurisdictions will pay as

negotiations ripen into new collective bargaining agreements. Failure to have current data from the comparators ignores an essential element necessary for making accurate calculations and rankings.

Third, the City's last offer set forth in Attachment A to this Award is confusing and cluttered. The three-year proposal deviates from the wage structure found in the current salary matrix. The final offer on salary lumps wages, longevity, EMT pay, and COLAs in a manner that is sure to generate major conflict when the schedule is applied to the bargaining unit members.

Fourth, the data-gathering technique of telephone calls to unidentified persons employed in the comparator jurisdictions is not a procedure which guarantees reliability and accuracy of the numbers. While telephone and written surveys can be an important part of the data-gathering process, the primary source of accurate information is the collective bargaining agreements from the comparator cities.

Fifth, while the City is correct a total compensation analysis may yield a better result, the calculations must be accurate. A total compensation analysis is a complex process which depends on accurate data. Given the Interest Arbitrator's finding on the City's source data, I cannot accept the total compensation analysis performed by the City as reliable.

The statutory factors identified in 39-34-103(5), MCA, are criteria which cannot be applied with surgical precision. The weight to be given each of the criteria is not defined. Further,

it is important to note the Interest Arbitrator is responsible for applying the evidence to the statutory factors, even if the evidence submitted by the parties is incomplete, misleading, selective, or manipulative. Recognizing these problems, it still remains the obligation of the Interest Arbitrator to apply the record evidence to the criteria set forth in the statute in order to "make a just and reasonable determination of which final position on matters in dispute will be adopted . . ." In assessing the evidence and argument on the wage issue, the Arbitrator holds the Union's data, while not perfect, provides a reasonable and credible support for a reasonable and just award.

For purposes of comparison, the Arbitrator will use the Union's analysis of the hourly base wage for the benchmark position of top paid firefighters. A comparison of the other studies performed by the Union for job classifications in the bargaining unit show a similar result. The Union's top paid firefighters' schedule revealed as follows:

City	Top Firefighter -- Hourly Base Wages IAFF Local 448 Proposal			Rank*
	FY 2002	FY 2003	FY 2004	
Billings	16.86	17.89	18.83	Tie 1st/1
Bozeman**	13.97	14.39	14.97	6/7
Butte	14.63	15.07	15.52	3/5
Great Falls	15.88	16.65	17.15	2/2
Helena	14.58	15.51	16.50	4/4
Kalispell	14.46	14.80	15.02	5/6
Missoula	16.86	17.20	17.68	Tie 1st/2

*In FY 2002/FY 2004 respectively.

**As offered by the cities' negotiating teams. Bozeman was in fact-finding in June 2003 and Kalispell is scheduled for arbitration in October 2003.

Un. Ex. L.

The average pay among the six jurisdictions for the top paid firefighter was \$15.45 per hour. Helena was ranked 5 out of 7 and \$0.86 behind the average. Further, a top paid Helena firefighter was \$2.28 per hour behind the top paid firefighters in Billings and Missoula for 2002.

Adoption of the Union's proposal for 2002-2003 will set the top paid base wage at \$15.51 per hour, or \$0.49 below the average. The base wage will be \$2.38 per hour behind Billings and \$1.69 per hour below Missoula. Helena's top paid firefighters will move up to the number 4 position in the salary rankings in the seven cities.

Turning to the 2003-2004 rankings, a top paid firefighter in Helena will be compensated at the rate of \$16.50 per hour. The average for the six cities for 2003-2004 will be \$16.53 per hour. Helena will be right at the average and hold its fourth place ranking. The gap between Billings and Helena will be \$2.33 per hour, and Missoula firefighters will be paid \$1.18 per hour more than the top paid firefighters in Helena.

The Award of this Arbitrator over the two-year period will not push the wage schedule of Helena firefighters into the upper levels of compensation paid to their counterparts in the six comparator cities. The pay schedule awarded will place Helena firefighters firmly within the middle range of the six comparator cities. This is a goal both parties asserted was reachable and appropriate. The wage schedule is not out of line with the six

jurisdictions agreed to by the parties for the purpose of assisting in establishing wage comparability.

Accordingly, the Interest Arbitrator concludes the award of the Union's proposal establishes a salary schedule that is within the range of reasonableness when compared with the other six jurisdictions adopted as a primary point of reference with which to set Helena firefighter wages.

The Interest and Welfare of the Public and
Financial Ability of the Public Employer to Pay

The interest and welfare of the public is not served by a salary and benefit package for Helena firefighters that is substandard. Both parties agree wages for Helena firefighters are low and need to be improved. Each side, in their own way, proposes to move wage rates for Helena firefighters to the middle range within the ranking of the six comparators.

The City did not present a true inability to pay defense. Instead, the City argued the Union's proposal was in conflict with fiscal and budgetary actions being taken by the City to protect the financial resources and the level of services to be provided. The Arbitrator has awarded several of the City's proposals in other areas of this decision which will reduce the overall cost of the award on wages.

Given the Arbitrator's selection of the City's position on other issues, the award of the Union's wage proposal is within the financial ability of the City to pay. The City costed the difference between the parties' proposals at \$152,000 over the two-

year contract period. City Ex. 6. The additional cost to the City will be less because of the award of the Arbitrator in such issues as cost of living, clothing, EMT pay, longevity, and additional pay.

Appropriate Cost of Living Indices

With the exception of the Union's evidence on the rising housing costs in the Helena area, neither party offered any credible evidence from the traditional cost of living indices used to measure increases in the cost of living for Helena firefighters. Therefore, the Arbitrator is unable to utilize this statutory factor when formulating the Award.

Other Factors

Neither party presented any evidence directed at this criteria which caused the Arbitrator to change the Award. Thus, the other factor guideline was given no weight in the development of the Award.

The Arbitrator is specifically not awarding the Union's cost of living proposal that is found at the bottom of Attachment B. The cost of living dispute will be addressed in Issue 2. In sum, the selection of the Union's last offer by the Arbitrator will establish a salary schedule that is just and reasonable within the context of the statutory criteria. Further, the wage schedule is not excessive or out of line with the stipulated comparator groups or with other City employees.

AWARD

The Arbitrator awards the Union's final offer as set forth in Attachment B of this Award. The cost of living part of the Union's proposal will be decided in Issue 2, Cost of Living Adjustment.

ISSUE 2 - COST OF LIVING ADJUSTMENT

A. Introduction

The COLA issue is a subpart of the wage dispute. However, the parties' stipulated at the hearing the dispute over the COLA formula to be implemented would be treated as a separate issue. Section 12 of the 1998-2002 contract contains a COLA provision which states:

FY 2000 through FY 2002 salaries will be adjusted by the greater of 1) the CPI-U as of December 31 of the prior year, or 2) the Cost of Living Adjustment applied to the matrix for all non-union City employees, whichever is greater.

The Union revised the COLA for the successor agreement to read:

FY 2003 and FY 2004 salaries will be adjusted by the greater of 1) the CPI-U as of December 31 of the prior year, or 2) the Cost of Living adjustment applied to the matrix for all non-Union City employees.

The City offered no COLA adjustment for the contract year beginning July 1, 2002, but would offer a COLA adjustment beginning July 1, 2003 and July 1, 2004 as follows:

Beginning July 1, 2003 and July 1, 2004, these rates will be increased by the COLA approved by the City Commission for all general matrix employees.

B. The City

The City argued it would be improper to provide a COLA on the first year of the contract when a salary award has already been implemented. According to the City, COLA adjustments are used as annual adjustments to keep wages at a market level. COLA adjustments would not be necessary until the second year since that would be the adjustment to retain market-based wages at a market level. The City submits the stacking of COLAs for each year is an aberration and not a good faith extension of the agreement.

The City's proposal should be awarded because it puts the Union on par with other City employees and is internally fair and consistent with what is provided for other City employees.

C. The Union

The Union argues it is offering current contract language while the City is offering a change that will leave the COLA at the complete discretion of the City. According to the Union, the City has not met the burden to show that there is a need to take the COLA away or to revise it in the manner the City has proposed. Thus, the Interest Arbitrator should reject the City's proposal to change the language of the COLA.

D. Discussion and Findings

The Arbitrator has awarded the Union's proposal on the salary issue which will yield generous increases for the members of this bargaining unit over the two-year contract period. The Arbitrator holds implementation of the Union's wage proposal is a

compelling reason for adoption of the City's proposed language on the COLA for the second year of the two-year agreement. While it is true the proposal does give the City Commission greater control over the COLA, the City is obligated under its proposal to provide any COLA that is provided for all general matrix employees. Therefore, the Arbitrator will award the City's cost of living proposal effective July 1, 2003.

AWARD

The City's Cost of Living proposal for the second year of the two-year contract shall be adopted to read:

Beginning July 1, 2003, these rates will be increased by the COLA approved by the City Commission for all general matrix employees.

ISSUE 3 - LONGEVITY

A. Introduction

Section 26 establishes a system of longevity pay as follows:

SECTION 26 - LONGEVITY

Effective July 1, 1998, all members of the bargaining unit will receive \$9.63 per month for each year of service. They will also receive a longevity increase on their anniversary date as long as they are with the Helena Fire Department. (Members of the department now receiving longevity for other City service shall continue to receive that longevity.)

Un. Ex. B, p. 29.

The Union offered to increase the longevity compensation to \$10.21 per month effective July 1, 2002, and then to increase the longevity premium to \$10.98 per month effective July 1, 2003.

The City presented an offer to increase the longevity compensation over a three-year period. If awarded, the City's proposal would raise the longevity compensation to \$9.92 per month effective July 1, 2002, \$10.21 per month effective July 1, 2003, and \$10.50 per month effective July 1, 2004.

B. The Union

The Union argued its evidence was unchallenged that the average longevity payment in the comparators is \$11.09 per month per year of service, and the mid-point of the range of the other cities is \$11.50. While neither the Union, nor the City proposal advances Helena to the average of the mid-point, the Union's

proposal would result in Helena being ranked fourth in the comparator group and moving closer to the average and to the mid-point. The Union's proposal accomplishes what both the City and the Union want to accomplish, except the Union would do it over a two-year period.

C. The City

The City points out there is no disagreement that longevity pay should be increased. The disagreement is how much and over what period of time. The City views its offer as very generous over the three-year term of the contract it proposes to put in place.

The City asserts that the purpose of longevity pay is to encourage employees to maintain employment with the City. The wage package provided by the City is attractive enough that the turnover rate at the fire department is nearly zero. Employees remain with the fire department for their entire career and progress through the ranks during their employment as a firefighter. The City submits the longevity pay offered to the Union is sufficient to meet the goal of employee retention and is a better benefit than is enjoyed by other City employees.

D. Discussion and Findings

The purpose of longevity pay is to provide a financial incentive for firefighters to remain employed with the City over the long term. The evidence is uncontradicted that firefighters do not voluntarily leave the Helena Fire Department. Firefighter

turnover in this bargaining unit is practically non-existent. While the City's proposal will provide incentive pay which is less than the average of the comparators, the incentive pay offered by the City is reasonable and competitive. Nothing in this record compels a conclusion the incentive pay for firefighters is substandard. When the lack of turnover in the fire department is coupled with the longevity pay increase being offered by the City, the Arbitrator concludes the City's offer is just and reasonable. Since the Arbitrator has determined to award the two-year contract proposed by the Union, the Arbitrator will order implementation of the first two years of the City's proposal to match the contract term.

AWARD

The Arbitrator awards the City's proposed language be implemented for the first two years of the Collective Bargaining Agreement.

SECTION 26 - LONGEVITY

Effective July 1, 2002, all members of the bargaining unit will receive \$9.92 per month for each year of service. They will also receive a longevity increase on their anniversary date as long as they are with the Helena Fire Department. Beginning July 1, 2003, the rate will increase to \$10.21 per month. (Members of the department now receiving longevity for other City service shall continue to receive that longevity.)

✓
ISSUE 4 - ADDITIONAL PAY

A. Introduction

This issue involved two disputes over the additional pay to be provided for EMT-certification. The first issue concerned a payment of \$75 per month for firefighters who hold the EMT-B (Basic) certification. At the hearing, both parties agreed the \$75 per month payment will be rolled into the base pay of firefighters beginning July 1, 2003. Both parties presented similar language and agreed to withdraw this issue from the Arbitrator with the commitment to work out the minor language differences.

The second area of disagreement involved the bargaining unit members who hold EMT-I (Intermediate) certification. Effective July 1, 1997, the parties agreed to pay an additional \$25 per month for bargaining unit members who held the EMT-I certification.

The Union sought in this round of negotiation to increase the EMT-I payment to \$56 per month effective July 1, 2002. The City countered with an offer to increase the additional compensation for EMT-I certification to \$45 per month. The only issue in dispute is whether the EMT-I payment should be \$56 per month or \$45 per month for each bargaining unit member who holds this certification.

B. The Union

The Union maintains its proposal is designed to get Helena to the state average. Union Exhibit J shows that of the

three cities who provide EMT-I pay, the average amount is \$56. Since both sides agree the current \$25 per month payment for firefighters is low, the Arbitrator should order implementation of the Union's proposal.

C. The City

The City begins by pointing out bargaining unit members can qualify for EMT-I certification while on duty and with the training being paid for by the City. Certification costs association members nothing.

The City faults Union Exhibit J because it compares the EMT-I pay to other cities. What Union Exhibit J does not explain is that in the other cities, the EMT-I pay is added to the EMT-B pay. In Helena, the EMT-B pay is \$75 per month. This means an EMT-I in Helena receives an additional \$100 per month. Under the City's proposal, firefighters would receive the EMT-B certification pay of \$75 per month plus the \$45 per month for EMT-I or a total of \$120 per month. Further, Union Exhibit J claims Kalispell pays \$93 per month for EMT-I certification. The fact is all firefighters in Kalispell are required to be EMT-B² qualified and that amount is included in the base pay at the rate of \$120 per month.

In sum, the City's offer, recognizing that EMT-I is cumulative with the EMT-B, results in an EMT pay package that exceeds all other six cities.

D. Discussion and Findings

The remaining difference between the parties in this dispute is whether the EMT-I certification pay should be \$45 per month or \$56 per month. EMT-I pay is \$25 per month under the current contract. Adoption of either proposal would represent a significant improvement for EMT-I certification pay.

The parties have agreed to roll the \$75 pay for firefighters who are EMT-B into the base pay beginning July 1, 2003. Under the City's proposal, a firefighter who is EMT-B certified will receive the \$75 for basic certification, plus an additional amount of \$45 for EMT-I certification. The total additional pay for the two EMT certifications would rise to \$120 per month.

Adoption of the City's proposal would result in an EMT pay certification package that extends similar EMT certification pay that is comparable to the three comparators which offer this premium pay. The Arbitrator holds the City's proposal will provide a reasonable level of additional compensation for those firefighters who hold the appropriate EMT certifications.

AWARD

The Arbitrator awards the City's proposal shall be included in the successor agreement. The new language shall state as follows:

. . .

Emergency Medical Technician - Intermediate. Effective July 1, 2002 firefighters who are certified Emergency Medical Technicians - Intermediate, shall receive \$45.00 per month in addition to rank attained, as long as they remain certified. The City will pay for the initial class costs, including shift coverage and all fees for state and national certification costs. For recertification, the City will cover the basic EMT refresher, CPR certification and 36 hours of continuing education.

. . .

With the exception of the agreed-on changes in paragraph 2, Section 13 shall remain unchanged.

✓
ISSUE 5 - CLOTHING

A. Introduction

Section 21 of the current Collective Bargaining Agreement provides that all employees are to be furnished protective clothing, protective devices, badges, and patches for uniforms the employees are required to wear in the performance of their duties. These items are to be furnished without cost to the employee. Further, the City is obligated to pay \$285 per employee per year for clothing and maintenance. The City proposed to delete the \$285 clothing allowance and would add uniforms to the items the City would provide at no cost to the firefighters. The Union would continue current contract language.

B. The City

Section 21 of the current contract obligates the City to provide firefighters \$285 for clothing and maintenance each calendar year. The City provides safety equipment at no cost to the employees under a separate provision. The City proposes to provide both uniforms and safety equipment in lieu of any clothing allowance. Under this proposal, new firefighters would receive a full complement of uniforms from the first day of employment and would not be struggling financially to purchase uniforms while living on the lowest wage schedule.

The City sees the Union's resistance to this proposal as being based on the fact that some senior members of the department use the clothing allowance as "fun money" to purchase hunting

rifles and other items unrelated to clothing. A senior member of the bargaining unit testified at the arbitration hearing that even with his many years in the department, it cost him more annually to replace uniforms than the allowance now pays. According to the City, this testimony proves the City's point that issuing uniforms is a far better practice than giving allowance that may or may not be appropriately used to purchase uniforms. The current equipment allowance does not result in uniforms that are comparable in quality and appearance because some firefighters skimp on retiring worn-out uniforms in order to preserve the \$285 allowance for other personal uses.

The City next argues the distinction between what is part of the uniform and what is safety equipment is becoming more obscure. The City's proposal avoids future arguments and grievances over this distinction. The City's proposal is proactive in avoiding future controversies that are inevitable if the current system remains in place.

The intent of the allowance is to ensure members have uniforms which are neat and not worn out. Having the City simply purchase the uniforms outright assures quality uniforms at no expense to the members. The City purchases uniforms for other City employees that wear uniforms, and the employee may turn in old, worn-out uniforms for a new issue at no cost to the employee. The City's proposal makes the uniform policy consistent between all departments and should be adopted.

C. The Union

The Union proposes no change in the existing contract language. According to the Union, the City presented no evidence to support a change in what has been a trouble-free system of providing firefighters with the usual clothing they need to do their job safely. Helena's uniform allowance is low compared with other cities where data is available. While the City claimed that firefighters were using the clothing allowance for personal use, there was no factual evidence to back up this claim. The Union also faults the City's proposal because the language does not define what it will provide as "uniforms." The bottom line for the Union is there is no need for the City's proposed change in an existing practice that has worked well for both parties.

D. Discussion and Findings

The Arbitrator finds the City's proposal to change Section 21 is justified for three major reasons. First, the internal comparators show the City purchases uniforms for other City employees--including police officers--who are required to wear uniforms. By bringing the firefighters into a system similar to other City employees, all City employees will be treated consistently when it comes to the matter of furnishing uniforms to employees who are required to wear a uniform.

Second, the evidence demonstrated the line between uniforms and protective equipment for firefighters is becoming increasingly blurred. The language presented by the City will

minimize future conflicts as the technology changes to improve firefighter protective equipment.

Third, the Interest Arbitrator agrees with the City the revised system will provide a program where quality and appearance of all firefighter uniforms will be consistent.

It was the position of the Union, the City's proposal was ill-defined because of a lack of definition of the word "uniforms." I disagree. The language offered by the City clearly stated that if management requires the uniform to be worn in the course of firefighter duties, the uniforms "shall be furnished without cost to the employee." Pursuant to the City's proposal, uniforms will be handled in the same manner as protective clothing, protective devices, badges, and patches under the existing contract. Specifically, if the uniform is required to be worn in the performance of firefighter duties, the uniforms "shall be furnished without cost to the employee."

AWARD

The Arbitrator holds the City's proposal to modify Section 21 shall be granted. The new language to be included in the successor contract shall state:

All protective clothing, uniforms, protective devices, badges and patches for uniforms required of the employees in the performance of their duties shall be furnished without cost to the employee.

ISSUE 6 - RESIDENCY ✓

A. Introduction

Current contract language found in Section 17 provides:

SECTION 17 - RESIDENCY

The employer agrees that employees may reside outside of the legal boundaries of the City of Helena with the following restrictions:

- 1) The employee's actual place of residence must be within ten (10) road miles of the City measured to the nearest point of the corporate limits of the City of Helena.
- 2) The employee's residence must be accessible by adequate roads so that the employee is reasonably available in case of emergency.
- 3) Residency outside the 10 mile limit will be subject to the approval of the Fire Chief.
- 4) Employees are required to have telephone capability in their place of residence for the purpose of contacting them.

Residency outside the 10 mile limit is subject to the approval of the Fire Chief. The Union proposed to delete Section 17(1), the 10 mile residency rule, and Section 17(3) requiring approval of the Fire Chief if a firefighter wants to live outside the 10 mile limit. The City would continue current contract language in the successor agreement.

B. The Union

The Union's proposal is based on the fact housing in the city limits of Helena is expensive. According to the Union, the cost of single family housing in Helena rose by 36% between 1993

and 1998, growth in housing stock for single family homes has not kept pace with the population growth, and moderately priced homes are more prominent in the fringe area than in the City. Inside the city limits there is a higher proportion of both lower and higher property values. Un. Ex. F.

The City's fear that firefighters will live too far from Helena to be able to respond to emergencies is not well-founded, nor is it supported by any evidence. The City's firefighters are a dedicated lot who have chosen to live and work in the Helena area. The City imposes no residency restrictions on its police, who must also be available to respond to emergencies, and the City presented no evidence of any problems with police not being able to respond to emergency situations. The Union's evidence was uncontradicted that no other Montana city imposes a mileage restriction.

C. The City

The City argues the Union proposal is flawed because it would allow firefighters to live anywhere they chose. Under Section 39-34-103(5)(b), MCA, the Interest Arbitrator is charged with considering the "interest and welfare of the public." The Union was unable to identify how this proposal would benefit the interest and welfare of the public. With the City's reliance on calling in off-duty firefighters in major events, having firefighters live where they choose may place the welfare of the public at jeopardy. The Union's proposal is highly injurious to the public welfare and safety and should be rejected.

D. Discussion and Findings

The residency issue is one where there is room for compromise. However, under the controlling statutes, your Interest Arbitrator has no power to modify either party's proposal. No other group of City employees--including the police--are subject to a residency requirement. None of the comparators imposes a mileage restriction on its firefighters.

Moreover, the Union's evidence regarding the availability of desirable and reasonably priced homes exist in the fringe areas, rather than within the city limits is convincing. Un. Ex. F. The data presented by the Union showed significant price increases in homes located within the city limits of Helena.

The City offered no hard evidence the public safety and welfare would be harmed by eliminating the 10 mile residency rule. No evidence was presented that the public welfare and safety was impaired by the lack of a residency rule for police officers. The comparator jurisdictions are able to protect the public's welfare and safety without a residency rule. Helena should join the ranks of the other Montana cities by eliminating the 10 mile residency rule. Therefore, the Arbitrator holds the Union's proposal should be adopted.

AWARD

The Union's proposal deleting Section 17(1) and (3) from the current contract shall be awarded. The remainder of Section 17 shall continue unchanged. The new contract language shall read as follows:

SECTION 17 - RESIDENCY

The employer agrees that employees may reside outside of the legal boundaries of the City of Helena with the following restrictions:

- 1) The employee's residence must be accessible by adequate roads so that the employee is available in case of emergency.
- 2) Employees are required to have telephone capability in their place of residence for the purpose of contacting them.

ISSUE 7 - ALTERNATIVE DUTY

A. Introduction

There is no alternative duty language in the 1998-2002 Collective Bargaining Agreement. Alternative duty is currently controlled by Helena Fire Department SOP 130.01. Un. Ex. M. When a medical situation prevents a firefighter from performing fire suppression duties, the Fire Chief may temporarily assign a firefighter to a 40-hour schedule. Any such assignment must be approved by a licensed physician. The Union wants to add a new section to the Collective Bargaining Agreement to address the situation of how a firefighter--who is injured off duty--must be treated when reassigned to a 40-hour week. The City rejected the Union's proposal on the ground it was not a mandatory subject for bargaining and, therefore, the Arbitrator has no authority to rule on the Union's proposal.

B. The City

The City objects to the inclusion of this issue in interest arbitration for the reason the assignment of firefighter duties is a management right and is not subject to mandatory bargaining. Through the Union's proposal, the assignment of "alternative duty" would be subject to mutual agreement between the affected employee and the Fire Chief. Section 39-31-303(2), MCA, protects management rights to transfer and assign employees. The statement of management rights from the statute means that the right to assign duties is not the subject of mandatory bargaining.

There is no support for the claim that good faith negotiations supersedes the statutorily-reserved management rights of public employers. There are no Montana cases supporting the Union's position. Moreover, federal laws that pertain to federal agencies and case law are in accord with the City's position. The management right of assignment of duty to disabled firefighters would be the same under the Helena policy as federal law.

It is also the position of the City the Union's proposal is poorly drafted. Under the proposed language, neither the City nor the Interest Arbitrator knows what the circumstances are that will trigger the "when the situation occurs" or when this section would be affected. The Union's proposal also creates an unusual result in that healthy firefighters and firefighters who had job-related injuries can be assigned duties at the discretion of the Fire Chief, but firefighters who have non-job-related injuries can only be assigned alternative duty if they agree. This is a strange and discriminatory classification that should not be allowed by the Arbitrator. Scheduling could become a nightmare if the employee withdraws their consent to work the alternative duty.

In sum, the Union's proposal of limitation on alternative duty unlawfully infringes on management rights, is discriminatory to certain employees, and is unlawful under the ADA and other disability laws.

C. The Union

The Union points out the existing contract contains two grievance procedures, one for contract interpretation grievances, and the other for grievances "pertaining to employment conditions not contained in the agreement." Contract interpretation grievances end in final and binding arbitration. Personnel grievances end with the City Manager.

A bargaining unit member who is placed on a 40-hour schedule has no meaningful way to be involved in the decision or to contest the assignment by the Fire Chief. To address this inequity, the Union proposes that when a combat firefighter is sick or injured to the extent they cannot perform their normal duties, and when the injury is not covered by workers' compensation, the firefighter can be assigned to a different job if there is mutual agreement between the worker and the Fire Chief. By placing the proposed language in the contract, a bargaining unit member would have a meaningful grievance procedure to challenge the assignment to a 40-hour week.

Regarding the City's position that assignment of workers is entirely a management right which is a permissive subject of bargaining, the Union contends the City's position is misplaced. The problem with the City's argument begins with the fact the Montana Supreme Court has held numerous times that because Montana's collective bargaining law is modeled after the National Labor Relations Act, cases decided by the Court and the NLRB interpreting the NLRA are instructive and often persuasive

regarding the meaning of Montana's labor law. The Montana Court has never looked to the Federal Service Labor-Management Relations Act to interpret Montana law. The cases relied on by the City are based on the Federal Service Labor-Management Relations Act, which has a narrower purpose in that it is limited to federal government employees.

While there are no Montana cases on point concerning the assignment of injured or sick employees to light duty, there is at least one NLRB case directly on point. In Southern California Edison Co., 284 NLRB 1205 (1987), enforced, 852 F.2d 572 (9th Cir. 1988), the union and the employer negotiated a disability plan to compensate for salary loss sustained by eligible employees as a result of a disabling illness or injury. The employer unilaterally implemented a temporary work assignment policy which would have granted management the right to assign employees to light duty. The Union filed an unfair labor practice. The NLRB administrative judge found the issue to be a mandatory subject of bargaining. In upholding the judge's decision, the NLRB acknowledged the Union's "statutory bargaining rights regarding benefits and work requirements for disabled employees."

The Arbitrator should conclude based on the cited authority that assignment of injured or ill workers to light duty is a mandatory subject of bargaining.

The Union argued in its post-hearing brief as follows:

Turning now to the substance of the Union's proposal, it seeks to accomplish three fundamental purposes. First, an employee who

is too sick or injured to do the job for which he/she was hired should be allowed to use the sick leave he/she has earned and accumulated for this very purpose. Second, an employee who is too sick or injured to do the job for which he/she was hired should have a say in his/her assignment to an alternative position. Third, given the strong state and national policy favoring arbitration of labor disputes, disputes concerning assignments of sick or injured employees to positions other than the ones for which they were hired should be subject to arbitration.

Brief, p. 20.

D. Discussion and Findings

1. Arbitrability

The Arbitrator finds the Union's proposal is a proper subject for interest arbitration. The Montana collective bargaining law defines the purpose of collective bargaining "to arrive at a friendly adjustment of all disputes between public employers and their employees." Section 39-31-101, MCA.

The issue of alternative duty is a dispute between the parties. The Union's proposal directly relates to the working conditions for a sick or disabled employee. No administrative or judicial Montana cases were cited to the Arbitrator holding Section 39-31-201 limits the authority or the duty to negotiate in the area of assignment of work. Therefore, the Interest Arbitrator will make a finding and award on the merits.

2. The Merits

The Union's proposal is directed at employees who suffer off the job illness or injury. Injury or illness that is covered

by workers' compensation is specifically excluded from the proposed language. The crux of the Union's alternative duty proposal is to require a mutual agreement of the employee and the Fire Chief prior to making a 40-hour assignment.

Under SOP 130.01 and the Union's proposal, a licensed physician must approve the alternative duty before a firefighter can be placed on a 40-hour schedule. In the view of this Arbitrator, the medical judgment of a licensed doctor is a key component of SOP 130.01. Because the input of a doctor is required, the employee is protected against the arbitrary or capricious assignment by the Fire Chief to a 40-hour work week. No evidence was presented to this Arbitrator of firefighters being assigned to temporary alternative duty where their medical condition did not allow for a 40-hour work week.

Moreover, the Arbitrator is not convinced the firefighter --who cannot perform his full duties because of an off-duty illness or injury--should have veto power over a temporary alternative duty assignment. Firefighter work is rigorous and physically demanding which requires the firefighter be fully able to physically perform the full range of work. If a firefighter cannot perform the complete range of combat firefighting duties, a temporary alternative duty 40-hour assignment should be an option for management to judge on a case-by-case situation.

The Arbitrator rejects the Union's argument temporary alternative duty assignment should be added to the contract to make the alternative duty issue subject to arbitration. This argument

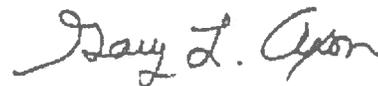
is a misguided attempt to boot strap the alternative duty proposal on a claim an alternative duty assignment should be subject to arbitration. The alternative duty proposal should stand on its own merits, not whether arbitration of the dispute makes the Union's position acceptable to the parties and the Arbitrator.

It is also the finding of the Interest Arbitrator the Union's assertion firefighters should be able to use earned sick leave to cover the absence from work is without merit. If a firefighter is not physically capable of performing temporary alternative duty in the form of a 40-hour schedule, sick leave is available to be used by the employee. As previously noted, a licensed physician must approve the temporary alternative duty work schedule. Absent evidence firefighters were being required by management to perform temporary alternative duty assignments when they were not medically cleared, the Arbitrator remains unconvinced there is any justification to place the Union's proposal into the Collective Bargaining Agreement.

AWARD

The Arbitrator finds the Union's proposal on Alternative Duty should not become a part of the successor Collective Bargaining Agreement.

Respectfully submitted,



Gary L. Axon
Interest Arbitrator
Dated: October 1, 2003

FIRE DEPARTMENT MATRIX
THREE YEAR AGREEMENT
OCTOBER 1, 2002 (with EMT rolled in FY03)

	PROFIT	COMFIT	FFI	FFII	LT	CAPP	HC	FIRE MAR	DPM	FIH
CURRENT										
MO.	\$ 2,284.70	\$ 2,795.11	\$ 2,877.00	\$ 2,960.47	\$ 3,124.83	\$ 3,125.13	\$ 3,591.32	\$ 3,789.07	\$ 3,291.50	\$ 2,816.13
HR.	\$ 11.26	\$ 13.70	\$ 14.10	\$ 14.59	\$ 15.40	\$ 16.88	\$ 17.70	\$ 21.86	\$ 18.99	\$ 16.42
LONGEVITY - \$9.63/MO.										
FY03										
MO.	\$ 2,389.01	\$ 2,879.99	\$ 2,963.31	\$ 3,049.28	\$ 3,218.57	\$ 3,493.64	\$ 3,699.27	\$ 3,902.74	\$ 3,390.35	\$ 2,931.52
HR.	\$ 11.82	\$ 14.10	\$ 14.60	\$ 15.03	\$ 15.80	\$ 17.22	\$ 18.23	\$ 22.52	\$ 19.50	\$ 16.91
% INCREASE	5.00%	3.00%	2.99%	3.00%	3.00%	2.00%	3.00%	3.00%	3.00%	3.00%
LONGEVITY - INCREASE TO \$9.92/MO.										
EMT-PAY - Increase from \$25.00/mo. to \$45.00/mo beginning July 1, 2002										
FY04**										
MO.	\$ 2,745.99	\$ 3,086.32	\$ 3,107.36	\$ 3,277.66	\$ 3,422.96	\$ 3,642.00	\$ 3,905.11	\$ 4,019.82	\$ 3,492.06	\$ 3,019.46
HR.	\$ 13.73	\$ 15.21	\$ 15.71	\$ 16.15	\$ 16.87	\$ 17.95	\$ 19.68	\$ 23.19	\$ 20.15	\$ 17.42
% INC. + COLA*	16%	7.15%	7.56%	7.49%	6.35%	4.95%	8.00%	3.00%	3.00%	3.00%
LONGEVITY - INCREASE TO \$10.21/MO beginning July 1, 2003										
FY05										
MO.	\$ 3,014.33	\$ 3,140.33	\$ 3,214.46	\$ 3,308.80	\$ 3,553.03	\$ 3,642.00	\$ 4,068.82	\$ 4,150.42	\$ 3,623.01	\$ 3,130.73
HR.	\$ 14.86	\$ 15.48	\$ 15.81	\$ 16.31	\$ 17.51	\$ 17.85	\$ 20.05	\$ 23.89	\$ 20.90	\$ 18.11
% INC. + COLA*	8.20%	1.75%	0.85%	0.95%	3.80%	0.00%	1.85%	3.00%	3.75%	3.95%
LONGEVITY - INCREASE TO \$10.50/MO beginning July 1, 2004										
MARKEETR. RATE	\$ 14.10	\$ 14.74	\$ 15.24	\$ 15.78	\$ 17.13	\$ 17.48	\$ 19.50	\$ 23.89	\$ 20.90	\$ 18.11
	\$ 14.86	\$ 15.48	\$ 15.81	\$ 16.31	\$ 17.51	\$ 17.95	\$ 20.05	\$ 23.89	\$ 20.90	\$ 18.11
TOTAL % INCREASE INCLUDING COLA	31.83%	12.31%	11.73%	11.77%	13.70%	6.33%	13.30%	9.27%	10.07%	10.28%
Any COLA's would be in addition to these percentages.										
Beginning July 1, 2003 and July 1, 2004 these rates will be increased by the COLA approved by the City Commission for all general incentive employees.										
*5% FOR EMT BASIC; NO COLA IF										

July 7, 2003

SECTION 12 - FIRE DEPARTMENT SALARY MATRIX

This matrix is based on a monthly wage. Hourly wage is included in parentheses for comparison purposes.

Fire Suppression Annual Hours -- 2434.92*

	<u>FY 2003</u>	<u>FY 2004</u>	<u>% Chg</u>
BATTALION CHIEF	3999.37 (19.71)	4520.78 (22.88)	4024.08 (42.82)
CAPTAIN	3575.25 (17.82)	3810.59 (18.77)	3902.05 (19.73)
LIEUTENANT	3337.88 (16.45)	3642.17 (17.94)	3729.59 (17.85)
FIREFIGHTER II	3147.14 (15.61)	3423.03 (16.97)	3505.19 (17.18)
FIREFIGHTER I	3056.90 (15.38)	3331.72 (16.42)	3411.69 (16.82)
CONFIRMED FIREFIGHTER	2966.56 (14.92)	3224.16 (16.04)	3301.56 (16.27)
PROBATIONARY FIREFIGHTER	2809.43 (13.92)	3006.09 (14.82)	3081.31 (15)

Fire Prevention Annual Hours -- 2060*

FIRE MARSHALL	3562.20 (17.65)	4061.00 (20.05)	4363.27 (21.18)
DEPUTY FIRE MARSHALL	3404.93 (16.69)	3721.93 (18.47)	3811.28 (18.69)
FIRE INVESTIGATOR	3059.00 (15.11)	3305.26 (16.27)	3384.59 (16.52)
FIRE INSPECTOR II	2953.47 (14.61)	3221.00 (15.85)	3298.31 (16.03)
FIRE INSPECTOR I	2809.20 (13.92)	3032.54 (14.97)	3207.72 (15.51)
CONFIRMED FIRE INSPECTOR	2726.14 (13.52)	3045.16 (15.04)	3118.27 (15.39)
PROBATIONARY FIRE INSPECTOR	2244.32 (11.09)	2433.57 (12.04)	2492.08 (12.38)

* HOURLY WAGE FOR OVERTIME CALCULATIONS OBTAINED BY MULTIPLYING MONTHLY SALARY TIMES 12 AND DIVIDING BY ANNUAL HOURS.

FY 2003 and FY 2004 salaries will be adjusted by the greater of 1) the CPI-U as of December 31 of the prior year, or 2) the Cost of Living Adjustment applied to the matrix for all non-union City employees.