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PUBLIC EMPLOYMENT  
RELATIONS COMMISSION

**IN THE MATTER OF**

**CITY OF SEA-TAC**

**AND**

**INTERNATIONAL ASSOCIATION OF  
FIRE FIGHTERS, LOCAL 2919**

**PERC No.: 15951-I-01-370**

**Date Issued: November 5, 2002**

**INTEREST ARBITRATION OPINION AND AWARD**

**OF**

**ALAN R. KREBS**

**Appearances:  
CITY OF SEA-TAC**

**Otto G. Klein, III**

**INTERNATIONAL ASSOCIATION OF  
FIRE FIGHTERS, LOCAL 2919**

**James H. Webster**

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**IN THE MATTER OF  
CITY OF SEA-TAC**

**AND**

**INTERNATIONAL ASSOCIATION OF  
FIRE FIGHTERS, LOCAL 2919**

**OPINION OF THE ARBITRATOR**

**PROCEDURAL MATTERS**

In accordance with RCW 41.56.450, an interest arbitration hearing involving certain uniformed personnel of the city of Sea-Tac was held in Sea-Tac, Washington on August 6, 2002. The parties agreed to waive the statutory provision which calls for an arbitration panel consisting of three members. Instead, as authorized by WAC 391-55-205, the parties agreed to have the matter presented before a single arbitrator, Alan R. Krebs. The Employer was represented by Otto G. Klein of the Summit Law Group. The Union was represented by James H. Webster of the law firm Webster, Mrak and Blumberg.

At the hearing, the testimony of witnesses was taken under oath and the parties presented documentary evidence. There was no court reporter, and therefore, the Arbitrator tape recorded the proceedings as required by RCW 41.56.450.

The parties agreed upon the submission of post-hearing briefs. The Arbitrator received the briefs on September 30, 2002.

## APPLICABLE STATUTORY PROVISIONS

Where certain public employers and their uniformed personnel are unable to reach agreement on new contract terms by means of negotiations and mediation, RCW 41.56.450 calls for interest arbitration to resolve their dispute. The parties agree that RCW 41.56.450 is applicable to the bargaining unit of firefighters involved here. In interest arbitration, an arbitrator or arbitration panel adjudicates a resolution to contract issues regarding terms and conditions of employment, which are at impasse following collective bargaining negotiations. Arbitrators are generally mindful that interest arbitration is an extension of the bargaining process. They recognize those contract provisions upon which the parties could agree and decide the remaining issues in a manner which would approximate the result which the parties would likely have reached in good faith negotiations considering the statutory criteria.

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

**RCW 41.56.465 Uniformed personnel--  
Interest arbitration panel--Determinations--  
Factors to be considered.** (1) In making its determination, the panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and, as additional standards or guidelines to aid it in reaching a decision, it shall take into consideration the following factors:

- (a) The constitutional and statutory authority of the employer;
- (b) Stipulations of the parties;
- (c) (i) ...  
(ii) For employees listed in RCW

41.56.030(7)(e) through (h), comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of public fire departments of similar size on the west coast of the United States. However, when an adequate number of comparable employers exists within the state of Washington, other west coast employers may not be considered;

(d) The average consumer prices for goods and services, commonly known as the cost of living;

(e) Changes in any of the circumstances under (a) through (d) of this subsection during the pendency of the proceedings; and

(f) Such other factors, not confined to the factors under (a) through (e) of this subsection, that are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment....

\* \* \*

RCW 41.56.430, which is referenced in RCW 41.56.465, sets forth a public policy against strikes by uniformed personnel, and recognizes that there should be an effective alternative means of settling labor disputes involving such groups so as to promote "dedicated and uninterrupted public service."

**RCW 41.56.430 Uniformed personnel --  
Legislative declaration.** The intent and purpose of this 1973 amendatory act is to recognize that there exists a public policy in the state of Washington against strikes by uniformed personnel as a means of settling their labor disputes; that the uninterrupted and dedicated service of these classes of employees is vital to the welfare and public safety of the state of Washington; that to promote such dedicated and uninterrupted public service there should exist an effective and adequate alternative means of settling disputes.

## ISSUES

The Union represents 39 uniformed employees currently in the City's Fire Department, up to and including the rank of battalion chief.<sup>1</sup> The Union and the City are parties to a collective bargaining agreement which expired on December 31, 2000. They were unable to reach agreement on a new contract despite their efforts in negotiations and the assistance of a mediator. In accordance with RCW 41.56.450, the Executive Director of the Washington State Public Employment Relations Commission certified that the parties were at impasse on a number of issues. The statutory interest arbitration procedures were invoked. The parties agree that the issues remaining to be resolved in arbitration are:

1. Wages
2. Longevity Pay
3. Hours of Work

They furthered agreed that the new agreement should be for three years: 2001, 2002, and 2003.

## NATURE OF THE EMPLOYER

The city of Sea-Tac, Washington, is situated in King County. Located within the City is the Seattle-Tacoma International Airport, which has its own fire department. The City had a population of 25,496 in 2000 according to published census statistics. The City operates three fire stations on three

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<sup>1</sup> In addition, there was one vacant position at the time of the hearing.

shifts, with nine firefighters, three captains, and a battalion chief on each shift. A majority of the City's firefighters have between 10 and 14 years of service, with an average of 12 years. While only five employees have 6 or less years of service, 13 have 14 or more years of experience.

## **BARGAINING HISTORY**

The City incorporated in 1990. At that time, fire service within the City boundaries was provided by Fire District No. 24 and by a volunteer station of Fire District No. 2. During 1991, the City formed its municipal fire department. The City hired the employees of Fire District No. 24. In its initial contract with the City, the Union agreed that the firefighters would work a 56-hour workweek with 24-hour shifts. This was a change from the practice in Fire District No. 24 which had a 52.5 hour workweek with a 12/24 hour shift schedule. In their next contract, the parties agreed to reduce the number of hours worked in a week to 54 by providing for 4.33 Kelly shifts annually. A Kelly shift is a shift which is scheduled off within a 27-day duty cycle in order to reduce the average number of hours worked in a week. The parties agreed at that time that wages would be based on a 53-hour workweek, with overtime paid above that threshold. This means that for each 27-day duty cycle without a Kelly shift, 12 hours of overtime would be paid above the base wage. Captain John Gallup, who was on the Union negotiating team, testified that during the parties' negotiations in the

early 1990s, there was an expressed understanding that the Union would be seeking hours reductions in future negotiations. City Attorney, Robert L. McAdams, who served on the City's negotiating team at that time, testified that there was never an understanding that hours would be reduced in the future. In subsequent contracts, hours were not reduced. The parties have never agreed upon a longevity benefit.

### **COMPARABLE JURISDICTIONS**

One of the primary standards or guidelines enumerated in RCW 41.56.465 upon which an arbitrator must rely in reaching a decision is a "comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of like employers of public fire departments of similar size on the west coast of the United States." The statute requires the use of comparable employers within the state of Washington if an adequate number of in-state comparable employers exists.

While the governing statute requires a comparison with public fire departments of similar size, it does not define how "similar size" is to be determined. In making this determination, interest arbitrators have been constrained by the nature of the statistics which the parties have placed into evidence. The most commonly referenced criteria are the population and assessed valuation of the communities served. Consideration is also frequently given to the proximity of the



jurisdiction to be compared and whether it is in a similar economic environment, such as in a rural area or part of a large metropolitan area. The parties agree that the primary considerations for selecting comparable jurisdictions are location, population, and assessed valuation.

The City proposed during negotiations and in these proceedings the following 11 fire departments as appropriate comparable jurisdictions.

	<u>Population</u>	<u>% of Sea-Tac</u>	<u>Assessed Valuation</u>	<u>% of Sea-Tac</u>
Bainbridge Island	20,308	79.65	\$2,390,951,072	88.86
Bothell	30,150	118.25	2,865,706,186	106.51
DesMoines (King #26)	29,267	114.79	1,479,572,614	54.99
East Auburn (King #44)	18,500	72.56	1,624,171,113	60.36
King County #16	31,000 <sup>2</sup>	121.59	2,672,237,875 <sup>2</sup>	99.32
Lake Stevens (Sno. #8)	35,271	138.34	1,763,656,736	65.55
Lynnwood	33,847 <sup>2</sup>	132.75	2,632,186,036 <sup>2</sup>	97.83
Mukilteo	18,019	70.67	1,595,276,190	59.29
Puyallup	33,011 <sup>2</sup>	129.48	2,169,487,352	80.63
Tukwila	17,181 <sup>2</sup>	67.38	2,747,207,313 <sup>2</sup>	102.10
University Place (Pierce #3)	29,933 <sup>2</sup>	117.40	1,572,318,419 <sup>2</sup>	58.44
Sea-Tac	25,496 <sup>2</sup>		2,690,612,418	

The City's method for determining comparables is selecting all jurisdictions in King, Pierce, Snohomish, and Kitsap Counties that are between 50% above and 50% below the City in

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<sup>2</sup>Where the City and the Union have provided different figures for population or assessed valuation of a jurisdiction, I have used the figures provided by the City. The City justified its population figure for Sea-Tac with 2000 census data. Moreover, a document submitted into evidence by the Union regarding the City's finances uses the same figure. The evidence presented does not reveal the basis for the Union's assertion that the population of Sea-Tac is 23,570. With regard to other statistics offered regarding population and assessed valuation, the City relied upon data published in the 2000 AWC Police/Fire Survey. The Union relied on the testimony of Union President Richard Knight. Mr. Knight testified that he obtained the data for population and assessed valuation from publications, from other employers, and from the bargaining units themselves, but he did not go into any more detail. The City's figures appears to be based on specifically identified published data and therefore its source is more understandable and reliable.

terms of population and assessed valuation. The City points out that the 50% up and down methodology has been adopted by many arbitrators. It asserts that its criteria have yielded eleven comparable organizations, all within the Seattle metropolitan area. The City argues that one factor which should limit the upward band of assessed valuation is that a significant part of the City's assessed valuation, the airport, is not directly protected by City firefighters.

The Union has proposed the following nine jurisdictions as comparables:

	<u>Population</u>	<u>% of Sea-Tac</u>	<u>Assessed Valuation</u>	<u>% of Sea-Tac</u>
Auburn	37,780	148.18	\$3,392,920,313	126.10
East Pierce	38,000	149.04	1,800,000,000	66.90
Edmonds	38,610	151.43	2,841,059,132	105.59
King County #16	31,000 <sup>2</sup>	121.59	2,672,237,875 <sup>2</sup>	99.32
Lynnwood	33,847 <sup>2</sup>	132.75	2,632,186,036 <sup>2</sup>	97.83
Mercer Island	21,690	85.07	4,347,447,549	157.86
Puyallup	33,011 <sup>2</sup>	129.48	2,169,487,352	80.63
Tukwila	17,181 <sup>2</sup>	67.38	2,747,207,313 <sup>2</sup>	102.10
University Place (Pierce #3)	29,933 <sup>2</sup>	129.43	1,572,318,419 <sup>2</sup>	58.44
Sea-Tac	25,496 <sup>2</sup>		2,690,612,418	

The Union contends that the appropriate departments for comparison are those located in King, Pierce, and Snohomish Counties with service population and assessed valuation in a range of 60% to 167% of the City. The Union acknowledges that Bothell also falls within that range. It asserts that the City was aware for many months of the Union's comparable departments and selection criteria, but did not alert the Union to any error. The Union urges that the Arbitrator not permit the City to profit

from such a surprise challenge during the hearing. The Union maintains that the City's method of selection, which utilizes a 50% up and down band, improperly weights its comparators towards smaller departments, because a decrease in a numerical amount has a much larger impact than an increase in the same numerical amount.

I have selected seven fire departments which are similar in size to Sea-Tac as comparable jurisdictions:

- Auburn
- Bothell
- East Pierce
- King County #16
- Lynnwood
- Puyallup
- Tukwila

These represent all jurisdictions proposed by the parties within King, Pierce, and Snohomish Counties falling within population and assessed valuation bands of between 66% and 150% of Sea-Tac. Such a band provides a sufficient number of comparable jurisdictions. A jurisdiction which is 66% the size of Sea-Tac is two-thirds its size, just as Sea-Tac would be two-thirds the size of a jurisdiction which is 150% larger. I have not included jurisdictions in Kitsap County inasmuch as it does not have a land border with King County, as do Pierce and Snohomish Counties. Moreover, adding Kitsap County to the mix would add only one additional jurisdiction, and that would be an island, which Sea-Tac is not. There is no reason to exclude Bothell inasmuch as it falls within the selected range of population and assessed valuation, and it had been proposed by the City. In

comparison with the selected comparables, the City is below average in population, but above average in assessed valuation.

## **COMPENSATION COMPARISONS**

The parties are generally in agreement about how compensation comparisons should be made between the City and the selected comparable jurisdictions. They each would determine total monthly compensation by adding to monthly base wages, longevity pay, contractual overtime built into the regular schedule, health care contributions (with spouse and two children), deferred compensation (MEBT), and holiday pay. The total monthly compensation would then be divided by net monthly hours in order to determine net hourly pay. Net monthly hours would be determined by subtracting monthly vacation and holiday leave accruals from the scheduled hours. The comparisons below reflect these mutually recognized guidelines applied to a firefighter with ten years of experience, which is close to the experience level of the average City firefighter. The data for the selected comparable jurisdictions are derived from the 2001 contracts and from the parties' exhibits. The City of Sea-Tac data reflects the parties' expired contract and 2001 health costs.

Auburn

Base Wage	\$4,572
Health Care	701
Deferred Compensation	0
Longevity Pay	160
Contractual Overtime	0
Holiday Pay	213
Total Monthly Compensation	<u>\$5,646</u>

Monthly Contract Hours	203.50
Vacation Hours	18.00
Holiday Hours	0.00
Net Monthly Hours	<u>185.50</u>

Net Hourly Compensation \$ 30.44

Bothell

Base Wage	\$4,642
Health Care	697
Deferred Compensation	58
Longevity Pay	93
Contractual Overtime	0
Holiday Pay	0
Total Monthly Compensation	<u>\$5,490</u>

Monthly Contract Hours	226.63
Vacation Hours	21.00
Holiday Hours	12.00
Net Monthly Hours	<u>193.63</u>

Net Hourly Compensation \$ 28.35

East Pierce

Base Wage	\$4,749
Health Care	507
Deferred Compensation	142
Longevity Pay	142
Contractual Overtime	0
Holiday Pay	0
Total Monthly Compensation	<u>\$5,540</u>

Monthly Contract Hours	216.28
Vacation Hours	22.00
Holiday Hours	0.00
Net Monthly Hours	<u>194.28</u>

Net Hourly Compensation \$ 28.52

King County #16

Base Wage	\$4,574
Health Care	790 <sup>3</sup>
Deferred Compensation	0
Longevity Pay	92
Contractual Overtime	0
Holiday Pay	0
Total Monthly Compensation	<u>\$5,456</u>

Monthly Contract Hours	208.00
Vacation Hours	18.00
Holiday Hours	8.00
Net Monthly Hours	<u>182.00</u>

Net Hourly Compensation \$ 29.98

Lynnwood

Base Wage	\$4,548
Health Care	645 <sup>3</sup>
Deferred Compensation	282
Longevity Pay	90
Contractual Overtime	0
Holiday Pay	167
Total Monthly Compensation	<u>\$5,732</u>

Monthly Contract Hours	208.00
Vacation Hours	14.00
Holiday Hours	2.00
Net Monthly Hours	<u>192.00</u>

Net Hourly Compensation \$ 28.85

Puyallup

Base Wage	\$4,698 <sup>3</sup>
Health Care	643 <sup>3</sup>
Deferred Compensation	130 <sup>3</sup>
Longevity Pay	0
Contractual Overtime	0
Holiday Pay	0
Total Monthly Compensation	<u>\$5,471</u>

Monthly Contract Hours	212.23
Vacation Hours	20.00
Holiday Hours	12.00
Net Monthly Hours	<u>180.33</u>

Net Hourly Compensation \$ 30.34

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<sup>3</sup> Average of the two different figures provided by the parties.

Tukwila

Base Wage	\$4,756 <sup>3</sup>
Health Care	874
Deferred Compensation	298 <sup>3</sup>
Longevity Pay	68
Contractual Overtime	50
Holiday Pay	201 <sup>3</sup>
Total Monthly Compensation	<u>\$6,247</u>
Monthly Contract Hours	218.67
Vacation Hours	18.00
Holiday Hours	0.00
Net Monthly Hours	<u>200.67</u>
Net Hourly Compensation	<u>\$ 31.13</u>

The average total monthly compensation and average total hourly compensation for benchmark<sup>4</sup> firefighters in the seven comparable jurisdictions in 2001, are reflected below:

Average total monthly compensation	\$5,655
Average total hourly compensation	\$29.66

The compensation currently received by benchmark<sup>4</sup> City firefighters is reflected below. These figures represent compensation called for by the parties' expired agreement and 2001 health costs.

City of Sea-Tac

Base Wage	\$4,621
Health Care	722
Deferred Compensation	287
Longevity Pay	0
Contractual Overtime	277
Holiday Pay	0
Total Monthly Compensation	<u>\$5,907</u>
Monthly Contract Hours	234.00
Vacation Hours	20.00
Holiday Hours	11.00
Net Monthly Hours	<u>203.00</u>
Net Hourly Compensation	<u>\$ 29.10</u>

<sup>4</sup> Firefighters with ten years of experience, a spouse and two children.

The data presented establishes that the total monthly and hourly compensation provided by the City compares favorably with the comparable jurisdictions, particularly if the City's compensation figures are adjusted with a cost of living increase.

## **COST OF LIVING**

RCW 41.56.465(d) requires consideration of "[t]he average consumer prices for goods and services, commonly known as the cost of living." The parties have both relied upon the Consumer Price Index for All Urban Consumers (CPI-W) covering the June to June period for the Seattle-Everett area. This measurement of consumer price increases published by the United States Department of Labor, reflects increases of 3.9% in 2000, 3.9% in 2001, and 1.5% in 2002. The Union seeks a total compensation increase which matches these percentage increases, though it seeks this compensation increase primarily through its proposed hours reduction and longevity benefits, rather than an increase to base monthly wages. The City emphasizes the current period of low inflation to argue that it is appropriate to hold down wage increases. It has proposed percentage base wage increases for the second and third years of the new agreement equivalent to 90% of the change in the cost of living, a formula which has been utilized by the parties during past collective bargaining negotiations. In this regard, it relies upon the testimony of Steve Mahaffey, the City's human resources director, that over the years the parties have always agreed upon wage increases tied



to 90% of change in the Seattle CPI-W, with, at times, an additional 1% or 2% added. The City argues that it has been extremely generous with its firefighters over the years by paying them at a rate substantially exceeding increases in the CPI-W. In this regard, the City presented evidence that wages paid to its firefighters have exceeded the increase in the CPI by a total of 10% since 1991.

Inasmuch as the governing statute requires the Arbitrator to consider the cost of living, significant weight shall be given to the parties' agreed-upon method of measuring changes in the cost of living, the June to June CPI-W for Seattle-Everett.

## **OTHER CONSIDERATIONS**

In addition to the specific criteria set forth in RCW 41.56.465(a)-(e), RCW 41.56.465(f) directs the Arbitrator to consider "[s]uch other factors ... that are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment." Accordingly the factors discussed below, have been considered.

### **Ability to Pay**

A factor frequently raised in contract negotiations and also considered by arbitrators is the ability to pay wage and benefit increases.

The City contends that economic difficulties have severely affected the City's economic condition during the past several years. Elizabeth Spencer, presently the City's deputy city

manager, and before that its finance and systems director, testified about the City's finances. The City's general fund operations are derived about one-third from property taxes, one-third from sales taxes, and one-third from other sources. During 2001, the State's elimination of the motor vehicle excise tax led to budget cuts by the City amounting to \$562,000. According to Ms. Spencer, the City's finances were negatively effected by the tragic events of September 11, 2001. Approximately 42% of the City's assessed valuation is derived from the airlines operating out of the airport. Their assessed valuation for 2002 has not yet been determined, but the financial difficulties of the airlines are well known. Ms. Spencer estimated, based on information that she has received, that there will be a 20% reduction in the City's assessed valuation for 2002, and this will affect property tax collections during 2003. Sales tax revenues during the third quarter of 2002 have been down 13% compared to a year ago. It is projected to decrease in 2002 by \$1.5 million compared to 2001. This decline has been caused not only by the decline in airport related commerce, but also by unfavorable conditions in the state economy, which has a high unemployment rate. Tax revenues derived from airport related parking is down by about 20%, resulting in a reduction of about \$400,000 in revenue for the City during the first half of 2002 as compared with the same period in 2001. Similarly, hotel/motel tax receipts decreased 13% during the first half of 2002. In order to deal with these economic difficulties, the City has

reduced its overall staffing level from 167.8 FTEs (full time equivalent positions) to 154.3 FTEs. Ms. Spencer testified that there is much uncertainty in the City's economic health since much depends on how long problems in the travel business continue. The City notes that in a bond rating report, Standard & Poor's confirmed that these "[u]ncertainties in the travel industry post September 11, 2001, may have a negative effect upon the city's economic base." The City asserts that the Arbitrator should not inject himself into the political debate of whether taxes should be raised despite the negative consequences for attracting new businesses to the City. The City argues that in these difficult and uncertain financial times, it should not be required to implement new and potentially expensive compensation programs.<sup>5</sup>

The Union argues that the City has not contested its ability to pay all amounts proposed by the Union, and therefore the City's arguments are not germane to the resolution of this dispute. The Union relies upon a February 21, 2002 letter to the mayor and council, in which Ms. Spencer stated:

...The general governmental funds have considerable capacity to endure adverse conditions without restricting essential services. We continue to be able to maintain a stable capital improvement program with adequate financing. General Fund operations continue to be supported by a property tax rate well below the statutory limit and without the implementation of several revenue sources available to Washington cities such as a Business and

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<sup>5</sup> Subsequent to the hearing in this matter, the City submitted documents which indicated that a ballot initiative will be part of the upcoming election, which, if passed, potentially could increase the City's costs for the firefighters' pension program.

Occupations Tax or a Utility Tax (6% allowed by law)...

This letter also references "uncertainties" and "financial challenges" caused by the terrorist attacks and \$2 million in reductions proposed in the 2002 budget. The Union contends that the City's financial strength is demonstrated by the fact, as Ms. Spencer testified, that it is able to delay floating bonds to finance acquisition of its new city hall by using its own reserve funds until more favorable interest rates are available, and that the City's financial strength was recognized by Standard & Poor's which gave it a "AA-" credit rating for long-term bonds. Standard & Poor's documentation explains that this signifies that its "capacity to meet its financial commitment is very strong."

Your Arbitrator is mindful that general economic conditions, particularly in the travel industry upon which the City heavily relies for its tax collections, have been unfavorable for the last several years. The City has so far been able to deal with these challenging times and maintain a healthy general fund balance and credit rating by reducing staffing and otherwise cutting expenditures. While the City is able to fund a fair and reasonable compensation increase for its firefighters, the challenging and uncertain economic situation must be considered.

#### **Turnover**

Interest arbitrators are likely to consider whether the compensation package provided to employees is sufficient to retain employees and to attract qualified applicants. Clark

County, PERC No. 11845-I-95-252 (Axon, 1996). The City argues that its position that no significant change to the status quo is necessary is supported by the fact that turnover is not a problem for this bargaining unit. Mr. Mahaffey testified that in the past five years, three firefighters have resigned, and that none went to work for other fire departments. Mr. Mahaffey further testified that there were hundreds of applicants for the vacancies. The Union relies on the testimony of Captain Gallup that lateral hirings by other departments are very rare, so that there is little opportunity for firefighters to move to other departments. In any event, it does appear that with the current compensation, the City is able to attract and retain qualified personnel.

#### **Settlements with Other Bargaining Units**

The City urges consideration of the wage increases received by City employees who are not in the firefighter bargaining unit. As I have recognized in other interest arbitration proceedings, consideration of compensation settlements achieved by other groups of employees within the subject jurisdiction is appropriate. From the standpoint of both the employer and the union, the settlements reached with other bargaining units are significant. While those settlements are affected by the particular situation of each individual bargaining unit, still there is an understandable desire by the employer to achieve consistency. From the union's standpoint, it wants to do at least as well for its membership as the other unions have already

done. At the bargaining table, the settlements reached by the employer with other unions are likely to be brought up by one side or the other. Other interest arbitrators have given some weight to internal parity. Port Angeles and Teamsters Local 589, AAA 75 300 00215 98 (Wilkinson, 1999). Thus, it is a factor which should be considered by the Arbitrator.

The City has reached agreement with its other bargaining unit for the years 2001 and 2002. The AFSCME unit received wage increases each of those years of 3.51%, equal to 90% of the increase in the CPI. Non-represented employees received identical percentage increases, except that for 2002, those earning over \$60,000 a year received an increase of 1.755%.

## **LONGEVITY PAY**

The expired contract contains no provision for longevity pay. The Union proposes to add the following new provision:

### **9.09 Longevity Compensation**

Effective January 01, 2001, base wages shall be adjusted by the following percentages, on a monthly basis, for employees who have completed the following continuous service requirements:

Completion of 5 years - 1%  
Completion of 10 years - 3%  
Completion of 15 years - 5%  
Completion of 20 years - 7%

Longevity compensation shall be due and payable beginning on employee's individual anniversary date and each consecutive pay period thereafter.

The Union contends that the longevity pay which it has proposed is in reasonable relationship to the average longevity benefit of the comparable departments. It further reasons that longevity pay is appropriate given the paucity of opportunity to seek improved employment conditions in other departments. Moreover, it explains, it is reasonable to increase compensation to reward increased productivity that derives from experience. The Union maintains that in adding a longevity benefit, it does not propose to increase total hourly compensation relative to comparable departments, and, therefore, the City would realize savings through lower entry level pay rates.

The City is adamantly opposed to initiating a new longevity program which would pay firefighters additional wages solely because they have more years of service. The City expresses concern that if it implements a new longevity program, it would be very difficult not to provide a similar program to other City employees. With regard to a comparison with the comparable departments, the City observes that some do not pay longevity, and that senior City firefighters already receive higher wages than comparable senior firefighters of the comparable departments. The City argues that the lack of turnover in the department demonstrates that there is no need to initiate a new longevity program. While recognizing that firefighters most often stay in one jurisdiction, the City asserts that its firefighters pay is not held down and there are ample promotional

opportunities for them. The City urges that focus be placed on the cash compensation already received by City firefighters.

The chart below reflects the longevity pay policy of the comparable departments:

	<u>1<sup>st</sup> Step</u>	<u>2<sup>nd</sup> Step</u>	<u>3<sup>rd</sup> Step</u>	<u>4<sup>th</sup> Step</u>	<u>5<sup>th</sup> Step</u>
Auburn	5 yrs-2%	8 yrs-3.5%	11 yrs-5%	14 yrs-6.5%	17 yrs-8%
Bothell	5 yrs-1%	10 yrs-2%	15 yrs-3%	20 yrs-4%	
E. Pierce	5 yrs-1%	10 yrs-3%	15 yrs-5%	20 yrs-5%	
King Co. #16	5 yrs-1%	10 yrs-2%	15 yrs-3%	20 yrs-4%	25 yrs-5%
Lynnwood <sup>6</sup>	4 yrs-0.5%	7 yrs-1%	10 yrs-1.5%	14 yrs-2%	
Puyallup <sup>7</sup>	0	0	0	0	
Tukwila <sup>6</sup>	5 yrs-0.25%	10 yrs-1.25%	15 yrs-2.5%	20 yrs-3.75%	23+ yrs-4.5%
Average	5 yrs-0.82%	10 yrs 1.89%	15 yrs-2.5%	20 yrs-3.82%	
Average of 6 jurisdictions having longevity	5 yrs-0.96%	10 yrs-2.2%	15 yrs-3.67%	20 yrs-4.46%	

A new longevity pay benefit is awarded effective January 1, 2002. Longevity pay shall be added to the employee's base monthly salary upon completion of the years of service reflected in the following schedule:

Completion of 5 years-	1%
Completion of 10 years-	2%
Completion of 15 years-	3%
Completion of 20 years-	4%

<sup>6</sup> The Lynnwood and Tukwila contracts contain specific dollar amounts for longevity pay. These dollar amounts have been converted here to percentages for comparison purposes. Tukwila provides an amount equal to about an additional 0.25% for each additional year of service after completion of 5 years, up to a maximum of about 4.5% after 23 years.

<sup>7</sup> Subsequent to the hearing in this matter, the Union submitted a copy of a recently negotiated contract which indicated that Puyallup and its firefighters union agreed to implement a new longevity benefit in 2003.



The awarded longevity benefit in line with the prevailing practice in the seven comparable departments. It is reasonable to assume that firefighters with many years of service have improved their skills and are generally more valuable to the City than more recent hires. The City correctly points out that its firefighters already receive competitive wages. Indeed, the Union does not dispute this. Therefore, the value of the longevity benefit will serve to reduce the amount of the cost of living increase which will be awarded for 2002. For this purpose, the longevity benefit is valued at 2.3%. This figure is derived from the benefit which would accrue in this particularly experienced bargaining unit. With the new schedule, 8 employees will receive a 4% pay benefit, 1 will receive a 3% benefit, 28 will receive a 2% benefit, 4 will receive a 1% benefit, and 2 will receive no benefit, as will the person hired for the Department's one vacancy. The City has costed the Union's proposal for longevity increases of 1%, 3%, 5%, and 7% at 3.3% of base wages. This cost estimate is in line with my estimate of a 2.3% cost for the awarded longevity benefit of 1%, 2%, 3%, and 4%. The City's argument that the award of a new longevity benefit will cause difficulties with other City employees who have no such benefit is not persuasive. First, it is already a fact that the compensation package for this bargaining unit is unique as compared with other City employee groups. Moreover, the new longevity benefit is being paid for by an equivalent

percentage reduction in the base monthly wage which would otherwise be awarded.

## **HOURS OF WORK**

### **A. Kelly Shifts**

The Union proposes that scheduled work hours be reduced by increasing the number of Kelly shifts from 4.33 to 8 effective January 1, 2001, 12 effective January 1, 2002, and 15 effective January 2, 2003. According to the Union, this would result in a reduction of scheduled monthly work hours from the current 234 to 226.67 in 2001, 218.67 in 2002, and 212.67 in 2003. It would also result in a reduction of the average workweek from the current 54 to 52.31 in 2001, 50.46 in 2002, and 49.08 in 2003. The Union maintains that adoption of its proposal would reduce the total scheduled monthly work hours to near the average of the comparable departments by the last year of the new contract. The Union points out that its proposal would substantially reduce the cost of scheduled overtime paid by the City. The Union urges that the cost of its proposed hours reduction should not be calculated by assuming that those hours would be filled by an employee working at overtime rates, since the City has the option of meeting its mission by staffing adequately. The Union calculates the cost of its proposal to increase the number of Kelly shifts at \$60,137 in 2001, \$124,966 in 2002, and \$198,198 in 2003. The Union recognizes that its members receive a higher number of leave days than the comparators, but points out that

the departments with fewer or no holiday leave shifts typically receive holiday pay.

The City contends that the Union's proposal for an hours reduction should be rejected. The City calculates its cost for adding even a single Kelly shift at between \$16,000 and \$16,350, assuming that those filling in for the Kelly shift would be paid at the overtime rate. With this assumption, the City calculates that an increase to eight Kelly shifts would result in an overall compensation increase of 0.63% per Kelly shift. The City maintains that the Union is attempting to violate the bargain struck ten years ago, whereby its members received a relatively high base pay and a favorable method of calculating overtime in return for scheduled hours that exceed the average of the comparable departments. Instead, according to the City, it would still be paying higher than average base wages, but without the bargained for benefit of higher than average scheduled hours. The City points out that its firefighters already receive significantly more vacation and holiday leave than do firefighters in the comparable jurisdictions, and therefore the overall difference in monthly hours worked is only about ten. The City argues that at this time of tremendous financial uncertainty, it is in no position to hire the additional firefighters which the Union's proposal would require.

The hours worked by firefighters in the comparable departments are reflected in the following chart:

	<u>Kelly Shifts</u>	<u>Average Scheduled Weekly Hours</u>	<u>Average Scheduled Monthly Hours</u>	<u>Average Scheduled Monthly Hours Less Vacation and Holiday Hours Off</u>
Auburn	19.58	47	203.50	185.50
Bothell	8	52.3	226.63	193.63
East Pierce	13.52	49.91	216.28	194.28
King County #16	N/A <sup>B</sup>	48	208.00	182.00
Lynnwood	N/A <sup>B</sup>	48	208.00	192.00
Puyallup	15.22	49	212.33	180.33
Tukwila	12	50.46	218.67	200.67
Average	13.66	49.24	213.34	189.77
Sea-Tac	4.33	54	234	203

It is awarded that effective January 1, 2003, the number of Kelly shifts received by employees each year shall be increased by two to 6.33. That will result in a reduction in the average scheduled weekly hours to 53.078, and a reduction in the average scheduled monthly hours to 230. The net monthly hours when vacation and holiday accruals are deducted is 199. The increase in Kelly shifts serves to decrease the gap between the City and the comparable departments with regard to scheduled work hours. The modest decrease in work hours which is being awarded represents a gradual move in the direction of the prevailing practice among comparable departments. It also recognizes that decreased hours will likely result in increased staffing levels

<sup>B</sup> King County #16 and Lynnwood each utilize a four platoon system. A four platoon system, if not adjusted, would result in a 42 hour workweek. King County #16 and Lynnwood each add "debit days" which employees must work in order to increase the average workweek.

or overtime costs. This will be challenging for the City in the current difficult economic climate, which has resulted in diminished revenues and substantial reductions in staffing in other City operations. It further recognizes the favorable compensation levels which bargaining unit members have enjoyed when compared with those received in the comparable departments. The approximate cost of the hours reduction will offset the base wage increase which otherwise would be provided for 2002.

The Union, in its submitted exhibits, calculated the compensation value of two additional Kelly shifts at about 1% of the total compensation. The City calculated the cost of providing each additional Kelly shift at 0.63%, which means that it would value two Kelly shifts at 1.26%. The City's estimate assumed that other employees would be assigned to fill in during those additional Kelly shifts on overtime. The calculations of both the Union and the City recognized that there would be some cost savings to the City because with an increase in Kelly shifts there would be less overtime built into the regular schedule of each employee. The City's calculation may overstate the cost of an additional Kelly shift since it was not established that all new Kelly shifts will result in a paid overtime shift for someone. On the other hand, I have considered the fact that employees have been favorably compensated in return for working longer hours than firefighters in comparable departments. This bargain has been affected by the reduction in hours worked which

will result from this Decision. In view of all these considerations, for purpose of determining the overall compensation increase, I have valued the two newly awarded Kelly shifts at a total of 1.1%.

### **B. Shift Defined**

The City proposes to add the following sentence to Section 10.01 of the Agreement:

An employee may not record more than twenty-four (24) hours in any one shift.

Mr. Mahaffey testified that this is an attempt to correct a situation where employees sometimes are paid for more than 24 hours in a day. Mr. Mahaffey explained that this may occur when a firefighter has traded shifts with another employee and then is called back to work overtime on his originally scheduled shift. The City argues that it is concerned that the public will not understand the nuances of any particular situation, and rather will focus on the fact that the City is paying more than 24 hours of pay for a 24-hour period.

The Union argues against this change. It asserts that the City's proposed change would eliminate call back at the overtime pay rate where an employee is absent as a result of a shift trade, vacation, or compensatory time off, and is called in to work overtime. The Union points out that the City failed to show that any other comparable department operates on the basis it proposes. The Union further relies upon Mr. Mahaffey's testimony on cross examination that he could not think of any specific

situation where the existing contract language on this subject has resulted in additional costs for the City.

There is insufficient reason to modify Section 10.01. The City relies on possible adverse public perception. However, there was no evidence that there has been any negative public perception of Section 10.01 or its implementation. Moreover the proffered language does not appear to address any actual problem or inequity.

### C. Overtime Defined

The City proposes to change the overtime language in the agreement as follows with the underlined language reflecting proposed new language, and the crossed out language indicating a proposal to delete language:

#### 10.05 Overtime Defined

Overtime shall be defined as work performed in excess of the designated 204 hours in the twenty-seven (27) day duty cycle and shall be paid in accordance with the Fair Labor Standards Act (FLSA). Only actual hours worked and not paid hours shall count towards the 204-hour threshold for the purpose of determining overtime. This shall include time when the employee is held past the end of his/her duty shift; when the employee is called back for alarms or special events; or in accordance with the rotational relief system. Minimum call back shall be for two (2) hours, but all other overtime shall be earned and credited in fifteen (15) minute increments. For the purpose of calculating overtime the city will follow the F.L.S.A. twenty-seven (27) day duty cycle. ~~Any hours scheduled over two hundred four (204) in the twenty seven (27) day duty cycle will be paid at the overtime rate.~~ Hours worked within the recognized work schedule in excess of 204 shall be paid at an additional time and one half. ~~Sick leave, Vacation, Holiday, and~~

~~Compensatory Time Off shall be scheduled as paid time off and will not be used to reduce the hours worked in a twenty seven (27) day duty cycle. Shift trades will not be calculated as hours worked, unless the City has requested such trades.~~

The City explains that under its proposal, leave time would not be included in hours worked when calculating overtime pay. The City argues that "there is something fundamentally flawed" with the current practice of considering leave time as hours worked when determining whether overtime should be paid for working more than 204 hours in a cycle. The City maintains that while it has agreed to pay firefighters higher pay in exchange for working more hours than the comparable jurisdictions, firefighters who take time off during a cycle are not in fact working more than other comparable firefighters. The City also relies on the testimony of Mr. Mahaffey that during 2001, its firefighters used, on average, 13 more hours of sick leave than they had accrued during the year. The City suggests that its proposal would reduce sick leave usage.

The Union contends that the City's proposal should be denied. The Union explains that the current contract provides for 12 hours of overtime whenever a 27-day cycle is worked without a Kelly shift. Since it is rare for an employee to have a 27-day cycle without either a Kelly shift or scheduled leave, the City's proposal would essentially eliminate contractual overtime which is built into the regular schedule. The Union



maintains that such a result is not justified by a comparison with the comparable departments.

I find that there is insufficient justification for the City's proposed amendment to the overtime language. The current language is part of the parties' negotiated scheme of providing higher pay to firefighters for working a relatively high number of hours. With this Award, the firefighters will still be working more hours than the average of the comparable departments. Therefore, the basis for the existing language still remains. However, the modest increase in Kelly shifts which has been awarded will result in a substantial decrease in the number of cycles with built in contract overtime. I am not persuaded that there has been any abuse of sick leave or that the suggested language change would have any effect on such leave usage.

#### **D. Scheduling Kelly Shifts**

The Union proposes to add the following language to the contract:

The Kelly shifts shall be scheduled according to mutual agreement between the City and the Union. Only one (1) Kelly shift may be scheduled in a twenty-seven (27) day cycle, until the total number of Kelly shifts exceeds the number of twenty-seven (27) day cycles in a year. In addition, at such time as the total number of Kelly shifts exceeds the number of cycles in one year, the City will schedule Kelly shifts in a uniform manner. The Kelly shifts shall be scheduled so as to spread them out evenly. The schedule shall be subject to review by the Union prior to November 1<sup>st</sup> of the preceding year.

Kelly Shifts shall not be considered leave time.  
All Kelly shifts are tradable within their  
respective cycle.

The Union asserts that this proposal is intended to address the practice whereby Kelly shifts are scheduled at the same time as vacation leave and are subject to the same limitation that no more than two persons may be scheduled off on leave at any given time. The Union proposes that Kelly shifts be scheduled before the vacation scheduling. Richard Knight, the Union president, explained on cross-examination that under the current system, firefighters are unable to schedule their shifts off, though he provided no specific examples.

The City urges that the Union's proposal should be rejected. It reasons that if the Union's proposal were adopted, then two firefighters could be on vacation while another firefighter was taking a Kelly shift off. This would bring staffing down to the minimum staff level, and there would be no buffer for firefighters who are sick. The City maintains that would have substantial staffing and fiscal impact. The City points out that the Union offered no testimony regarding its proposal to make Kelly shifts tradable.

The Union's proposal to add the new language of its proposed Section 10.02.01 is rejected. No employee testified personally to having been adversely effected by the existing scheduling procedure, or even provided a specific example. Moreover, there was no documentary evidence presented which related specifically to this proposal, other than the proposal itself. The change

proposed by the Union is likely to have a significant cost and would affect staffing levels. There was just insufficient evidence presented to justify this proposal.

## **WAGES**

Both parties have proposed wage increases which, in large part, are related to the percentage increase in the Seattle CPI-W for the June to June period of the preceding years. The City has proposed a wage increase award of 2% for 2001, 90% of the CPI for 2002 (3.51%), and 90% of the CPI for 2003 (1.35%). The Union has proposed increases of 50% of the CPI-W for 2001 (1.9%), 100% of the CPI-W for 2002 (3.9%), and 100% of the CPI-W for 2003 (3.9%).

The City argues that its proposal is consistent with the parties' bargaining history, inasmuch as they have always used 90% of the CPI-W as the basis for calculating a cost of living increase. The City points out that such a formula is also consistent with its historic treatment of the other City bargaining unit. The City recognizes that its proposed 2% increase for 2001 deviates from its long-standing practice. It reasons that such an increase is justified by the relationship of the City to the comparable jurisdictions, and by the City's difficult financial condition. The City emphasizes the fact that unlike other City employees, City firefighters have a health care plan that is fully paid by the City. Mr. Mahaffey testified that the City's cost of health benefits for its firefighters increased by about 40% between 1998 and 2002, which is a much larger

percentage increase than the increase in the cost of living over that period of time. The City observes that the parties are in agreement that a comparison with comparable departments demonstrates that there is no need for a catch-up wage award. The City asserts that the fact it has no turnover problem indicates no significant change to the status quo is called for.

The Union explained in its brief that it has only "nominally proposed" the wage increases set forth above. The Union asserts that its principal objectives are to obtain a reduction of the scheduled work hours and introduce longevity benefits, and that such new benefits, if awarded, justify a reduction in the wage increase which would otherwise be awarded. Thus, if the Arbitrator adopts that Union's hours reduction and longevity benefits in full, the Union would accept a freeze in base wages for the life of the contract. If not adopted in full, the Union suggests that "to the degree the Arbitrator awards additional Kelly shifts and longevity benefits, increases in base wages may be reduced to accomplish that result." The Union contends that in 2000, City firefighters received total compensation on an hourly basis at approximately the average of the comparable departments, and it only wishes to maintain this parity. The Union claims that its comparisons of compensation are conservative, since the City does not pay any premiums as do some of the comparables, and that has not been factored into the comparisons.

Weighing the governing factors which are set forth in the statute, wage increases will be awarded for 2001 in the amount of 3.5%, for 2002 in the amount of 1.2%, and for 2003 in the amount of 0.25%. The intent of this Award is to provide overall compensation increases tied to the increases in the cost of living. They are calculated by taking 90% of the percentage increase in the Seattle-Everett CPI-W for the periods mutually recognized by the parties as applicable, and then subtracting from those figures the approximate value of the longevity increase awarded for 2002, and the hours reduction awarded for 2003. I have utilized 90% of the CPI, rather than 100%, for several reasons. First, the City has agreed to provide 100% of the premium cost for health insurance, at a time when health costs have been rising at a rate much faster than the overall cost of living. The increase in health costs is a substantial portion of the increase in the cost of living. Thus, a compensation increase which would allow employees to keep up with the increase in the cost of living should reflect that employees have already been protected in large measure from cost increases in the health component of that index. Perhaps in view of the long-standing practice by the City of providing full health premium coverage to its firefighters, the parties have historically utilized 90% of the CPI-W as their standard for cost of living adjustments, with additional percentage increases tacked on if agreed upon. The parties are in agreement that there is no need or justification for an overall compensation

increase larger than the increase in the cost of living. The awarded compensation increase is justified by a consideration of the listed statutory factors, including a comparison "with the wages, hours, and conditions of employment" provided by comparable fire departments as well as by "[t]he average consumer prices." Also considered, as required by statute, were "other factors ... normally or traditionally taken into consideration," such as the City's difficult financial circumstances, the low turnover among bargaining unit members, the City's treatment of its other bargaining unit, and the parties' own bargaining history of determining cost of living increases by utilizing 90% of the Seattle-Everett CPI-W. The City was not persuasive in its contention that the wage increase for 2001 should be 2%. That figure is significantly less than the increase in the cost of living. It is also considerable less than that which it has provided to the other City bargaining unit. While the City is confronted with a challenging and uncertain economic climate, I am not convinced that it cannot afford a cost of living increase. The wage increase for 2002 reflects the offset for the cost of the longevity benefit which has been awarded beginning that year. The small wage increase for 2003 reflects the offset for the cost of the additional Kelly shifts awarded beginning that year.

#### **AWARD OF THE ARBITRATOR**

It is the determination of your Arbitrator that the Collective Bargaining Agreement between City of Sea-Tac and

International Association of Fire Fighters, Local 2919, shall be amended to include the following:

I. Base wages shall be increased as follows:

Effective January 1, 2001	3.5%
Effective January 1, 2002	1.2%
Effective January 1, 2003	0.25%

II. Effective January 1, 2002, longevity pay shall be added to each employee's base monthly salary upon completion of the years of service reflected in the following schedule:

Completion of 5 years	1%
Completion of 10 years	2%
Completion of 15 years	3%
Completion of 20 years	4%

III. Effective January 1, 2003, the number of Kelly shifts received by employees each year shall be increased to 6.33.

IV. There shall be no change in the definition of "shift" contained in Section 10.01.

V. There shall be no change in the definition of "overtime" contained in Section 10.05.

VI. There shall be no additional language related to the scheduling of Kelly shifts.

Sammamish, Washington  
November 5, 2002

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