
IN THE MATTER OF THE INTEREST ARBITRATION

Between

EMPLOYER

City of Havre, Montana

And

UNION

International Association of Firefighters, AFL-CIO
Local 601

Montana Board of Personnel

IMPASSE ISSUES

Duration of Contract

Wages

EMT Stipend

OPINION and AWARD

PRELIMINARY INFORMATION

CASE PRESENTATION APPEARANCES

FOR THE EMPLOYER

BRIAN LILLETVEDT

Attorney for City of Havre
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& Kaze, PLLP**
P. O. Box 7152
Havre, MT 59501
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FOR THE UNION

RICKY WALSH

Vice President, District 7
**International Association of
Fire Fighters**
P. O. Box 5604
West Richland, WA 99353
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ARBITRATOR

GEORGE EDWARD LARNEY

11 Broken Lance Circle
Sedona, AZ 86351-7909
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geolarney@naarb.org [email]
geolarney@yahoo.com [email]

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WITNESSES (in order of respective appearance)**FOR THE EMPLOYER**

TIM HEDGES
Fire Chief

DOUGLAS KAERCHER
City Clerk / Finance Director

FOR THE UNION

D.J. (DUSTIN) OLSON
Firefighter – EMT Advanced (AEMT) &
President, Local 601

CHANCE OPHUS
Firefighter First Class, AEMT
Attended Contract Negotiations

JASON BAKER
Engineer, EMT Basic
Member of IAFF, Local 8 &
District 2 Representative, Montana
State Fire Fighter Council

OTHERS PRESENT AT HEARING**FOR THE EMPLOYER**

TIM SOLOMON
Mayor, City of Havre

ANDREW BREKKE
City Councilman

RANDY McCAMLEY
City Councilman

FOR THE UNION

CODY McClAIN
Vice President, Local 601

LOCATION OF HEARING

Havre City Hall
520 4th Street
Havre, MT 59501
(406) 265-6719

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AUTHORITY TO ARBITRATE

July 1, 2013 – June 30, 2014 Collective Bargaining Agreement (Un.Ex.3, pp. 1-8);
Article 26 – Binding Arbitration, p.6; & Montana Code Annotated (MCA),
Section 39-34-101. Arbitration between firefighters and public employers

CHRONOLOGY OF RELEVANT EVENTS

In Conformance With Provisions of Article 31,
Duration of Agreement, The Parties
(the City and the Union) Timely Entered Into
A Pre-Negotiation Agreement For a Successor
to the Expiring 2013-2014 Collective Bargaining
Agreement (Un.Ex.12); Date Parties Signed
the Pre-Negotiation Agreement

June 9, 2014

Date of First Negotiation Session, Wherein, the Union
Presented Its Initial Proposals; No Proposals Were
Presented by the City Due to the City's Position the
Budget Had Yet to be Set

June 9, 2014

Date of Second Negotiation Session Wherein at the
Conclusion of the Meeting, the Union Requested to
Enter Into Mediation As a Result of Reaching
Impasse on Wage Issues; The City Assented to the
Union's Request

August 29, 2014

Undated Copy of the Joint Request for Mediation
Assistance Filed to the Board of Personnel Appeals,
Employment Relations Division of the Montana
Department of Labor & Industry

By Letter From Windy Knutson, Board Agent of the
Collective Bargaining Unit of the Board of Personnel
Appeals, of the Labor Standards Bureau, Mayor of
Havre City, Tim Solomon and D.J. Olson, President
Of FireFighters Local 601 Were Informed in Response
To Their Joint Request the Board Designated Max
Hallfrisch to be the Mediator; Letter Dated

September 23, 2014

Date Parties Met in Mediation Session Wherein at the
Close of the Session the Union Did Not Accept the
City's Verbal Counterproposal and Expressed Its
Willingness to Proceed To Arbitration; The City
Responded By a Willingness to Proceed to
Fact-Finding and the Union Agreed

October 23, 2014

Parties Reconvened a Negotiating Session Without
Success of Reaching a Tentative Agreement and
Mutually Agreed to Forego the Fact-Finding Process
And Proceed to Arbitration; Date of Negotiating Session

October 28, 2014

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CHRONOLOGY OF RELEVANT EVENTS (Continued)

Notwithstanding the Mutual Agreement Reached by the Parties at the October 28, 2014 Negotiating Session to Forgo Fact-Finding and Proceed Directly to Arbitration, the Union Acquiesced to the City's Request to Jointly Request the Board of Personnel Appeals to Provide a List of Potential Fact-Finders; Said Request to the Board Was Undated

Date the Parties Notified LeRoy H. Schramm of His Mutual Selection to Preside as Fact-Finder in the Matter of Their Impasse on the Wage Issues in Negotiations for Their Successor Collective Bargaining Agreement November 18, 2014

Date Fact-Finding Hearing Held February 12, 2015

Date Fact-Finders Report Rendered February 23, 2015

Fact Finder's Report Rejected; Parties Petitioned To Proceed To Final and Binding Arbitration; No Date Specified in This Record Proceeding Associated With Either Rejection of the Fact Finder's Report Or the Petition Filed By the Parties To Proceed To Arbitration

Parties Notified This Arbitrator By Email of His Mutual Selection Through the Striking Process To Preside Over This Interest Arbitration; Date of Notification April 8, 2015

Date Arbitration Hearing Held July 16, 2015

By United States Mail, The Arbitrator Received an Electronic Recording of the July 16th Arbitration Hearing Submitted by the Union; Date Recording Received August 17, 2015

Date Post-Hearing Briefs Received By the Arbitrator By Email ¹

EMPLOYER
UNION

September 11, 2015
September 11, 2015

The Arbitrator Deemed the Case Record Officially Closed As of the Receipt Date By Email of the Post-Hearing Briefs September 11, 2015

¹ In addition to the electronic filing of the Post-Hearing Briefs, the Arbitrator requested the Parties to file a paper post-hearing brief to his Arizona Office Address. The Arbitrator received through the United States Mail the Union's brief on September 14, 2015 and the Employer's brief on September 15, 2015. By agreement, the Parties on their own interchanged the briefs with each other.

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RELEVANT DOCUMENTATION

I. APPLICABLE CONTRACT PROVISIONS – 2013-2014 CBA

A. ARTICLE 26 – BINDING ARBITRATION

Binding arbitration is set forth in 39-34-101, MCA – 39-34-106, MCA

II. MONTANA CODE ANNOTATED (MCA)

39-31-307. Mediation of disputes. If, after a reasonable period of negotiations over the terms of an agreement or upon expiration of an existing collective bargaining agreement, a dispute concerning the collective bargaining agreement exists between the public employer and a labor organization, the parties shall request mediation.

39-31-308. Initiation of factfinding - - designation of fact finder. (1) If, upon expiration of an existing collective bargaining agreement . . . a dispute concerning the collective bargaining agreement exists between the employer and exclusive representative, either party may petition the board to initiate factfinding. (2) . . . the board shall submit to the parties a list of five qualified, disinterested persons from which the parties shall alternate in striking two names. The remaining person shall be designated fact finder. * * * (3) If no request for factfinding is made by either party before the expiration of the agreement . . . the board may initiate factfinding as provided for in subsection 2 above.

39-31-309. Factfinding proceedings. * * * *

(4) Upon completion of the hearings, but no later than 20 days from the date of appointment, the fact finder shall make written findings on the public employer and the exclusive representative. The fact finder may make this report public 5 days after it is submitted to the parties. If the dispute is not resolved 15 days after the report is submitted to the parties, the report must be made public.
* * * *

39-31-310. Submission of issues to arbitration. Nothing in 39-31-307 through 39-31-310 prohibits the parties from voluntarily agreeing to submit any or all of the issues to final and binding arbitration, and if such agreement is reached, the arbitration shall supercede the factfinding procedures set forth in those sections. An agreement to arbitrate and the award issued in accordance with such agreement shall be enforceable in the same manner as is provided in this chapter for enforcement of collective bargaining agreements.

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39-34-101. Arbitration between firefighters and public employers. (1) This section applies only to firefighters and their public employers.

(2) If an impasse is reached in the course of collective bargaining between a public employer and a firefighters' organization or its exclusive representative and if the procedures for mediation and factfinding in 39-31-307 through 39-31-310 have been exhausted, either party or both jointly may petition the board of personnel appeals for final and binding arbitration.

39-34-102. Designation of arbitrator. Within 3 days of the receipt of a petition for final and binding arbitration, the board of personnel appeals shall submit to the parties a list of five qualified and disinterested arbitrators. From the list submitted by the board, the parties shall alternately strike two names. The remaining person shall be designated as the arbitrator. The parties shall notify the board of the designated arbitrator within 5 days of the receipt of the list.

39-34-103. Powers and duties of arbitrator for firefighters and public employers. * * * *

(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 The arbitrator shall notify the board of personnel appeals and the parties, in writing, of the 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.

* * * *

39-34-106. Cost of arbitration. The cost of arbitration shall be shared equally by the public employer and firefighters' organization or its exclusive representative.

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PARTIES' FINAL OFFERS ON EACH OF THE IMPASSE ISSUES

UNION'S FINAL OFFERS

CITY'S FINAL OFFERS

1) DURATION OF CONTRACT

3 Years

2014-2015

2015-2016

2016-2017

2 Years

2014-2015

2015-2016

2) GENERAL WAGE INCREASE ²

2014-2015

1.5 % Increase on the matrix

2015-2016

4.0% Increase on the matrix

2016-2017

4.5% Increase on the matrix

2014-2015

1.5% Increase on the matrix ³

2015-2016

1.5% Increase on the matrix

2016-2017

No Proposal

² The matrix is a table that horizontally specifies six (6) Wage Grades, to wit: Grade 1 – Probationary Firefighter; Grade 2 – Firefighter; Grade 3 – 1st Class Firefighter; Grade 4 – Driver / Operator; Grade 5 – Engineer; Grade 6 – Captain. Vertically, the table lists Years of Service starting at Year 1 and ending at Year 42. According to the record evidence, during the current negotiations the Parties tentatively agreed to shorten the matrix ending it at Year 31.

³ The Parties are agreed on this increase and to be paid retroactively when the successor collective bargaining agreement becomes effective. The retroactive pay will date from July 1, 2014 through the ending date of the first year, June 30, 2015.

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UNION'S FINAL OFFERSCITY'S FINAL OFFERS**3) EMT MONTHLY SKILL PAY⁴**2014-2015

EMT-B⁵
No Increase

EMT-A
No Increase

EMT-P
No Increase

2014-2015

1.5% Increase from \$82.40
To \$83.64

1.5% Increase from \$133.90
To \$135.91

1.5% Increase from \$175.00
To \$177.63

2015-2016

EMT-B
Increase from \$82.40 To \$116.20
(a 41% Increase)

EMT-A
Increase from \$133.90 To \$216.95
(62% Increase)

EMT-P
Increase from \$175.00 To \$287.50
(a 64.3% Increase)

2015 -2016

1.5% Increase from \$83.64
To \$84.89

1.5% Increase from \$135.91
To \$137.95

1.5% Increase from \$177.63
To \$180.29

⁴ The Parties refer to this pay as a "Stipend" or "Pro Pay".

⁵ There are three (3) Classifications of EMTs, as determined by Medical Certification to wit: EMT-B, Basic Emergency Medical Technician; EMT-A, Advanced Emergency Medical Technician; and EMT-P, Paramedic. These certifications are set forth in the predecessor 2013-2014 Collective Bargaining Agreement in Article 11 - Wages and Other Compensation, Section J 1-4 (Un.Ex.3, pp. 3-4).

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2016-2017**EMT-B**

**Increase from \$116.20 To \$150.00
(a 29% Increase)**

2016-2017

No Proposal

EMT-A

**Increase from \$216.95 To \$300.00
(a 38% Increase)**

No Proposal

EMT-P

**Increase from \$287.50 To \$400.00
(a 39% Increase)**

No Proposal

BACKGROUND

Pursuant to Montana Code Annotated (MCA) as set forth above, the City and the Union, hereinafter the "Parties" timely entered into negotiations for a successor collective bargaining agreement to the expiring July 1, 2013 to June 30, 2014 one (1) year Collective Bargaining Agreement. As noted in the preceding Chronology of Relevant Events section of this *Opinion and Award*, the Parties reached an impasse at the conclusion of only the second bargaining session held August 29, 2014 and as provided by Section 39-31-307 of the MCA, the Parties submitted a formal request to the Montana Board of Personnel, hereinafter the "Board", to enter into mediation which request was granted and a mediator was appointed. Failing to achieve a mediated settlement, the Parties petitioned the Board pursuant to Section 39-31-308 of the MCA to enter into Fact-Finding to resolve the issues at impasse which petition was granted by the Board. In accord with the procedures for selecting a "qualified disinterested person" to serve as the Fact Finder, the Board submitted a list of five (5) such qualified disinterested persons and in alternately striking the list, the Parties selected LeRoy H. Schramm to be the Fact Finder. Subsequent to submission of the Fact-Finding Report, the Recommendations contained in the Report were rejected by the Parties.⁶ Having exhausted the processes of mediation and factfinding to resolve the issues at impasse,

⁶ Neither Party to this arbitration provided an explanation as to the reasons the Recommendations set forth by Fact Finder Schramm were ultimately rejected. However, in its Opening Statement, the Union noted it was the City that rejected the Recommendations notwithstanding its willingness to accept less than what it had proposed.

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in accord with the provisions set forth in Section 39-34-101 of the MCA, the Parties petitioned the Board to enter into final and binding arbitration. Pursuant to the provisions of Section 39-34-102 of the MCA, the Board submitted to the Parties a list of five (5) qualified and disinterested arbitrators from which the Parties alternately struck two (2) names from the list, leaving this Arbitrator as the neutral selected by the Parties to preside over the matter of the issues at impasse. The Arbitrator notes that the issues at impasse presented to the Fact Finder are the identical issues to be determined in this arbitral proceeding.

As in all Interest Arbitration cases, the most significant first determination is to identify "comparable communities", that is, those communities that according to various metrics such as population, tax revenue derived from assessed valuation of property and other sources, the wages and hours of work performed by similarly situated employees, the size of the entity employing said employees and the duties performed by them, to name just a few, most resemble those same metrics applicable to the subject community under review, here the City of Havre and its Fire Department. In making his Recommendations, Fact Finder Schramm identified sixteen (16) Montana cities from the evidence submitted before him as those communities that most resembled Havre to serve as "comparator jurisdictions" in arriving at his Findings. In footnote 2 of his Fact Finding Report, Schramm noted that the State of Montana divides Cities into two (2) classes, those with a population of ten thousand and more (10,000 +) as Class 1 Cities and those with populations under 10,000 as Class 2 cities. Notwithstanding that Havre has a population of slightly under 10,000 (specifically, 9,771 as specified in City Exhibit C), nevertheless, Schramm noted Havre's City Council voted to "choose" to exercise the powers of a Class 1 City.⁷ Schramm noted that due to the fact the population of Havre being under 10,000 put them into the category of a Class 2 City but taking into account the City's election to be deemed a Class 1 City, the Union identified for Schramm both Class 1 and Class 2 Cities as comparable communities to be used in making

⁷ It was noted in the City's post-hearing brief that § 7-1-4111 of the MCA allows a city council in cities with populations between 9,000 and 10,000 to choose whether it desires the designation of a Class 1 city. The City's post-hearing brief also informed that Havre is the only Class 1 city in the State of Montana with a population of less than 20,000.

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comparisons with Havre. The Arbitrator is persuaded that since Havre has elected to be deemed a Class 1 City and its population falling just two hundred plus (200 +) persons short of attaining the threshold level of 10,000, that the appropriate comparable communities to be used for comparative purposes should be confined to other Class 1 Cities identified by the Union in this arbitral proceeding. Accordingly, those communities/cities are as follows listed in alphabetical order:

Billings Bozeman Butte Great Falls Helena Kalispell Missoula City

It is noted that all seven (7) comparative cities like Havre have fire departments that employ full-time firefighters as opposed to fire departments staffed with volunteer firefighters.⁸ Additionally, unlike Havre and five (5) other of the comparative cities, the Fire Departments of Butte and Helena do not provide ambulance service. Currently, the Havre Fire Department employs fifteen (15) full-time firefighters. Of this total, four (4) hold the rank of Captain, four (4) hold the rank of Engineer, four (4) hold the rank of Driver/Operator, one (1) holds the rank of Fire Fighter 1st Class, and the remaining two are classified as Probationary Fire Fighter. With regard to the EMT skill level, of the fifteen (15) full-time firefighters in Havre's Fire Department, thirteen (13) are classified as EMT-A and the remaining two (2), both Probationary Fire Fighters are classified as EMT-B.

MCA 39-34-103 addressing the Powers and duties of arbitrator for firefighters and public employers mandates the Arbitrator to make a just and reasonable determination of which final position on matters in dispute will be adopted and in so doing the Arbitrator shall consider any relevant circumstances including those enumerated in the provision. The Arbitrator has considered the following relevant circumstances:

⁸ The City noted in its post-hearing brief that Class 1 cities are required to have a full-time career fire department.

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1. Comparison of hours, wages, and conditions of employment of the employees involved with employees performing similar services and with other services generally:

The benchmark for comparing hours and wages as set forth by the Union and not contested by the City are the hours worked and yearly base wage for the Top Step Fire Fighter. This comparison of the First Class Cities was presented in Union Exhibit 7B. With respect to Actual Hours Worked, four (4) Cities, Billings, Bozeman, Helena, and Kalispell worked more hours than Havre which worked 2190 Actual Hours and two (2) cities, Butte and Great Falls worked the same 2190 Actual Hours and the remaining city, Missoula City worked 2184 Actual Hours.⁹⁹ However, of the seven (7) comparative cities, Havre was dead last with respect to the Yearly Base Wage and thus the Hourly Base Wage. Although this observation remains the same, an in-depth review of Union Exhibit 7B conducted by the Arbitrator that entailed an examination of the wage schedules of each of the seven (7) First Class cities set forth in Union Exhibit 10, revealed considerable flaws in the exhibit in that it compared wage data for different fiscal years with Havre's wage data presented for Fiscal Year 2013. The wage data for Billings is from Fiscal Year 2012. The wage data for Bozeman is for Fiscal Year 2014. The wage data presented for Butte is for Fiscal Year 2014. The wage data for Kalispell is for Fiscal Year 2014. The wage data for Missoula City is from Fiscal Year 2012. And, the wage data for Helena for Fiscal Year 2013 is incorrectly calculated. The following tables present the corrected comparative wage data in that the comparisons are for the same fiscal years and any errors in calculation have been corrected.

⁹⁹ The Arbitrator notes there exists a discrepancy in the number of actual hours worked by firefighters in the City's Fire Department with the Union indicating in its various exhibits that the number is 2190 whereas, in its post-hearing brief, the City indicates that the number is 2184.

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FISCAL YEAR 2013

| <u>Top Step Firefighter/</u> | <u>Actual Hours Worked/</u> | <u>Yearly Base Wage/</u> | <u>Hourly Base Wage</u> |
|------------------------------|-----------------------------|--------------------------|-------------------------|
| Billings | 2272 ¹⁰ | \$52,710.40 | \$23.20 |
| Bozeman | 2756 | \$58,705.44 | \$21.30 |
| Butte | 2190 | \$53,606.04 | \$24.48 |
| Great Falls | 2190 | \$49,176.00 | \$22.45 |
| Havre | 2190 | \$37,326.36 | \$17.04 |
| Helena | 2434.93 | \$54,615.48 | \$22.43 |
| Kalispell | 2600 | \$49,344.00 | \$18.98 |
| Missoula City | 2184 | \$54,324.00 | \$24.87 |

FISCAL YEAR 2014

| <u>Top Step Firefighter/</u> | <u>Actual Hours Worked/</u> | <u>Yearly Base Wage/</u> | <u>Hourly Base Wage</u> |
|------------------------------|-----------------------------|--------------------------|-------------------------|
| Billings | 2272 | \$54,265.64 | \$23.88 |
| Bozeman | 2756 | \$60,466.68 | \$21.94 |
| Butte | 2190 | \$54,678.12 | \$24.97 |
| Great Falls (no data) | | | |
| Havre | 2190 | \$37,887.00 | \$17.30 |
| Helena (no data) | | | |
| Kalispell | 2600 | \$50,340.00 | \$19.36 |
| Missoula City | 2184 | \$56,496.00 | \$25.87 |

FISCAL YEAR 2015

| <u>Top Step Firefighter/</u> | <u>Actual Hours Worked/</u> | <u>Yearly Base Wage/</u> | <u>Hourly Base Wage</u> |
|------------------------------|-----------------------------|--------------------------|-------------------------|
| Kalispell ¹¹ | 2600 | \$51,378.00 | \$19.75 |
| Havre (City Proposal) | 2190 | \$38,455.31 | \$17.56 |
| Havre (Union Proposal) | 2190 | \$39,402.48 | \$17.99 |

¹⁰ Union Exhibit B incorrectly indicated the Actual Hours Worked were 2756

¹¹ Only city where collective bargaining agreement extended into Fiscal Year 2015-2016.

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When comparing the Hourly Base Wage of Havre of \$17.04 with just the three (3) cities that work the same and approximately the same number of Actual Hours Worked, the differences are construed by the Arbitrator as substantial, to wit; Butte with an hourly base wage of \$24.48 (43.7% higher than Havre's), Great Falls with an hourly base wage of \$22.45 (31.75% higher than Havre's), and Missoula City with an hourly base wage of \$24.87 (45.95% higher than Havre's).

In applying the agreed upon 1.5% wage rate increase for the contract year 2014-2015, the hourly base wage rises 26 cents (rounded) to \$17.30, still substantially below the hourly base wage of Butte and Missoula City and falling further behind both Butte and Missoula City as the evidence presented is void of any wage information for Great Falls in 2014. It is noted that while the agreed upon increase in the hourly base wage is 1.5%, the hourly base wage for Butte was higher at 2.0% and for Missoula City it was 4.0%. Additionally, if the City's proposal for the second year of the contract, 2015-2016 of another 1.5% increase were to be adopted, the hourly base wage would rise another 26 cents (rounded) to \$17.56 still keeping Havre ranked last in hourly base wage among the seven (7) comparative cities even though wage data is only available for the City of Kalispell for Fiscal Year 2015; meaning without any wage increases applied to Fiscal Year 2015 base wages for the other six (6) First Class cities, Havre still remains ranked at the very bottom and with certainty falling even lower in comparison to those seven (7) comparative cities over the subject two (2) year period.¹²

Even though the Fire Department for the City of Kalispell is shown to actually work 410 hours per year more than Havre, a comparison between these two cities presents a very clear picture of Havre remaining at the very bottom with respect to an hourly base wage relative to the other First Class cities and falling further behind those cities in the forthcoming years. Referring to the tables

¹² Said conclusion takes into account that in addition to no wage information presented for Great Falls in Fiscal Year 2014, no wage information for that Fiscal Year was presented for the City of Helena. Thus, in Fiscal Year 2014, wage data was available only for five (5) of the seven (7) comparative cities.

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above, in Fiscal Year 2013, Kalispell's hourly base wage was \$1.94 higher than Havre's. In Fiscal Year 2014, Kalispell's hourly base wage was \$2.06 higher than Havre's. In Fiscal Year 2015, applying the City's proposed 1.5% increase in the hourly base wage Kalispell's hourly base wage is \$2.19 higher than Havre's. However, if the Union's proposed 4.0% increase is applied for Fiscal Year 2015, the difference in hourly base wage between Kalispell and Havre is \$1.76 bringing the disparity below what it was in Fiscal Year 2013 by 18 cents.

In his testimony, City Clerk/Finance Director Douglas Kaercher maintained based on the overall economic status of the City, that is, taking into account all economic factors associated with incoming revenue and expenses incurred and the desire by the City to increase its General Fund Reserve which in 2015 is at 26% to 33% over the next couple of years, it would be possible to fund the Union's proposed increase of 4% in the base wage for the second year of the contract in the short-term, but it would not be sustainable over the long-term (see Point 2 below for a more complete explanation of the City's position).

2. The interests and welfare of the public and the financial ability of the public employer to pay:

Although the Parties did not specifically address the interests and welfare of the public, common sense dictates that a continuing viable Fire Department providing fire suppression service and emergency medical service (read ambulance service) is of utmost importance in the interests and welfare of the public.¹³

In its post-hearing brief addressing the issue of the Union's proposed increase in the yearly base wage of 4% the City advanced the following argument: The average population of the seven (7) Class 1 cities of 51,732 exceeds that of its

¹³ The Union noted in its post-hearing brief that the Fire Department has provided emergency medical service since 1955. The Union also noted that Havre's Fire Department has been in existence since 1905.

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population by almost 42,000 residents, noting that Kalispell, the city with the smallest population of 11,000 more people has a taxable valuation almost five (5) times greater than it has and general fund dollars which exceed Havre's by more than six million dollars (\$6,000,000). Billings, the largest city among the seven (7) comparative cities has a population roughly ten (10) times larger than Havre's, a taxable valuation nineteen (19) times larger than Havre's and general fund dollars which exceed Havre's by thirty million dollars (\$30,000,000). Thus, the City argues it is unrealistic to expect Havre to pay wages comparable to wages paid by these cities when it doesn't have the population or the tax base to support the higher wage.

Additionally, the City argues that the analysis with regard to its financial ability to pay a wage increase should also take into account the broader scope of overall compensation which includes in a major way health and dental insurance and in a minor way, the cost associated with overtime pay which admittedly fluctuates from year to year. Using the start date of July 1, 2014 which represents the first year of the successor collective bargaining agreement, the total monthly premium cost for health insurance for a single employee was 592.30 (all monthly premiums include the cost for Life Insurance of \$2.30) of which the City pays \$563.10 or 95% of the total premium cost. The dental premium for a single employee was \$37.00 of which the City paid \$30.25 or 82% (rounded) of the cost. In all, the Parties have negotiated for seven (7) health insurance and dental plan coverage's, six (6) plans beyond the category of single employee. Those other coverage's are employee and spouse; employee and children; employee and family; Medicare single; Medicare 2 party; and Medicare 1+/1 – Age 65. The last three (3) plan categories, the employees pay the full premium cost and the City pays nothing. Using the start date of July 1, 2015 which represents the second year of the successor collective bargaining agreement since the City has already incurred and paid its share of the cost of Health and Dental Insurance for Fiscal Year 2014, the City's portion of the total health insurance premium for

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each of the four (4) coverage plans it pays a share, starting with the single employee category and as listed above respectively, are as follows:

\$620.30 total / \$591.10 City; \$1238.30 total / \$1039.10; \$1084.30 total /

\$880.10 City; and \$1702.30 total / \$1437.55 City. For the dental insurance

premium the following is the breakdown costs total to City:

\$33.00 total / \$26.25 City; \$66.00 total / \$52.50 City; \$58.00 total / \$44.50 City;

\$92.00 total / \$72.00 City (CityEx.H). The distribution of the fourteen (14)

firefighters enrolled in the health insurance and dental insurance plans are as

follows: single employee – 4; employee & spouse – 1; employee & child – 1; and

employee & family – 8. Given the number of enrollees in each plan, the City's

share cost of each plan on a monthly basis beginning with single coverage and

respectively listed is as follows: \$2469.40; \$1091.60; \$924.60; and \$12,076.40.

Thus, the City's total annual cost for health and dental insurance premium for the fourteen (14) enrollees for the 2015-2016 second year of the successor collective bargaining agreement is, \$198,744.00.¹⁴

Aside from the discrepancy in the annual premium cost to the City of its share of health and dental insurance as noted in footnote 14 below, the City calculates its total actual cost of its proposal at \$1,265,682 for Fiscal Year 2014-15, the first year of the contract representing an increase over Fiscal Year 2013-2014 of 3%. Since the Parties agree to an across-the-board wage rate increase in the first year of the successor collective bargaining agreement of 1.5%, the increase in overall cost to the City as set forth by the Union is the same 3%. Since the proposed across-the-board wage rate increase on the part of the City and Union differ in the second year of the successor collective bargaining agreement, the City calculates the increase in its overall cost for 2015-2016 at 3.3% over that of Fiscal Year 2014-2015, whereas, the Union calculates the overall cost increase to the City at 7% (CityEx.I).

¹⁴ The Arbitrator notes that his calculation based on the City's share of premium cost for health and dental insurance for contract year 2015-2016 specified in City's Exhibit H does not match its share of premium cost for health and dental insurance specified in City Exhibit I which is \$286,104, a difference of \$87,360. This difference perhaps can be accounted for the added fifteenth firefighter and the additional three (3) Fire Department personnel.

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The Union noted in its post-hearing brief that prior to 2001, the City of Havre funded the Fire Department from the City's General Fund. In 2001, the City created a separate Ambulance Fund in the Budget at which time it transferred 12.41 full-time employees (FTE) of the seventeen (17) full-time employees of the Department into the Ambulance Fund.¹⁵ As such, the Ambulance Fund is intended to pay the full cost of wages and benefits of 12.41 firefighters, and the full cost of wages and benefits of the remaining 5.59 full-time career employees of the Department are paid from the General Fund.¹⁶ The following table, adapted from Un.Ex.14 shows revenue derived and expenses incurred from operating the City's three (3) ambulances for Fiscal Years 2011-2012 and 2012-2013.¹⁷

| | Ambulance Revenue | Ambulance Expenses |
|------------------|------------------------------------|---------------------------|
| 2011-2012 | \$1,146,326.00¹⁸ | \$865,849.00 |
| 2012-2013 | \$787,098.00 | \$908,658.00 |

While these two (2) selected years for which data was available shows that revenue exceeded expenses in Fiscal Year 2011, the opposite was the case in Fiscal Year 2012. According to the record testimony, revenues derived from operating ambulance service varies from year to year as do expenses incurred. However, data from Fiscal Years 2009 and 2010 reveal that in those years,

¹⁵ In addition to the Department's bargaining unit firefighters, the other career personnel of the Department are the Assistant Chief, the Chief and one (1) Administrative Secretary. The Arbitrator notes that based on Union Exhibits reflecting the Department employs fifteen (15) full-time career fire fighters, designation by the Union the Department is comprised of seventeen (17) career employees rather than eighteen (18) employees reflects that at the time the exhibits were prepared there was only one (1) probationary employee in the Department. The exhibits proffered by the City reflect employment of fourteen (14) firefighters not fifteen (15) having not included the additional probationary firefighter hired subsequent to the preparation of the exhibits.

¹⁶ The total of eighteen (18) career employees consist of the fifteen (15) career firefighters and the other three (3) career employees, the Chief, the Assistant Chief, and the Administrative Secretary.

¹⁷ At the time of this arbitration, only partial figures were available for Fiscal Year 2013-2014 and no figures were available for Fiscal Year 2014-2015.

¹⁸ Eliminating this revenue total from the prior Fiscal Years 2009, 2010, and 2012, the mean average for ambulance revenue was \$824,766. According to the Union, the much larger revenue derived in Fiscal Year 2011-2012 from operating its ambulance service was due to the fact the City increased its billing rate in this year.

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revenue exceeded expenses incurred by approximately \$14,000 in 2009 and by approximately \$23,700 in 2010.

The Union submitted the City's budget documents for the past five (5) years to the International Union for the specific purpose of subjecting those documents to a Municipal Financial Analysis (MFA). Jason Baker, deemed by the Union to be an expert witness in matters of Municipal Finance rendered testimony interpreting the results of the International's Municipal Financial Analysis (Un.Ex.8). In testimony not contravened by the City, Baker asserted that based on the MFA findings relative to General Fund Revenue and Expenses for Fiscal Years 2010 through 2014, General Fund Balance as a Percent of Expenditures for Fiscal Years 2010 through 2014, and Government Funds, Havre was in "great financial shape" and opined the City could easily afford to pay for the Union's proposal and further, that it would have a minimal effect on the overall budget.

The Arbitrator cites the last paragraph of the MFA which represents a summary of the Findings as follows:

Havre's general fund balance increased nearly 28% from FY12 to FY14 while the asset to liability ratio decreased 11% for the same time period. The general fund balance as a percentage of general fund expenditures is well above the Government Finance Officers Association (GFOA) guidelines for all years reviewed. The city has positive governmental fund balances and positive asset to liability ratios. The total governmental fund balance and asset to liability ratio increased nearly 21% and over 13%, respectively, from FY12 to FY14 (Un.Ex.8).

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3. Appropriate cost-of-living indices:

The City presented the following Cost of Living Index figures as of July, 2015 (CityEx.J). While the City specified figures for the sixteen comparative cities used by the Fact Finder in rendering his recommendation, the Arbitrator has confined the figures applicable only to the seven (7) First Class Cities utilized here as the comparative or comparable cities (in alphabetical order).

| | |
|-------------------------|----------------------|
| Billings | 106.5 |
| Bozeman | 116.6 |
| Butte | 93.1 |
| Great Falls | 98.6 |
| Helena | 103.5 |
| Kalispell | 105.7 |
| Missoula City | 110.1 |
| <u>Havre</u> | <u>94</u> |

As noted above there are only two (2) comparative cities below the U.S. average index of 100 and only one of these two comparative cities with a cost-of-living index below that of Havre. The significance of this data is that it shows the cost-of-living in Havre is less than six (6) other First Class cities and given the fact that the overall national inflation rate has been historically uncharacteristically low, cited by the Fact Finder as 1.5% for 2010; 3.0% for 2011; 1.7% for 2012; 1.7% for 2013; and 0.8% for 2014, the cost incurred by the Havre firefighters in terms of living expenses is very favorable when compared to their counterparts in the other First Class cities. Such favorable cost-of-living conditions should not be construed as meaning that lower wages of Havre firefighters comparatively to other First Class city firefighters necessarily translate into a standard of living comparable or better than their better paid counterparts. Based on the COL index alone, the Arbitrator is not in a position to make a judgment as to the

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relative standard of living experienced by Havre firefighters as compared to the relative standard of living of their counterparts in the other First Class cities that are paid higher wages. Typically, higher costs of living that exist in one community as compared to another is a factor that influences the demand for higher wages. Conversely, lower costs of living that exist in one community as compared to another is a factor that is used in collective bargaining to justify a comparative lower wage rate. It appears that both these factors are present in the instant case.

4. Any other factors traditionally considered in the determination of hours, wages, and conditions of employment.

The Arbitrator finds significant according to the City's own acknowledgement that over 85% of the calls responded to by the Fire Department are for ambulance services and not for fire suppression services, that is, for fire protection. This is significant in that it requires firefighters in the Department to hold EMT qualifications whereas, in cities where the Fire Department does not operate ambulance services it is not required that firefighters that staff those Departments hold EMT qualifications at any level. Given the lopsided ratio of ambulance services to fire suppression services provided to the public it appears mandatory that Havre firefighters be required to possess EMT qualifications at the first or basic level to be hired into the Department and to seek a higher level of EMT qualification to remain in the Department. The Arbitrator finds noteworthy that all fifteen (15) firefighters who comprise the Department all hold, without exception, EMT qualifications and that thirteen (13) of the fifteen (15) hold the second level of EMT qualification designated here as EMT-A. In this regard, the Arbitrator finds justification for the Union's proposal to increase the monthly skill pay from its present level.

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SUMMARY

- The Parties have agreed to an across-the-board increase in wages applicable to the matrix of 1.5% for the first year of the successor Collective Bargaining Agreement, Fiscal Year 2014-2015 to be paid retroactively upon issuance of this Arbitration Award.
- Issues remaining at impasse are duration of the successor Collective Bargaining Agreement. Specifically a two (2) year agreement proposed by the City or a three (3) year agreement proposed by the Union.

A General Wage increase for the second year of the successor Collective Bargaining Agreement. Specifically, either a 1.5% increase on the matrix as proposed by the City or a 4.0% increase proposed by the Union. An increase of 4.5% on the matrix for the third year of the successor Collective Bargaining Agreement as proposed by the Union as opposed to no proposal advanced by the City.

Lastly, monthly increases in EMT Skill pay also known as Stipends. For the first year of the successor Collective Bargaining Agreement a 1.5% increase in Skill pay for each of the three (3) skill levels, EMT-B; EMT-A; and EMT-P as proposed by the City and no increase in Skill pay for any of the three (3) skill levels as proposed by the Union. For the second year of the successor Collective Bargaining Agreement a 1.5% increase in Skill pay for each of the three (3) skill levels proposed by the City and, as proposed by the Union, an increase in skill pay for EMT-B from \$82.40 to \$116.20; an increase in skill pay for EMT-A from \$133.90 to \$216.95 and an increase in skill pay for EMT-P from \$175 to \$287.50. For the third year of the successor Collective Bargaining Agreement no proposal advanced by the City and, as proposed by the Union, an increase in skill pay for EMT-B from \$116.20 to \$150.00; an increase in skill pay for EMT-A from \$216.95 to \$300.00; and an increase in skill pay for EMT-P from \$287.50 to \$400.00.

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OPINION

DURATION OF CONTRACT

Given the City's exposition regarding the complexity of fashioning a budget of greater duration than two (2) fiscal years and the fact that there exist wage data for only one comparative First Class city (Kalispell) for Fiscal Year 2016-2017, therefore lacking guidance as to the percentage increases in general wages that might be negotiated in a third year of the successor Collective Bargaining Agreement by the other six (6) Class 1 cities, the Arbitrator adopts the City's proposal of a two (2) year Agreement.

GENERAL WAGE INCREASE FOR FISCAL YEAR 2014-2015

There is no question that a continuation by the City of 1.5% increases in the general wage applied to the matrix will continue to keep Havre at the bottom of hourly base wages as compared to the other seven (7) First Class cities and that given the percentage increases negotiated by these other First Class cities that reflect them to be greater than the mutually agreed upon 1.5% for Fiscal Year 2014-2015, Havre will continue to fall further behind these cities in hourly base wages in the future. However, given the unique nature of the work performed by Havre Firefighters, specifically, the far greater proportion of emergency medical services provided to the public as opposed to fire suppression services, the Arbitrator is persuaded that even the Union's proposed 4.0% increase in the General Wage for the second year of the successor Collective Bargaining Agreement will not suffice to either lift them to a level that comparatively advances them above being last among the other Class 1 cities or adequately compensate them for the EMT services they perform. Therefore, the Arbitrator adopts the City's proposal of a 1.5% increase in base wage applied to the matrix.

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EMT MONTHLY SKILL PAY / STIPEND

Given the decision to follow for the second year of the successor Collective Bargaining Agreement, with regard to the first year of the Contract, that is for Fiscal Year 2014-2015, the Arbitrator adopts the Union's proposal of no skill pay increases for any of the three (3) skill levels .

For the second year of the successor Collective Bargaining Agreement, given the unique nature of the work performed by Havre Firefighters as recognized by the City as constituting 85% emergency medical services and the remaining 15% fire suppression services and the understood requirement that Havre Firefighters are required to attain some level of EMT qualification as a condition of employment, the Arbitrator adopts the Union's proposal to increase each of the three (3) EMT Skill Levels. As proposed, EMT-B pay shall increase from \$82.40 to \$116.20; EMT-A pay shall increase from \$133.90 to \$216.95; and EMT-P pay shall increase from \$175.00 to \$287.50. The Arbitrator is cognizant of the fact that these awarded increases represent substantial percentage increases in this category of pay but again, these increases in skill level pay are meant to compensate the firefighters for the nature of the work they perform as well as compensating them for seeking and acquiring the necessary credentials to successfully perform emergency medical services provided to the general public. The increase awarded in skill level pay is also intended to offset their lower hourly base wage compared to the other Class 1 cities. Moreover, given the substantial increase in skill level pay awarded, the Arbitrator declares with much emphasis that had a third year been adopted for the duration of the Contract the Union's proposal to again substantially increase skill level pay would have been roundly rejected. The rationale for rejection lies in the fact that the awarded increase in Stipend to take effect in the second year of the Contract raises the skill level pay for EMT-As beyond such pay by any of the other seven (7) Class 1 cities. Interestingly however, such an increase falls within the realm of four (4)

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Class 2 cities, to wit; Missoula Rural Fire Department, Big Sky, Whitefish, and Lockwood and is surpassed by skill pay for EMT-As by Whitefish and Lockwood. Most likely this is the case because like Havre, the principal work performed by firefighters in these cities is emergency medical services as opposed to fire suppression services.

A W A R D

Pursuant to the rationale set forth in the preceding Opinion Section, the Arbitrator adopts the following proposals:

DURATION OF CONTRACT

City Proposal - 2 years. Fiscal Year 2014-2015; Fiscal Year 2015-2016.

GENERAL WAGE INCREASE

City Proposal – 1.5% wage increase on the matrix beginning Fiscal Year 2015-2016.

EMT MONTHLY SKILL PAY

Union Proposal – Fiscal Year 2014-2015 - No increase in pay for any of the three (3) skill levels.

Union Proposal – Fiscal Year 2015-2016 - Increase in pay for each of the three (3) skill levels.



George Edward Larney

Arbitrator

Sedona, Arizona

December 14, 2015

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