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Washington State Supreme Court

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Ronald R. Carpenter
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NO. 89344-6

SUPREME COURT
OF THE STATE OF WASHINGTON

KITSAP COUNTY DEPUTY SHERIFFS' GUILD,
Respondent,

v.

KITSAP COUNTY,
Petitioner.

PETITIONER KITSAP COUNTY'S STATEMENT OF
ADDITIONAL AUTHORITIES

RUSSELL D. HAUGE
Kitsap County Prosecuting Attorney

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I. INTRODUCTION

Pursuant to RAP 10.8, Petitioner Kitsap County respectfully submits authorities for the following issues:

1. Whether the lack of other interest arbitration awards retroactively decreasing compensation paid to employees during the status quo period required by RCW 41.56.470 establishes that an award retroactively decreasing amounts paid by the employer to employees during the status quo period is unlawful.¹

II. AUTHORITIES

1. *In the Matter of the Interest Arbitration Award Between City of Redmond and Redmond Police Association*, Arbitrator's Award, PERC No. 19305-M-05-6270 (Wilkinson, Feb. 16, 2007).

2. *In the Matter of the Interest Arbitration Between Mason County and Woodworkers Local Lodge W38*, Arbitrator's

¹ See Respondent's Reply Brief, Section IV, H, 1, at pp. 36-37.

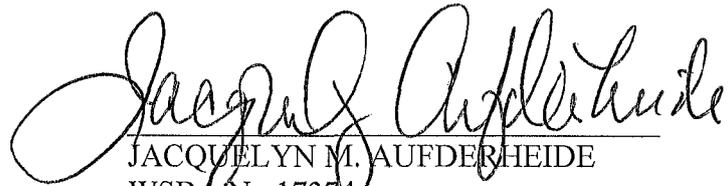
Award, PERC Nos. 18561-04-0430 and 18438-04-6087 (Levak, Nov. 19, 2004).

3. *In the Matter of the Interest Arbitration Between City of Redmond and Redmond Police Association, Arbitrator's Award, PERC No. 16791-5-02-00387 (Wilkinson, Mar. 3, 2004).*

4. *In the Matter of the Interest Arbitration Between City of Bellevue and Bellevue Fire Fighters Local 1604, International Association of Fire Fighters, AFL-CIO, Arbitrator's Award, PERC No. 03642-I-81-00083 (Block, June 30, 1983).*

Respectfully submitted this 22nd day of September, 2014.

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CERTIFICATE OF SERVICE

I, Tracy L. Osbourne, certify under penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned, a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On September 02, 2014, I caused to be served in the manner noted a copy of the foregoing document upon the following:

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I declare under penalty of perjury under the laws of the State of

Washington that the foregoing is true and correct.

DATED September 2nd, 2014, at Port Orchard, Washington.



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APPENDIX 1

In the Matter of the Interest Arbitration Award Between City of Redmond and Redmond Police Association, PERC No. 19305-M-05-3270

BEFORE THE ARBITRATOR

In the Matter of the Interest)	
Arbitration Between)	
City of Redmond)	
the Employer)	ARBITRATOR'S
and)	AWARD
Redmond Police Association)	PERC NO. 19305-M-05-6270
the Union)	

Appearances:

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Date of Award: February 16, 2007

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I. Proceedings

This dispute, between the City of Redmond (City) and the Redmond Police Association (RPA or Union) concerns certain terms of a Labor Agreement covering the period between January 1, 2005, and expiring December 31, 2007, between the Employer and its commissioned police officer bargaining unit. The parties reached an impasse in their negotiations. Subsequently, pursuant to RCW 41.56.450, the Public Employment Relations Commission (PERC) certified outstanding issues to interest arbitration; the parties selected Neutral Arbitrator Jane R. Wilkinson to resolve the remaining issues concerning wages and health care premiums. On October 10 and 11, 2006, the Arbitrator conducted hearings on these issues in Redmond, Washington. Each party had the opportunity to present evidence, examine and cross-examine witnesses and argue its case. A court reporter transcribed the proceedings; that transcript constituted the official record as required by RCW 41.56.450. The Arbitrator received the parties' post-hearing briefs on January 10, 2007, which she deemed the closing date of hearing.

II. Background

The City of Redmond has a population of approximately 48,000, but serves a daytime population of around 80,000. There are about 22,000 residential dwelling units in the City and about 27.7 square feet of commercial space. It is most prominently known as being the headquarters and principal location for Microsoft Corporation, as well as Nintendo of America, Advanced Digital Information and several lesser lights in the technology constellation.

The City's revenue sources include the City's share of the State sales tax, and property taxes as well as a tax (dedicated to transportation purposes) on the number of employees employed by employers within the City's boundaries. Its assessed valuation per capita is one of the highest in the State. However, the City presented evidence that it is not correspondingly flush with cash. State law has exempted capital construction related to research and technology uses from sales tax since the mid-1990s. The City estimates this law has caused it to lose revenues of about \$15 million. The City's levy rate has declined over the years, and dropped by over 50% when it retired its debt in 2005. The City Council placed Proposition 1 on the ballot in 2006 to restore this levy, but voters resoundingly defeated it. As a result, the City now projects a nearly \$40 million revenue shortfall by 2020.

The RPA represents a bargaining unit of approximately 68 employees: 59 patrol officers and nine lieutenants. (fn: 1) This is the second of two consecutive interest arbitration proceedings between the parties. The first one concerned the terms of their 2002-2004 agreement, and the undersigned Arbitrator also was the arbitrator in that dispute. See, *City of Redmond and Redmond Police Association, PERC No. 16791-5-02-00387* (Wilkinson, March 3, 2004) (hereinafter cited as *2004 Redmond Award*).

fn:1 This was the total, as of the date of hearing. See Exh. U-3.01. Lieutenants are first-line supervisors, the equivalent of Sergeants in other jurisdictions. About 63 commissioned officers and lieutenants comprised the bargaining unit in late 2003.

The sole issue actually dividing the parties in this proceeding concerns the Employer's proposal to increase the bargaining unit employees' share of health care premiums for dependents from 10% to 20%. (In a late proposal, the Employer also proposed that the bargaining unit could opt to apply the 10% figure to both employees and their dependents.) The evidence on this issue is discussed at greater length, below.

At the outset of the hearing, the parties stipulated to using the Seattle-Tacoma-Bremerton CPI-W as the appropriate CPI index and they agreed that the CPI escalators for the years 2005, 2006 and 2007, respectively, are 2.5%, 2.3%, and 4.6%. The parties stipulated to a three-year agreement and that there are no issues concerning the authority of the Employer. They further stipulated that all items to which the parties had tentatively agreed or which otherwise appeared in their prior Collective Bargaining Agreement, except for the two issues in this proceeding, will be carried forward to their 2005-07 agreement. Finally, they stipulated that the wage "benchmark" to use for wage comparison purposes should be that of a 10-year officer with a B.A. degree. The parties' proposals on the unresolved issues are as follows:

City's Proposal - Wages

	2005	2006	2007
Officers	2.28%	5.27%*	90% of CPI (4.14% est.)
Lieutenants	4%	5.27%*	90% of CPI (4.14% est.)

*3.37% of this figure is a CPI increase; the remaining 1.9% of this is intended to offset the increased cost for dependent co-pay for bargaining unit members of its health care dependent coverage premium proposal, stated next. The City conditioned this 1.9% increase upon the acceptanceladoption of its health care premium proposal.

City's Proposal - Health Care Premiums

The City proposed that the RPA (on a bargaining unit wide basis) select one of two options with respect to health care premiums:

a. The City will pay 100% of employee health care coverage premiums (medical, dental and vision), which is the status quo, but will reduce its share of dependent premium payment from 90% to 80%; or

b. The City will pay 90% of employee health premiums (reduced from 100%) and 90% of dependent coverage (status quo).

Union's Proposal - Wages

	2005	2006	2007
Officers	3.0%	2.5%	4.6%
Lieutenants	3.0%	2.5%	4.6%

Union's Proposal - Health Care Premiums

The Union proposes to retain the status quo with respect to health care premium cost share, wherein the employer pays 100% of employee premium and 90% of the dependent premium.

III. Statutory Authority and Criteria

RCW 41.56.430 states, as its legislative purpose:

The intent and purpose of chapter 131, Laws of 1973 is to recognize that there exists a public policy in the state of Washington against strikes by uniformed personnel as a means of settling their labor disputes; that the uninterrupted and dedicated service of these classes of employees is vital to the welfare and public safety of the state of Washington; that to promote such dedicated and uninterrupted public service there should exist an effective and adequate alternative means of settling disputes.

RCW 41.56.030(7), read in conjunction with RCW 41.56.430-.450, states that unresolved disputes concerning the terms and conditions of a collective bargaining agreement must be settled by interest arbitration when the affected bargaining unit is composed of uniformed law enforcement officers.

RCW 41.56.450 specifies the powers and duties of the interest arbitration panel:(fn:2)

fn:2 The parties waived this statute's requirements for a tri-partite panel, for a hearing conducted within 25 days of the neutral arbitrator's selection, and for an award within 30 days of the close of hearing.

Uniformed personnel--Interest arbitration panel--Powers and duties--Hearings--Findings and determination.

If an agreement has not been reached following a reasonable period of negotiations and mediation, and the executive director, upon the recommendation of the assigned mediator, finds that the parties remain at impasse, then an interest arbitration panel shall be created to resolve the dispute. The issues for determination by the arbitration panel shall be limited to the issues certified by the executive director. Within seven days following the issuance of the determination of the executive director, each party shall name one person to serve as its arbitrator on the arbitration panel. The two members so appointed shall meet within seven days following the appointment of the later appointed member to attempt to choose a third member to act as the neutral chairman of the arbitration panel. Upon the failure of the arbitrators to select a neutral chairman within seven days, the two appointed members shall use one of

the two following options in the appointment of the third member, who shall act as chairman of the panel: (1) By mutual consent, the two appointed members may jointly request the commission, and the commission shall appoint a third member within two days of such request. Costs of each party's appointee shall be borne by each party respectively; other costs of the arbitration proceedings shall be borne by the commission; or (2) either party may apply to the commission, the federal mediation and conciliation service, or the American Arbitration Association to provide a list of five qualified arbitrators from which the neutral chairman shall be chosen. Each party shall pay the fees and expenses of its arbitrator, and the fees and expenses of the neutral chairman shall be shared equally between the parties.

The arbitration panel so constituted shall promptly establish a date, time, and place for a hearing and shall provide reasonable notice thereof to the parties to the dispute. A hearing, which shall be informal, shall be held, and each party shall have the opportunity to present evidence and make argument. No member of the arbitration panel may present the case for a party to the proceedings. The rules of evidence prevailing in judicial proceedings may be considered, but are not binding, and any oral testimony or documentary evidence or other data deemed relevant by the chairman of the arbitration panel may be received in evidence. A recording of the proceedings shall be taken. The arbitration panel has the power to administer oaths, require the attendance of witnesses, and require the production of such books, papers, contracts, agreements, and documents as may be deemed by the panel to be material to a just determination of the issues in dispute. If any person refuses to obey a subpoena issued by the arbitration panel, or refuses to be sworn or to make an affirmation to testify, or any witness, party, or attorney for a party is guilty of any contempt while in attendance at any hearing held hereunder, the arbitration panel may invoke the jurisdiction of the superior court in the county where the labor dispute exists, and the court has jurisdiction to issue an appropriate order. Any failure to obey the order may be punished by the court as a contempt thereof. The hearing conducted by the arbitration panel shall be concluded within twenty-five days following the selection or designation of the neutral chairman of the arbitration panel, unless the parties agree to a longer period.

The neutral chairman shall consult with the other members of the arbitration panel, and, within thirty days following the conclusion of the hearing, the neutral chairman shall make written findings of fact and a written determination of the issues in dispute, based on the evidence presented. A copy thereof shall be served on the commission, on each of the other members of the arbitration panel, and on each of the parties to the dispute. That determination shall be final and binding upon both parties, subject to review by the superior court upon the application of either party solely upon the question of whether the decision of the panel was arbitrary or capricious. [I 983 c 287 § 2; 1979 ex.s. c 184 § 2; 1975- '76 2nd ex.s. c 14 § 2; 1975 1 st ex.s. c 296 § 29; 1973 c 131 § 4.1

In RCW 41.56.465, the Washington Legislature specified that the interest arbitrator must apply the following criteria when resolving disputes over the terms of a new collective bargaining agreement:

(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) For employees listed in RCW 41.56.030(7)(a) through (d), comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of like employers of similar size on the west coast of the United States;

(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. For those employees listed in RCW 41.56.030(7)(a) who are employed by the governing body of a city or town with a population of less than fifteen thousand, or a county with a population of less than seventy thousand, consideration must also be given to regional differences in the cost of living.

In resolving the issues in this dispute, whether or not fully articulated herein, the

undersigned Arbitrator has been mindful of these criteria and has considered all of the evidence and arguments presented by the parties relative to these criteria.

IV. PARTIES' CONTENTIONS IN SUPPORT OF THEIR PROPOSALS

- A. Position of the City - The police officers should pay 20% of the cost of premiums for dependents. The City's wage proposal is tied to its healthcare cost-sharing proposal.
1. The City's proposal promotes internal parity.
 - a. Arbitral authority recognizes the legitimacy of an employer's interest in treating all employees the same, especially when it comes to healthcare coverage.
 - b. Disparities in healthcare costs between employee groups have caused friction among City employees and disrupted labor relations. Some employees believe they are subsidizing the healthcare costs of police officers and firefighters.
 2. The City's proposal encourages union participation in the cost-containment process. Increasing the police officers' financial stake in healthcare costs commensurate with that of other City employees will provide the Union the incentive to return to the problem-solving process, which it has refused to participate in since 2002.
 3. The City's proposal is fair and modest.
 - a. The cost sharing applies only to dependent coverage, which was declined by 25% of the bargaining unit.
 - b. The City's proposal would result in a modest \$23 per dependent increase; the City would still pay over 93% of the total cost of healthcare coverage for bargaining unit employees.
 4. The comparator analysis supports the City's proposal.
 - a. After using the 501150% standard for residential population, the City narrowed the field of comparables using the criteria of crime rates, organizational structures, and whether a jurisdiction provides its own police services or contracts them out. This yielded nine comparables: Auburn, Bothell, Des Moines, Edmonds, Kirkland, Lynnwood, Marysville, Puyallup, and Renton.
 - b. The City did not use assessed valuation because doing so yielded only two comparables, an indisputably insufficient number.
 - c. The City's set of comparables is far more similar to the City in terms of population, department size, and crime statistics than is the Union's set. For example, the City's set has an average population 14% smaller than Redmond's, whereas the Union's set has an average population 66% larger than Redmond's. Some of the Union's comparables are more than twice the size of Redmond.
 - d. In terms of population, crime statistics, and number of officers, the Union's comparables are as dissimilar to Redmond as Redmond is to its own comparables in terms of assessed valuation.
 - e. Even if assessed valuation remains in the analysis, the City's comparables are more similar to Redmond than are the Union's comparables.
 - f. The City's comparables are not a break from the past.
 - 1) Mr. Albright testified that the parties have never stipulated to any particular set of jurisdictions or selection criteria; the Union offered no contradictory testimony.
 - 2) Comparables change with time, and that is evident in the history of the City's lists negotiations with various bargaining units, in which a variety of comparables have been used.
 - 3) There is no status quo with respect to comparables. The single prior use of a set of comparables does not satisfy the Union's burden of proof.
 - 4) Should the Arbitrator determine that a status quo exists, the Union overstates the City's burden. The City is not required to show that deviation from a previously used set is necessary, only that it is practical and reasonable.
 - g. The City has not manipulated the comparables data; the data collectively support a City wage proposal that is nearly identical to the Union's wage proposal and is in some ways richer.
 - h. The City's analysis looks at all elements of compensation far more accurately than does the Union's.
 - i. In IAFP Local 2829 and City of Redmond, PERC No. 1 7577-1-03-0406 (Krebs, 2004), there the arbitrator rejected the City's comparables for procedural reasons, not because was something substantively wrong with the list. That decision is irrelevant here.
 - j. Both parties' comparables show that most jurisdictions have adopted changes to manage rising healthcare costs, including increases in cost sharing.
 5. The City's proposal is consistent with regional and national trends toward increasing employee contributions to healthcare coverage, as seen in recent arbitration awards.
 - a. Arbitrators have recognized that with healthcare costs rising much faster than the inflation rate, both employers and employees have had to pay more.
 - b. The evidence was that this trend will continue.
 6. The Union's arguments against the City's proposal are without merit.
 - a. The Union misconstrues the dynamics of the comparables analysis.
 - 1) The analysis requires an examination of trends and patterns, not the

preexistence

of the specific proposal under consideration. Were that the case, decision-making would come to a standstill as each jurisdiction waited for the other to act.

2) A jurisdiction may take a modest leadership role as to a specific proposal, if the proposal is consistent with broader trends and patterns. The City's 20%

costsharing

proposal falls squarely within the broader trend of increasing cost sharing.

pay

b. The City's ability to pay is limited and largely irrelevant because the ability to does not create the obligation to pay; in any event, Redmond has a demanding citizenry that expects high quality services and tight fiscal controls.

high-tech

1) Microsoft's planned expansion will give the City no financial windfall because

estimates

companies are exempt from sales taxes on R&D construction; in fact, the City that it has thus far lost \$1 5 million in tax revenues because of the tax

exemption.

2) The City's property tax rate is extraordinarily low and yields a modest sum when applied to Microsoft's expansion.

property

3) The recent demise of a measure in which the City sought a modest increase in taxes, caused the Ci to implement cost cutting in its already tight budget,

including basic

services such as police (selective response to 91 1 calls) and fire fighting (rolling closures).

(rolling closures).

c. The City has offered a quid pro quo, which is to allow bargaining unit members to pay for the increased premium contribution with an additional 1.9% in wages.

d. The City cannot continue to pay the 10% premium contribution it asks police officers to cover without repercussions on other programs and services.

premiums

e. The Union alleged that the City overcharged police officers for co-payments and

allegation.

but presented no supporting evidence; the City's evidence amply rebutted this

f. There is no evidence that compensation andlor benefits adversely affect employee recruitment or retention.

1) The Union's turnover charts contain several errors: They include a commander discharged for cause, officers who left the force to take private-sector jobs, and supplemental employees, non-police employees who volunteer their time to the police department on an as-needed basis.(fn:3)

fn:3

Arbitrator's Note: The Union corrected these errors at hearing.

2) The City's undisputed data shows that only seven officers made lateral moves to other jurisdictions since 1999, and since 2001, only three have done so.

3) The Union noted that the department is fully staffed with highly qualified officers, yet it inconsistently argued that the department cannot recruit or

retain

qualified personnel and has a 50% turnover rate since 2003.

4) The City's continuous recruitment process is not a sign of difficulty with recruitment. Many jurisdictions participate in the same process, including many of the comparable jurisdictions.

7. The City's wage proposal is firmly tethered to its premium cost-sharing proposal, and, taken together, constitute the most appropriate award.

a. In comparing the City's proposal to total compensation of comparables, bargaining unit members would be compensated at slightly above the market average for all years of the parties' agreement.

b. Officers who claim fewer than three dependents will see the difference go directly into their pockets as discretionary income.

c. The Union misuses the physical fitness premium by failing to include it for Redmond in its calculation of total compensation, yet it does include it when

calculating

compensation for comparables.

d. The City's proposal includes an adjustment for Lieutenants, who are farther from the market average than are the other officers; the Union does not propose this adjustment despite recognizing that it is appropriate.

worked into

e. The Union's proposal is critically flawed in that it does not take total hours account; it compares monthly compensation. The Union's error is important because

officers

for several of its comparables work significantly more hours than do Redmond officers. f. There is no requirement that the police officers' wages be high enough to allow them to reside in Redmond.

in

1) It is a local and national economic reality that many public servants working

affluent jurisdictions cannot afford to live there.

2) Officers can easily reside in neighboring cities.

B. Position of the Union - The City has not shown a compelling need to increase the employees' dependent cost sharing for healthcare to 20%. The status quo with respect to healthcare premiums should prevail. With the exception of lieutenants' pay, the Union's wage

proposal should be awarded.

1. The Arbitrator should use the Union's proposed comparables in her analysis.
 - a. The parties have historically (since at least 1995) used the comparables proposed by the Union: Auburn, Bellevue, Federal Way, Kent, Kirkland, and Renton and were used by the Arbitrator in the 2004 interest arbitration.
 - b. Previous arbitration awards show that heavy weight should be given to a list of comparators historically used by the parties.
 - c. The City was put on notice (by Arbitrator Krebs' July 2004 firefighters' award) that there is a status quo with respect to the parties' past use of comparables, the ones proposed by the Union.
 - d. The City has not shown that any change in comparables is warranted.
 - 1) It did not initiate bargaining over a new list.
 - 2) It ignored assessed valuation in developing its comparables list.
 - 3) Nothing has changed in terms of assessed valuation and population in the relationship between Redmond and the historical comparators;
 - 4) Other factors - differences in crime rates, number of crimes, and the number of police officers - have remained essentially unchanged since 1996.
 - 5) The City's proposed comparables are significantly different from Redmond in an economic sense.
 - a) The City's proposed comparables' average assessed valuation is less than half that of Redmond's, whereas the historical comparables' figure is within a couple of percent of Redmond's.
 - b) The historical comparables' assessed valuation per capita is about 60% less than Redmond's, whereas the value for the City's proposed comparables is substantially less than that.
 - c) Redmond's sales tax revenues are much closer to the historical comparables' figure than they are to the number for City's proposed list.
 - d) Using information from the 2002 Economic Census, which tallied figures on numbers of business establishments and employees and sales in several business sectors, it is clear that Redmond is more like the historical comparables than the City's proposed list.
 - e. The City argued at hearing that it used historical comparables in the past only for compensation review purposes and has not used them as "the uniformed statutory comparables." It is hard to believe that the City, represented by two able attorneys, did not understand the significance of the historical comparables, used in the past

both
stipulated at the bargaining table and in the 2004 arbitration, especially since the City to the use of these comparables in 2004.

f. The City recently used the historical comparables, less Bellevue, to justify a proposed 46% raise for its mayor.

2. The status quo doctrine bars the City's proposed change from a 90110 split in dependent premiums to an 80120 split and the City has not shown a compelling need to deviate from the status quo.

- a. The 90110 split is not unworkable or inequitable.
 - 1) There has been no change in premium sharing practices in comparables since 2004; none of the comparables pay 20% for dependents and none requires employees to pay their own premiums. Three fully fund dependent costs.
 - 2) The 90110 split already results in premium cost sharing that is about 50% higher than both the Union's and the City's comparator lists.
 - 3) Changing to an 80120 split would cause premium cost sharing to rise to well over twice the average for either set of comparables, 61.8% higher than the next-highest city on the historical list and 35% higher than the next-highest city on the City's list.

4) The City's lead negotiator admitted that an 80120 split was not the industry standard for police officers in Washington.

5) The City failed to perform comparability studies before arriving at its

80120 split and even failed to present comparables' premium co-payments in any of its exhibits at hearing.

6) Although in the last arbitration, the City predicted that healthcare costs rise 14% per year, in fact, they have risen only 9% per year in 2005 and 2006, making the City's future cost projections unreliable and undermining its

argument. Exh. C-23.

- 7) The City's internal equity argument is unpersuasive.
 - a) The argument remains unchanged from the time of this Arbitrator's 2004 award, in which she ruled, as have other arbitrators, that uniformity between bargaining units was less important than statutory requirements such as comparability.
 - b) There has been no change in dependent cost sharing of other City employees since 2004.
 - c) The City has not presented evidence that there is current general dissatisfaction among its employees about the fact that police and fire employees pay less for dependent coverage.
 - d) Arbitrators have found that benefits of police officers should not be tied

those of other municipal employees, both because of the difficult function of police work and because considerations of effects on other bargaining units

are impractical.

e) The City's 80120 proposal is not really consistent with benefits of other bargaining units because the City has proposed an additional wage hike to offset the increase. It has also proposed an inconsistent alternative to the 80120 split: a 10% cost sharing for all premium costs.

8) Recent arbitration decisions do not support the City's proposed 80120 split.

b. The City's wage 1.9% offer is not a quid pro quo to justify because future premium increases would almost immediately outstrip the proposed 1.9% wage increase.

3. The police department has experienced an alarming 32% voluntary turnover rate since 2002; as a result the average tenure of a Redmond police officer is only 7.66 years, and for lieutenants, only 14.69 years. One cannot say that it will be irrelevant to future

prospective

employees that their health insurance costs would be about twice what they would be with another employer. The evidence supports the Union's wage proposal more strongly than it does the City's, with the exception of Lieutenant pay.

a. The Union agrees with and accepts the City's proposed Lieutenant raise.

b. The balance of the Union's wage proposal is supported by the comparables data.

1) The City's method of calculating total compensation is flawed.

a) The City's calculation on an hourly basis results in the cost of benefits such as health insurance dependent on the amount of vacation time an employee accrues, an odd result.

b) The City's method views the increase in medical insurance premiums as a decrease in the value of the benefit rather than a decrease in wages, masking the true impact of the increase.

2) Redmond currently compensates its police officers at a level below the average of the historical comparables and also below the average of the City's

list.

Neither the City's nor the Union's wage proposal will bring bargaining unit members up to the average of either comparable list, in terms of adjusted wages.

c. A cost-of-living analysis favors the Union's wage proposal.

1) Both parties' proposals are within the general rates of increase of the CPI.

2) Following this Arbitrator's decision in 2004, the slate was cleaned regarding any cost-of-living arguments predating the award.

3) Since 2004, police officers' raises have lagged behind those of other City employees. Therefore, the Arbitrator should disregard any argument the City might raise regarding wages being historically ahead of the CPI.

4) The cost of living in Redmond is about 20% more than in the historical comparable jurisdictions as well as in the City's list of comparators.

5) Though officers may not actually live in Redmond, they are nevertheless affected by Redmond's high cost of living in other ways.

d. The City clearly has the ability to pay either party's wage proposal, and as one of the richest cities in the state, it really should offer its police officers one of the

best total

compensation packages in the region.

1) Redmond's highly diverse and dense manufacturing base provides the City with significant resources, and its economy is sound.

2) As evident from information obtained from the City's CAFR, the City's ability

to

pay improved from 2004 to 2005 in all categories.

4. The Arbitrator's award should provide strong guidance to the parties with respect to the wage structure. One hopes this will reduce the need for interest arbitrations in the future.

V. ARBITRATOR'S DISCUSSION AND DETERMINATION

The driving issue in this proceeding is the allocation of health care costs. This was one of the principal issues during the previous contract negotiations between the parties, negotiations that also ended up in interest arbitration before the undersigned Arbitrator. Then, as now, the City sought to bring the bargaining unit in line with the majority of its City employees by requiring bargaining unit members to pay 20% of the premium for dependent health care. The Union in that case opposed any cost sharing and instead sought to retain the status quo of 100% Employer paid coverage, including for dependents. In the cited award, noting the spiraling costs of medical coverage and the trend towards employee contributions, I held that 10% contribution by employees for dependent health care premiums was reasonable and appropriate. I determined also that the maximum out-of-pocket cost (at that time) for an employee paying 10% of dependent premiums was \$71.54. 2004 Redmond Award at 33.

The City supports its case for a change with various arguments, which I will address herein. In particular, it seeks to deviate from the list of comparators that I used (and to which the parties' then stipulated) in the previous interest arbitration proceeding. The selection of comparators is the statutory criterion that the parties most vigorously contest and I will address that issue first.

A. Analysis of the Statutory Considerations

1. Comparison of Redmond Police Compensation to that of Police Employed by "Like Employers of Similar Size"

In the proceedings leading to the 2004 Redmond Award, the parties stipulated to the

following list of comparator cities:

Auburn
Bellevue
Everett
Federal Way
Kent
Kirkland
Renton

There were no other proposed comparators in dispute in that case.

In this proceeding, the City proposes to change the comparator list as follows by deleting Bellevue, Everett, Federal Way, and Kent from the list, and adding Bothell, Des Moines, Edmonds, Kirkland, Lynnwood, Marysville and Puyallup. Thus, the City's chosen comparators are:

Auburn
Bothell
Des Moines
Edmonds
Kirkland
Lynnwood
Marysville
Puyallup
Renton

The Union opposes a change in the comparator list from that to which the parties stipulated during the 2004 Redmond Award proceedings. It further maintains that this list has an historical basis.

With respect to comparator pay, RCW 41.56.465(c)(i) requires the arbitrator to compare bargaining unit's wages, hours and conditions of employment with those of "like personnel of like employers of similar size . . ." When practical, arbitrators have long used a jurisdiction's population, assessed valuation and often geographic proximity as criteria for selecting "like employers of similar size." (fn:4) Sometimes in order to fine tune the selection or when the three criterion prove inadequate, arbitrators will go further and consider other demographic indicators, such as retail sales tax revenues, population of the service area, cost of living, crime rates (for police) or the number of "like personnel" employed by the putative comparator. Because comparator selection is not a science, arbitrators prefer to limit the number of criterion used to the favored three (population, assessed valuation and if feasible, geographic proximity). The automatic inclusion of additional criterion has not been shown to improve the results. Moreover, in this arbitrator's view, other demographic criterion should be eschewed unless the proponent demonstrates that such criterion have a demonstrable effect on wages. For example, although both parties in this case have presented comparative evidence of crime rates, neither presented evidence that crime rates and wages tend to be related. In fact, there are jurisdictions with relatively high crime rates and low pay and vice versa. For instance, of the proposed comparators, Renton has the highest crime rate and the highest net hourly total pay. On the other hand, Puyallup has the second highest crime rate, but ranks ninth in pay, and Everett, with the fourth highest crime rate, ranks dead last in pay. See, City Exh. 67 and various City exhibits showing total compensation, on a net hourly basis, for all proposed comparator. (fn:5)

fn:4 Arbitrator Krebs ably stated in City of Redmond (Int'l Association of Fire Fighters, Local 2829), PERC No. 17577-1-03-0406 (Krebs, 2004), at 5:

[When arbitrators select comparators, 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.

fn: 5 In the 2004 Redmond Award at 16-17, I wrote:

The argument is sometimes made that jurisdictions with high crime rates should compensate their police officers at a higher level because of the higher demands of the job. Ipso facto, the reverse should be true. However, I have never seen a comprehensive study that has shown either proposition to be true, at least as a general rule. And, unfortunately, jurisdictions with the highest crime rates - particularly when they are of small or moderate size - often cannot afford higher compensation levels, given that their crime rate and their relative poverty go hand-in-hand.

Were one to start from scratch, the 2004 comparators list (hereafter referred to as the

"Union comparators" or "2004 comparators") would not be the exact list an arbitrator would endorse. Although arbitrators use the plus or minus 50% population screen used by the City, they will increase the screen's upper range in order to achieve balance, sometimes selecting comparators that are double the population of the subject jurisdiction. Regarding using an upper population band of 150% or 200% when screening jurisdictions, Arbitrator Krebs remarked that he has done both, "depending on the circumstances presented." City of Redmond (Int7 Association of Fire Fighters, Local 2829), PERC No. 17577-1-03-0406 (Krebs, 2004), at 15. Unions understandably argue that one should use a +100%/-50% population screen as a matter of course in order to achieve symmetry. Because the potential universe of comparable jurisdictions is too erratic for the utilization of a predetermined range, arbitrators tend to select jurisdictions yielding a balanced result as well as an adequate number (roughly four to ten) of comparators and adjust the screen's range accordingly.

With respect to the parties' 2004 comparators, two have populations more than double the City's: Bellevue and Everett. Thus, if one were to start from scratch, presumably those two jurisdictions would not be included on the list. Although the City would delete Kent and Federal Way, I would not, since their populations are just over 75% greater than Redmond's, and their assessed valuations are lower, but within range.

The utilization of a -50% population screen (using King, Pierce and Snohomish County jurisdictions) as a starting point picks up an additional six jurisdictions, which the City would use as comparators: Bothell, Edmonds, Lynnwood, Des Moines, Marysville, and Puyallup. The City would end its inquiry at this point, despite the nearly universal arbitral practice of also considering assessed valuation, often on both a per capita and total valuation basis. (fn:6) A -50% assessed valuation screen would easily eliminate Marysville, Puyallup and Des Moines. On both a total valuation and per capita basis, these three jurisdictions have assessed values of less than half of the City of Redmond. Bothell and Lynnwood would fail the assessed valuation screen on a total valuation basis, making their inclusion problematic.

fn:6 There may be special circumstances for not using assessed valuation, the most obvious being when assessed valuation (and population) is irrelevant, such as is the case with port districts and the single nuclear reactor covered by RCW 41.56.

The City also fails to consider geographic proximity, something that also would place into question Marysville and Puyallup, which are both relatively distant and outside the King County/Lake Washington urban area. Bothell, however, which is fairly close to Redmond, would receive extra consideration for its relative proximity.

Thus, with a fresh start, Bellevue and Everett might fall from the list, while Edmonds and Bothell might be added. Auburn, Kent, Federal Way, Kirkland and Renton would remain. (fn:7)

fn:7 The following table (taken from Union Exh. 2.02, 2.03) shows the pertinent demographic information concerning the proposed comparators, relative to the City of Redmond:

	Population	A/V (Billions)	AV/Capita	Result
Redmond	47600	\$9.30	\$195,352	
Redmond -50%	23800	\$4.65	\$97,676	
Redmond +100%	95200	\$18.60	\$390,704	
Auburn	47470	\$4.68	\$98,525	OK
Bellevue	115500	\$22.22	\$192,416	Fails population total & AV screen
Bothell	31000	\$4.58	\$146,720	Fails total AV screen, but adjacent
Des Moines	28960	\$2.18	\$75,402	Fails both AV screens
Edmonds	39860	\$4.82	\$120,905	OK
Everett	97500	\$9.05	\$92,811	Fails population screen
Federal Way	85800	\$6.47	\$75,426	OK
Kent	84920	\$8.80	\$103,598	OK
Kirkland	45740	\$7.87	\$172,104	OK
Lynnwood	34830	\$3.44	\$98,715	Fails total AV screen
Marysville	29460	\$2.18	\$73,976	Fails both AV screens
Puyallup	35830	\$2.85	\$79,460	Fails both AV screens
Renton	56840	\$6.67	\$117,411	OK

Nevertheless, from both a theoretical and practical standpoint, I find myself aligned with the

Union on the selection of comparators in this case for the reasons it advanced: (1) a presumption exists in favor of historical comparator; (fn:8) (2) the City did not submit changes in the comparator list to the give and take of collective bargaining, (fn:9) and (3) the City failed to go beyond population and some secondary demographic variables in its selection of its proposed new comparators.

fn:8 The City vigorously disputes that the 2004 stipulated comparators were "historical." The City's record evidence is both vague (i.e., it did not present lists of specific comparators used in the past) and contradictory (see Tr. 267-68). One fact is clear: the parties did stipulate to this set of comparators in 2004. I note also that Arbitrator Krebs, in City of Redmond (Int'l Association of Fire Fighters, Local 2829), PERC No. 17577-1-03-0406 (Krebs, 2004), at 7, wrote,

As the City concedes, for a number of years, Redmond has used the six cities proposed by the Union for salary and compensation surveys for the various City bargaining units and for its non-union employees."

Arbitrator Krebs went on to provide details of this historical practice.

Arbitrators discourage parties from proposing wholesale changes to a comparator list used historically or even in the preceding round of negotiations.

fn:9 Proposing to add comparators that are neither geographically proximate nor within a reasonable assessed valuation range and proposing to delete comparators that meet commonly used population and assessed valuation screens is not an advisable tactic for a party that seeks to fine-tune the comparator list through collective bargaining. It is not clear from the testimony whether or when the City ever actually gave its comparator list to the Union. Negotiator Doug Albright testified that relatively early in the negotiations he advised the Union the City was using a different comparator list, one based on population but not assessed valuation. He testified the Union rebuffed this information and did not ask for details. Given the omission of assessed valuation as a selection tool, the Union's reaction is understandable.

The presumption in favor of historical comparators is not something designed to mire parties in outdated and inappropriate parameters. If parties use comparators properly, they can utilize the ranking process to adjust for comparators that are less appropriate. In other words, the subject jurisdiction's historical ranking among historical comparators is a proper consideration, particularly when some jurisdictions on the list are problematic. Further, a historically used comparator list is not set in stone. Negotiating parties and interest arbitrators recognize that circumstances change, making some comparators obsolete. And, it is possible that comparators were poorly chosen in the first place. Nevertheless, in this Arbitrator's view, changes to the list of historically used comparators first should be attempted through the give and take of negotiation. It is preferable for an arbitrator to step in only after good faith negotiations have failed.

I would be more sympathetic to tweaking the comparator list in this case if it actually made a difference. The City points out that a use of its comparators does not substantially change the total compensation analysis. As previously stated, this dispute is primarily over employees' contribution to dependant medical premiums, but the City did not present evidence that its list of comparators is moving towards the 20% contribution that the City propose. Even disproportionately sized Bellevue is not an 800-pound gorilla when it comes to wages. If anything, Everett has a disproportionate impact because of its low pay. However, Everett's inclusion favors the City; the Union has not proposed to delete that jurisdiction from the list.

In conclusion, the comparable jurisdictions that I will endorse for these proceedings are those to which the parties stipulated in the 2004 Redmond Award, and which the Union favors.

2. The "Average Consumer Prices for Goods and Services, Commonly Known as the Cost of Living" (fn:10)

fn:10 The RPA brought to the Arbitrator's attention, as it did in 2004, the relatively high cost of living in Redmond, which reflects the higher cost of housing than in some of its putative comparators. In this proceeding, however, the Union noted this (with certain supporting data) in the context of the relatively low cost of living in the new comparators proposed by the City. Given that I have selected the Union's proposed comparators, I will not address this argument

further.

As previously noted, the parties stipulated that the inflators applicable to this proceeding (take from the Seattle CPI-W) are:

June 2003 through June 2004 (use for 2005): 2.5%
June 2004 through June 2005 (use for 2006): 2.3%
June 2005 through June 2006 (use for 20047: 4.6%

3. "Such Other Factors" ... that are Normally or Traditionally Taken into Consideration in the Determination of" Compensation

a) The City's Financial Picture

Unlike the evidence in the proceedings leading up to the 2004 Redmond Award, here, the evidence was undisputed that the City has the ability to pay the Union's wage and benefit proposal without compromising basic services. Although the parties have quarreled over the capacity of the City's treasury, I find the issue to be irrelevant. There is nothing in the interest arbitration statute or case precedent that suggests that when an employers' fiscal condition is healthy, employee pay should rise accordingly. (The opposite, however, is not the same. When a jurisdiction is enduring an economic crisis, then unfortunately, employee pay may suffer). Ultimately, a jurisdiction having adequate resources seeks to pay something approximating market wages.

b) Recruitment and Retention

The RPA, as it did in 2004, presented evidence that the retention of bargaining unit employees may be a problem in the City of Redmond. The Union, in its post-hearing brief, asserted that the "City is facing troubling if not horrific [police] turnover," (RPA Brief at 50) that 22 officers (of 68 total) have left their employment to take other law enforcement jobs, to take private sector jobs, and because, as newly-hired employees, they are unable to meet the Department's requirements. See City Exh. 67. The RPA contends that turnover means the loss of experienced officers, high recruitment and training costs, and a cost in morale.

The City vigorously disputes the Union's evidence and argument on turnover. It contends that the RPA's original evidence contained a number of errors. (The RPA corrected that document, however, at hearing). The City points out that several officers left to assume positions in the private sector, including Microsoft Corp., and this does not provide a proper basis for comparison. A public employer cannot keep pace with one of the richest private sector companies in the world. Ultimately, the evidence shows only three uniformed police officers making lateral moves to other police departments since the start of 2002. The City also argues that the Union has not shown a nexus between the turnover data and inadequate wages or benefits.

The evidence does show that 22 bargaining unit members have resigned since the start of 2002, which is 32% of the bargaining unit. This figure does not include loss of members due to death or retirement. Of those 22, three have laterally transferred to other police departments, six went to the private sector (including two to Microsoft), two joined the military, three left for miscellaneous reasons, and eight resigned because they failed to meet the department's standards. Of these figures, the eight who failed to get off the ground seems like a high number to me. Being unable to recruit top-notch applicants can suggest a pay issue. However to draw a conclusion here I would want to see more evidence on the reasons for the failure of these employees and more detail on the City's recruiting efforts and successes. It could be safe to presume that the six who went to the private sector did so because of better financial opportunities. As the City argued (and as I indicated in the 2004 Redmond Award), competition with the private sector should be dealt with cautiously when considering wages of a public sector group of employees. There is no precedent (of which I am aware) for considering private sector employers "like employers" or their security employees "like personnel," within the meaning of RCW 41.56.465. On the other hand, if private sector employers can lure the best and brightest police employees with generous compensation packages, market conditions might force public employers to either accept high turnover and perhaps even a lower quality of officer, or to enhance their own compensation packages.

Ultimately, the thing that impresses me most on the City's non-retirement/death turnover statistics is their total percentage. It is higher than I have encountered in other cases, and as noted by the RPA, higher than reported in other interest arbitration decisions. Moreover, the City's evidence shows that its 2004 through 2005 turnover was the highest of any of the putative comparators, except for Kirkland's. (Lynnwood and Puyallup did not respond to the City's survey). Every police jurisdiction will have some turnover that is clearly unrelated to compensation, but high continuing figures do suggest a compensation issue.

c) The Education Level of Redmond Police Officers

The RPA contends that the Arbitrator should consider the education level of members of the Department as an "other factor" when evaluating compensation levels. It notes that many studies show a positive correlation between higher education levels and performance as a

police officer.

Although I do not question the RPA's underlying premise on the correlation between education and performance, I reject its argument as it pertains to compensation because the bargaining unit members' education level is already reflected in the educational premium that the City is willing to pay. Moreover, the RPA did not present evidence that the comparators better compensate similarly well-educated officers.

B. Evaluation of the Parties' Proposals

1. Health Care Premium Sharing

The City, as it did in the proceedings for the 2002-04 contract, seeks a 20% contribution from bargaining unit members for dependent medical premiums. In this configuration, the City would continue to pay 100% of employee premiums. As an alternative, the City modified its final offer to require a 10% employee contribution for both the employee premium and dependent coverage. In addition, the City sweetened its wage proposal with an additional 1.9% in pay to help defray the out-of-pocket cost of the increased premium contribution. The Union proposes to retain the status quo.

The 2004 Redmond award ordered the bargaining unit to pay 10% of dependant medical, dental and vision premium, beginning in 2003. The City nonetheless is continuing to pursue its objective.

The City's objective is not unreasonable. After responsibly undertaking a benefit design study and task force to address spiraling health care costs that had extensive employee participation, the City decided that the fairest approach to a frustratingly intractable problem was to require a 20% contribution from employees.(fn:11) By the time of my 2004 Redmond Award, all employee groups except two had accepted the 20% contribution. (Of course, unrepresented employees had no choice). The two holdouts were this police bargaining unit and the firefighters bargaining unit. That has not changed.

fn:11 The 2004 Redmond award, at 28-29, states:

The City also formed an employee benefits advisory committee (EBAC) that met monthly to address mundane plan concerns.

The City gave the employees a menu of options, including reducing benefits, or requiring a larger contribution from employees to premiums. The feedback that the City received from EBAC was that employees would prefer paying a larger contribution to premium over a cut in benefits.

One interest arbitration (and negotiating) criterion that most strongly justifies the City's proposal is one generally labeled as "internal equity." Internal equity is not a specifically enumerated statutory criterion. Instead, it is one falling under this catchall provision of RCW 41.56.465:

(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.

In this case, City advances a fairly strong case based on employee morale. All other City employees (except police officers and firefighters) have sacrificed their 100% employer paid plans for a 20% employee contribution. There is a perception of unfairness when a select group of employees continues to receive a better deal.

While not to denigrate the importance of this perception, by itself it is not a justification for the City's proposal. Indeed, there will always be a perception of unfairness when one group receives something that another group does not (for example, a larger wage increase to reflect market conditions). It is impractical, if not impossible, to avoid such perceptions of unfairness in any jurisdiction.(fn:12)

fn:12 This Arbitrator has considered internal equity, and the perception of unfairness, controlling when the employer's devastating financial picture has forced it into a wage freeze for all employees and the alternative for the employer is to cut (or further cut) popular or essential services. This kind of "ability to pay" scenario is not the one presented in this case.

A second consideration favoring the City is its "sweetener" of 1.9% of wages. This

sweetener more than compensates bargaining unit members for their present out-of-pocket contribution of the additional 10%. In fact, as the City points out, it is a considerable windfall to those employees (about 26% of the bargaining unit) who do not purchase dependent coverage.(fn:13) It also is a very good deal for the additional 15% who have one child dependent. However, as the Union contends, if one assumes a high annual increase in medical premiums (my calculation assume an 11% average annual increase in wages, and a 3.5% average annual increase on the 1.9% enhancer), by the year 2009, the 1.9% increase will be outstripped by the increase in premiums for officers with a spouse and two or more children (currently 37.3% of the bargaining unit). Other employees fare better: the crossover point (when the cumulative impact turns negative) for employees paying for a spouse and one child (9% of the unit) is the year 2019. For the next costliest category, the crossover is a few years later. Changing the assumed premium rate increase or the pay increase by a percentage point affects the results, of course, but not significantly. Those who have one dependant or no dependants make out extremely well, so long as they do not add a spouse or children in the future. In addition, employees who subscribe to the Group Health Plan (as opposed to Red-Med) enjoy lower premiums, so they would fare correspondingly better.(fn:14)

fn:13 The distribution of dependant coverage for bargaining unit members as of mid-2006 was as follows (see Exh. C-22 and 45):

No. Dependants	No. Employees	Percentage of Unit
None	19	28.4%
1 Child	4	6.0%
2+ Children	3	4.5%
Spouse Only	10	14.9%
Spouse + 1 Child	6	9.0%
Spouse + 2+ Children	25	37.3%

fn:14 I will not to burden this decision with my supporting spreadsheets as they are fairly simple to recreate.

Although the City's proposal is not a bad deal for the majority of the bargaining unit, the bargaining unit has decided otherwise. Whether or not something is a "good deal" financially is judgmental and subjective. Those whose premiums are presently lower may be contemplating adding to their family size. Others may dislike the fact that out of pocket payments will occur a number of years earlier than the "cross-over" point defined in the previous paragraph. Others may be unwilling to assume the risk that arguably is inherent in accepting the proposal.

In the end, I find that at this juncture other considerations that favor the Union outweigh those favoring the City. Particularly persuasive is the fact that there is no support whatsoever among the actual or even proffered comparators for a dependent contribution that exceeds 12%, with the exception of Lynnwood, which now requires 15%. Two jurisdictions, Everett and Kirkland, continue to pay 100% of the employees' dependant health care premiums. Auburn, Bellevue, and Federal Way police officers make a 10% contribution to dependent benefits. Kent officers paid 10% in 2005 and 12010 in 2006, with a ceiling of \$1 15.00. Comparison with Renton is more complicated. In 2004, Renton police began contributing \$50 a month for premiums. In addition, some co-pays were raised, as was prescription drug coverage. In 2005, the police agreed to pay an additional \$50 of premium increases above 7%. For 2007, Renton agreed to pay 100% of increases up to 10% above 2006 levels, and for 2008, that figure was increased to 21 % above 2007 levels. Excess premiums would be split 50-50 or be subject to design change. As to the putative comparators of interest I identified (Bothell and Edmonds), both pay 90% of dependant premiums.(fn:15)

fn:15 I note that some or most, but not all of the comparators, apply the 90% figure to vision and dental. Bellevue requires a 20% employee contribution to dependent dental insurance. Some also have increased co-pays for drugs or certain medical items and some have revised their plans to control costs. The best way to account for these variations is to look at the total expenditure per employee for medical, dental and vision. The chart on this page does so.

Similarly, when one contrasts the cost (2005 figures supplied by the City) to Redmond for medical benefits, one finds that its contribution (1 00% employee, 90% dependants) is right at the average:

	Medical	Dental	Vision	Total
Auburn	\$12,324	\$1,765	\$225	\$14,314
Bellevue	\$13,614	\$1,608	\$14	\$15,236
Everett	\$12,791	\$1,324	\$148	\$14,263

Federal Way	\$11,241	\$1,634	\$183	\$13,058
Kent	\$15,354	\$-	\$-	\$15,354
Kirkland	\$12,548	\$1,664	\$225	\$14,437
Renton	\$11,947	\$2,910	\$-	\$14,857
			AVERAGE	\$14,503
REDMOND	\$10,716	\$3,250	\$539	\$14,505

Although this Arbitrator and many others have cited an ongoing trend towards requiring an employee contribution to premiums, no arbitrator in a city police case has awarded a contribution of the magnitude that the City seeks here over the objection of its police union. The City contends that there is nothing wrong with it taking a "modest leadership" role, (City's brief at 29) but its leadership on this issue would be more than modest.

As I stated previously the City's proposal is not an unreasonable one. Nevertheless, its timing, coming immediately after my 2004 Redmond Award that ordered a 10% contribution, is unfortunate. Ideally, this kind of change comes over time through the give and take of negotiations. The issue should go on to interest arbitration only after negotiations have been repeatedly frustrated.

My final award will be to retain the status quo with respect to employee health care premium contribution, meaning that employees will continue to receive a 100% employee-only contribution and a 90% dependent contribution from the City.(fn:16)

fn:16 In making this determination, I have not entirely ignored the City's alternate proposal of a 10% employee contribution towards all premiums (employee and dependent). Neither party presented a specific argument in favor or against this proposal, and I can deduce no rationale or data that supports it.

Having so ruled, I nevertheless caution the RPA that it cannot rely on the status quo into perpetuity. It is more likely than not that even over the long term, health care costs will continue to outpace the rate of inflation. A sweetener, along the lines of the 1.9% currently offered by the City should be seriously considered. The City, on the hand, may have to divest itself of the notion that it will achieve identical employee contributions across all bargaining unit lines. For example, increased contributions might be better 'sold' to the RPA with a cap on employee dependent contributions, such as has occurred in the City of Kent, which would make an increased contribution more palatable to officers having several dependents.

2. Wages

On wages, to reiterate, the City proposed patrol officer increases of 2.28%, 3.37% and 4.14% for 2005, 2006 and 2007 respectively. For Lieutenants, the City offered a larger first-year hike of 4%. The Union's proposed officer and lieutenant increases of 3%, 2.5% and 4.6% for the three years at issue. Of course, it does not oppose an increase of 4% for lieutenants. The City's offer totals 9.79% for officers and 11.51% for lieutenants over the life of the 2005-07 Collective Bargaining Agreement. The Union's offer totals 10.1 0%.

a) Comparator Analysis

The only significant point that the parties argued concerning methodology is whether wages should be viewed on an hourly or monthly basis. In the 2004 Redmond Award, I viewed them on an hourly basis, but I also considered them on a monthly basis. As I stated in the 2004 Redmond Award, at 22, "given identical compensation levels, most people would rather have the job with fewer hours and more time off."(fn:17) But, in the Union's favor, I also am aware that many people would opt for the job with increased total compensation, even if it means more work hours. I also recognize that a monthly comparison should not, however, be ignored because an hourly conversion, particularly one that includes fixed costs (i.e., compensation unrelated to the number of hours worked) produces some distortion. I have partially corrected for that distortion in the table below by excluding medical costs, which were analyzed separately, above. The Union objected to the City's calculation of holiday pay, but it did not provide a usable correction (for net hourly purposes), although its methodology of valuing hours worked is also acceptable. I am relying on the City's figures for net hours worked in the table below.

fn:17 I also cited the awards of Arbitrators Lankford, Lumbley, Beck, Snow, Gaunt and Kienast, all of which expressed a preference for a net hourly analysis based on total compensation. Further, I found the award of Arbitrator Savage to be easily distinguished. See, 2004 Redmond Award, at 23.

The following table presents this Arbitrator's total compensation analysis, in summary form, which, using the stipulated 10-year police officer with a BA benchmark, compares Redmond's 2004 pay with its comparators January 1, 2005, pay. (fn:18) The subsequent table shows the rank Redmond would hold among its comparators with a 2.28% increase (City offer) and 3% (RPA offer) respectively. The third table shows the wage increases the comparators have granted since January 1, 2005.

fn:18 For the comparators' pay, effective Jan. 1, 2005, the base pay figures used by City and the RPA did not match (or even come close). I found errors on both sides, but particularly with the RPA's figures. Therefore, I reviewed each comparator collective bargaining agreement to determine base pay figures. I used the City's figures for premium pay because it separated out fitness and accreditation pay. I also used the City's figures for gross and net hours worked. I omitted insurance since I am using Redmond's 2004 compensation and comparator 2005 compensation, which, particularly when converted to hourly pay, yields a distorted figure. In any event, medical costs were evaluated separately above, and I found Redmond's to be close to the average. Retirement benefits posed a real dilemma, because the RPA included deferred compensation and MEBT contributions, while the City used supplemental retirement and social security contributions. Neither party explained how much (if any) these figures overlapped. In any event, they were substantially dissimilar. I ended up using the City's figures (which actually favor the Union more than the Union's do, which was also the case in the 2004 Redmond Award, see pg. 22, although some explanation was offered then).

Comparator Analysis Table 1
Total Compensation Summary Analysis, 2005 Comparators vs. 2004 Redmond

City	Net Hrs	Base per CBAs	Premium	Cash Comp	Net Hrly Comp	Cash Comp+Ret	Adj. Net Hourly
Auburn	1862	\$61,245	\$6,767	\$68,012	\$36.53	\$72,769	\$39.08
Bellevue	1837	\$65,160	\$5,188	\$70,348	\$38.29	\$74,176	\$40.38
Everett	2006	\$61,475	\$7,718	\$69,193	\$34.50	\$70,513	\$35.15
Federal Way	1870	\$61,236	\$5,811	\$67,047	\$35.86	\$70,533	\$37.72
Kent	1864	\$61,760	\$5,936	\$67,696	\$36.33	\$73,629	\$39.50
Kirkland	1902	\$68,136	\$3,036	\$71,172	\$37.42	\$75,585	\$39.74
Renton	1950	\$62,936	\$9,053	\$71,989	\$38.61	\$80,262	\$41.16
Averages		\$63,135		\$69,351	\$36.79	\$73,924	\$38.96
Redmond 2004	1796	\$59,580	\$5,064	\$64,644	\$35.99	\$68,615	\$38.20
Redmond Lag		-5.97%		-7.28%	-2.23%	-7.74%	-1.98%

The above figures indicate a wage lag from the average in somewhere between about 2% and 7.5%, depending on whether one prefers to emphasize hourly or monthly compensation.

Comparator Analysis Table II
Redmond Ranking on Total Compensation

Figures Below Assume a 2.28% increase for Redmond

Rank	Monthly	Rank	Hourly
Renton	\$80,262	Renton	\$41.16
Kirkland	\$75,585	Bellevue	\$40.38
Bellevue	\$74,176	Kirkland	\$39.74
Kent	\$73,629	Kent	\$39.50
Auburn	\$72,769	Auburn	\$39.08
Federal Way	\$70,533	Redmond	\$39.07
Everett	\$70,513	Federal Way	\$37.72
Redmond	\$70,179	Everett	\$35.15

Figures Below Assume a 3% increase for Redmond

Rank	Monthly	Rank	Hourly
------	---------	------	--------

Renton	\$80,262	Renton	\$41.16
Kirkland	\$75,585	Bellevue	\$40.38
Bellevue	\$74,176	Kirkland	\$39.74
Kent	\$73,629	Kent	\$39.50
Auburn	\$72,769	Redmond	\$39.35
Redmond	70,673	Auburn	\$39.08
Federal Way	\$70,533	Federal Way	\$37.72
Everett	70,513	Everett	\$35.15

These tables indicate that neither a 2.25% nor 3% increase to the benchmark Redmond police officer is overly generous when one considers that Redmond has the highest assessed valuation per capita of the comparables and the second highest overall assessed valuation. On the other hand, its population ranks seventh (second from last).

Comparator Table III
Comparators' Percentage Wage Increases, Police Officer

City	2005	2006	2007	Total
Auburn	3.00%	3.00%	4.00%	10.00%
Bellevue	3.00%	2.75%	4.60%	10.35%
Everett	2.40%	3.30%	4.78%	10.48%
Federal Way	3.50%	3.00%	3.15%	9.65%
Kent	2.50%	2.50%	4.60%	9.60%
Kirkland	3.00%	2.25%	4.14%	9.39%
Renton	3.00%	3.00%	3.00%	9.00%
Average	2.91%	2.83%	4.04%	9.78%
City offer	2.28%	3.37%	4.04%	9.79%
RPA offer	3.00%	2.50%	4.60%	10.10%

Source of data: Exh. C-66.

If one assumes the bargaining unit pay was appropriate when it was set in 2004, then this table is a significant one because it logically should maintain its ranking. I do note, however, that this Arbitrator was slightly conservative with the 2002 wage award because of the City's difficult fiscal circumstances at the time and other factors, including the fact that in 2002 the bargaining unit was not required to contribute to health care premiums. (I awarded a 90% CPI increase, instead of the 100% increase that I might otherwise prefer). Redmond2004 Award, at 27.

b) Changes in the CPI since the Previous Contract

As previously stated, the parties stipulated to these CPI figures applicable to 2005, 2006, and 2007 respectively: 2.5%, 2.3%, and 4.6%, for a total increase of 9.4%.

c) Other Considerations

I discussed the City's turnover figures above and found they arguably support nudging bargaining unit wages a little higher.

Another consideration is the City's proposal to give a higher percentage increase to Lieutenants for the first year of the new Collective Bargaining Agreement, on the grounds that their wages lag the market more substantially than police officer wages do. The Union does not dispute this premise.

d) Arbitrator's Determination on Wages

After carefully deliberating the above factors, the undersigned Arbitrator has determined that the following are appropriate wage increases for this bargaining unit:

	2005	2006	2007	Total
Police Officer	3.00%	2.50%	4.60%	10.10%
Lieutenant	4.00%	2.91%	4.60%	11.51%

Ultimately, I have structured the police officer increase as a 100% CPI increase, with a slight nudge for the first and second years (based on considerations of monthly

compensation, (fn:19)

ranking and turnover), which totals the same as the RPA's proposal. The increase for lieutenants totals what the City proposed and affirms that both parties agree that this classification warrants a higher increase than does the police officer classification. I started with the 4% increase proposed by the City, and added a CPI-based increase for each subsequent year. That was insufficient to match the City's offer (it was off by .41%), so I added that difference to the second year CPI-based increase, making that year's increase 2.91%.

fn:19 This is to say I have considered Redmond's monthly compensation relative to its comparators, although I have given hourly compensation greater weight.

VI. AWARD SUMMARY

The decision and award of the Arbitrator in this dispute is as follows:

Wages

2005	Across-the-board increase of 3.00% for officers and 4.00 % for lieutenants
2006	Across-the-board increase of 2.5% for officers and 2.91 % for lieutenants.
2007	Across-the-board increase of 4.6% for the entire bargaining unit.

Contribution to Health Care Premiums

2005	10% employee contribution to dependant medical, vision, and dental premiums
2006	10% employee contribution to dependant medical, vision, and dental premiums
2007	10% employee contribution to dependant medical, vision, and dental premiums

Date: February 16, 2007

Jane R. Wilkinson
Labor Arbitrator

APPENDIX 2

In the Matter of the Interest Arbitration Between Mason County and Woodworkers Local Lodge W38, PERC Nos. 1856-04-0430 and 18438-04-6087

BEFORE THOMAS F. LEVAK, ARBITRATOR
STATE OF WASHINGTON
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Interest
Arbitration Between

MASON COUNTY,
WASHINGTON and its
SHERIFF'S OFFICE

CASE NUMBERS 1856-104-0430
and 18438-04-6087

The County

and

ARBITRATORS AWARD

WOODWORKERS LOCAL
LODGE W38, INTERNATIONAL
UNION OF MACHINISTS
AND AEROSPACEWORKERS

The Union

This matter, an RCW 41.56.450 interest arbitration, came for hearing before the Arbitrator on October 12, 2004. The County was represented by Otto Klein, III and the Union by Bert Larson. The parties waived the appointment of partisan arbitrators and also waived the recording of the hearing and agreed that the documentary evidence and this award would constitute the record of the proceedings. Sworn testimony and documentary evidence were received. Larson was the Union's sole witness and Skip Wright was the County's only witness. Post-hearing briefs were received on November 8, 2004. Based upon the evidence, the arguments of the parties, and an application of the statutory criteria thereto, the Arbitrator decides and awards as follows.

INTRODUCTION.

Mason County is populated by approximately 50,000 persons. The sheriff's Office consists of two divisions: (1) deputy sheriffs, who provide police protection to the unincorporated areas of the County, and (2) Jail Operations, which includes the County's jail facilities and is staffed by corrections officers. Both deputy sheriffs and corrections officers are represented by the Union in separate collective bargaining units. This case concerns the deputy sheriffs division, whose 36 sergeants and deputies are covered by the terms of the parties' January 1, 2002 - December 31, 2003 deputy sheriffs collective bargaining agreement (the "2002 Agreement"). Following the expiration of the 2002 Agreement, the parties were able to agree upon the terms of a successor 2004 - 2006 collective bargaining agreement (the "2004 Agreement"), except for two items: (1) the maximum contribution to health care insurance, and (2) a County proposal to eliminate compensatory time off ("comp time") for holidays. Those two remaining items were submitted to the Arbitrator for resolution.

Regarding the statutory comparability factor, the parties stipulated that the following counties comprise the agreed-upon comparables: Grays Harbor, Lewis, Clallam, Jefferson and Island.

THE STATUTE.

RCW 41.56.465(1) provides that, in deciding an interest arbitration case, an arbitrator shall take the following criteria (a.k.a. "factors") into account:

- (1) the constitutional and statutory authority of the employer;
- (2) stipulations of the parties;
- (3) comparison of the wages, hours, and conditions of employment of like personnel of similarly-sized public employers;
- (4) the average consumer prices for goods and services, commonly known as the cost-of-living; changes in any of the above factors during the pendency of the proceedings; and
- (5) such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in a determination of wages, hours, and conditions of employment.

RCW 41.56.430 sets forth the legislative purpose that an arbitrator must be mindful of when deciding an interest arbitration case:

The intent and purpose of * this 1973 amendatory act is to recognize that there exists in public policy of the state of Washington against strikes by uniformed personnel as a means of settling the labor disputes: that the uninterrupted and dedicated service of these classes of employees is vital to the welfare in 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. (Revisor's note omitted.)

EXHIBITS.

Union Exhibits.

1. April 16, 2004 PERC request for mediation
2. April 29, 2004 PERC mediation letter
3. May 20, 2004 County bargaining offer
4. Lewis County/Teamsters 252 collective bargaining agreement
5. Grays Harbor/Teamsters 252 collective bargaining agreement
6. Clallam County/WSCCCE 1619-D collective bargaining agreement
7. Island County/ACSG collective bargaining agreement
8. Jefferson County/Teamsters 589 officers collective bargaining agreement
9. Jefferson County/Teamsters 589 sergeants collective bargaining agreement
10. Medical comparables summary
11. Washington Teamsters Welfare Trust preliminary rates
12. Washington County Insurance Pool 2004 medical plan rates
13. November 2003 Washington Teamsters W e k e Trust memorandum
14. Washington Teamsters Welfare Trust 2003 Plan A benefits highlights
15. Washington Teamsters Welfare Trust 2003 Plan B benefits highlights
16. August 1, 2004 Machinists Health & Welfare Trust plan options
17. Machinists Plan 9 comparison of plans
18. September 15, 2004 email re dental and vision benefits rates
19. September 16, 2004 email re dental and vision benefits rates

County Exhibits.

1. September 28, 2004 Klein letter
2. The 2002 Agreement
3. The July 19, 1999 County/Union Michael Beck interest arbitration award, and the September 12, 2001 County/Union Gary Axon interest arbitration award.
4. Chain of Command chart
5. Sheriffs Office policies and procedures, operational component responsibilities
6. Sheriffs Office policies and procedures, organization structure
7. Sheriffs Office policies and procedures, responsibilities of sergeants
8. Sheriffs Office policies and procedures, responsibilities of detectives
9. Sheriff's Office policies and procedures, responsibilities of deputies
10. Seniority list
12. Agreed upon wage adjustment
13. Negotiated increases
14. 2004 base monthly wage, excluding longevity
15. Wages vis a Vis CPI
16. U.S. Department of Labor statistics
17. U.S. Department of Labor statistics
18. Longevity Pay
19. Shift Differential
20. County health & welfare proposal
21. Insurance contributions
22. Other County settlements
23. County insurance benefits
24. Monthly health & welfare contributions
25. Kaiser bulletin
26. Recent arbitrator awards re medical premium cost sharing
27. County holidays proposal
28. Holidays comparables summary
29. Banked holiday time
30. Holiday pay cashouts, and reserve for accrued leave fund provision

ISSUE NO. 1. ARTICLE VII, SECTION 11, HEALTH CARE INSURANCE.

Article MI, Section 11 of the 2002 Agreement provides:

Section 11 . Health Care Insurance: The employer shall pay a maximum of five hundred fifty-five dollars (\$555.00) per month during 2002 for each eligible employee for medical dental, vision, and life insurance coverage through the I.A.M. Northwest Welfare Fund. Effective June 1, 2002 those insurance coverages will be through the Machinists Health and Welfare Fund. Eligible employees are those working eighty (80) hours or more per month during the calendar year. Any monthly premium contribution required above the County's contribution shall be paid by a reduction of the necessary amount from each employee's salary. Time missed from work due to a

worker's compensation claim will be considered as time worked for employee group insurance and vacation purposes for a maximum of twelve (12) months.

The transition from the I.A.M. Northwest Welfare Fund to the Machinists Health and Welfare Fund for insurance coverage effective June 1, 2002 will require a premium payment to each Fund based on May hours. The County's contribution, not to exceed \$555 per employee, for May hours shall go toward premiums for both Funds. Any additional premium payments due to the Funds for May hours shall be funded by the reduction of the amount necessary from the retroactive pay increase and insurance contribution increase of each employee and shall be considered a County contribution toward premiums. In the event the retroactive pay increase and insurance contribution increase of an employee is insufficient to cover the amount of the premiums due, the

County will pay the remaining premium due.

The employer shall provide an Employee Assistance Program benefit (EN) for all bargaining unit members.

County Proposal:

The County proposes that the maximum health & welfare contribution of the County be \$645 in 2004, \$680 in 2005 and \$720 in 2006. Specifically, it proposes that Section 11 be modified to read, with the underlined language constituting the disputed contribution cap:

Article VII, Section 1 1. Health Care Insurance: The employer shall pay a maximum of six hundred forty-five dollars (\$645) per month effective December 2003 for each eligible employee for medical, dental, vision, and life insurance coverage through the Machinists Health and Welfare Fund. The maximum employer contribution shall with December 2004 hours, increase to six hundred eighty dollars (\$680) beginning and to seven hundred twenty dollars (\$720) beginning with December 2005 hours. Eligible employees are those working eighty (80) hours or more per month during the calendar year. Any monthly premium contribution required above the County's contribution shall be paid by a reduction of the necessary amount from each employee's salary.

Time missed from work due to a worker's compensation claim will be considered as time worked for employee group insurance vacation purposes for a maximum of twelve (12) months.

The employer shall provide an Employee Assistant Program.

The balance of the quoted proposal is not in dispute.

Union Proposal:

The Union proposes that Section 11 be amended to require the County, throughout the term of the 2004 Agreement, to make any contribution necessary to maintain the level of health & welfare benefits in existence at the time of the expiration of the 2002 Agreement. While the Union did not propose specific language, it referenced various "maintenance of benefits" provisions in existence in some comparable counties.

County Contentions.

First, with regard to both items in dispute, the Arbitrator is reminded that the Washington Supreme Court has recognized that interest arbitration is not a substitute for collective bargaining, but rather an extension of the bargaining process. City of Bellevue v. Int 'l Ass'n of Firefighters, Local 1604, 119 Wn.2d 373 (1992). Interest arbitrators have therefore recognized that the parties must not be allowed to view interest arbitration as a panacea for unrealistic proposals that would not be acceptable in the underlying negotiation process, that an award must reflect the relative bargaining strengths of the parties, and that an award should therefore never simply "split the difference." Rather, an arbitrator should try to render an award that will, as nearly as possible, approximate what the parties would have reached had they continued to bargain in good faith. When all statutory factors are considered, the application of those principles should result in an award that favors the County.

Second, with regard to the health & welfare issue, the Arbitrator should adopt the County's proposal for a number of reasons.

First of all, as Wright's testimony established, since the late 1990s the County's contribution plan has generally been the same for all of the County's ten different units, both organized and unorganized, with all unit employees paying a portion of the health & welfare premium, and

currently

all nine of the other units have agreed to the caps now proposed by the County. Wright explained that the County's overriding interest was to maintain that parity. In 1999 Arbitrator Beck, in adopting the County's cap proposal, recognized the fact that all other units had been covered by that cap. The Union is now trying to alter the status quo by proposing language that would require the County to pay 100% of the premium. The County, on the other hand has proposed a reasonable alternative.

Second, regarding comparability, the comparability evidence must be considered in context; that is, as Wright explained, comparables were analyzed prior to mediation to arrive at the "market-based" increase in wages that ultimately was agreed upon, increases that not only were COLA based but also provide for an additional 4.6% "catch-up" increase in pay spread out over three years, specifically: 2004 - 3.1%, 2005 - 3.5%, and 2006 - 4.0%. That agreed upon increase specifically incorporated and recognized a \$66.00 differential between the County and comparables in the health & welfare contribution. In fact, Wright's calculations somewhat overstated the difference between the County and its comparables since in the final year of the 2004 Agreement, assuming the average increase in comparables is 2% in 2005 and 2.5% in 2006, County deputies will be \$85.00 ahead of comparable deputies.

Third, the Union suggestion that all comparables have a "maintenance of benefits" clause simply is not the case. In fact, most comparable employees, under a variety of strategies, pay a portion of their benefit premium and/or take reduced benefits. Moreover, interest arbitrators have awarded shared premium provisions in county cases. See, e.g., Arbitrator Gaunt's Whitman County 2004 award and Arbitrator Krebs' Walla Walla 2003 award. Further, as Employer Exhibit 24 demonstrates, shared pay plans are the national trend.

Union Contentions.

First, the County's current contribution level is \$615.00. The premium cost was \$748.71 per month from July 1, 2003 through June 30, 2004. Effective July 1, 2004, the premium rate rose to \$812.70 and that rate will be in effect through June 30, 2005. The rate of increases has been running 10% to 12% yearly, and at that rate, the premium for major medical only will be \$785.00. The County argued no inability to pay the Union's proposal, which would provide for those increases.

Second, the County's proposal would place deputies below all comparables, and it offered no justification or explanation why it should not pay an amount equivalent to what comparables pay. Wright's argument that survey adjustment wage increases took into account comparables' health & welfare premiums fails because the agreed upon wage adjustment is just that, a wage adjustment that, considering both the CPI and an additional 1.5%, will allow County deputies to "catch up" with the comparables. What the County is trying to do is take credit twice for the \$63.00, something that it can only properly do once.

Third, the County's "internal" comparability argument necessarily fails because the statute does not allow for internal comparisons, only external comparisons.

Finally, if the Arbitrator rules in favor of the County on its holiday proposal, employees should be allowed to share in some of the savings through the Union's health & welfare proposal.

Arbitrator's Discussion and Analysis.

Some preliminary remarks are appropriate regarding generally accepted principles applicable to Washington State interest arbitrations. First of all, this is a statutory proceeding, so it is the obligation of an arbitrator to apply the facts in evidence to the statutory criteria, not to develop criteria of his or her own. Second, this is an adversarial proceeding, so it is the responsibility of each party to provide definite proposals and to provide evidence and argument in support of those proposals. It is not the responsibility of an arbitrator to go outside the record and arguments made. Third, interest arbitration is a continuation of the bargaining process, so ideally, an arbitrator's award should place the parties in the same position they would have reached in unrestricted bargaining. Thus, it is not appropriate for an arbitrator to "split the baby" in an attempt to accommodate both parties. Fourth, the legislature has given arbitrators no direction as to how to apply the statutory criteria or what

weight they should give each criteria, and has not directed them to decide the criteria in any particular order. Therefore, absent specific stipulations made under the second criterion, an arbitrator has the discretion to apply the criteria he or she deems relevant in a particular case; that is, criteria are "case specific." That being said, however, the third criterion, that of "external" comparability ordinarily is given the greatest weight. Fifth, a party espousing a new provision or proposing a change, modification or deletion, has the burden of persuasion; that is, it carries the burden of proving that its position is supported by the weight of the evidence and by the most reasonable arguments.

Moving then to the specifics of the first issue in dispute, the Arbitrator would first remark that because the Union is seeking to move away from a capped provision - the type of provision that has been in existence for the past six to seven years - to a provision which would require the County to provide the full premium necessary to fund existing benefits for the life of the 2004 Agreement, it is the Union that has the burden of persuasion. The Arbitrator finds that the Union has not met that burden. Furthermore, the Arbitrator further finds that even assuming arguendo that the County had the burden of persuasion, it more than established that the weight of the evidence supports its position.

The Union's position is further compromised by the fact that it failed to make a specific proposal. While it generally argued that a 100% "maintenance of benefits" provision should be awarded, it failed to provide the Arbitrator with a specific written proposal. Its reference to "maintenance of benefits" provisions in existence in comparables' collective bargaining agreements only amplifies the problem since even where comparable have such provisions, those provisions differ somewhat, and all but one of the comparables health & welfare provisions provide for some type of cost sharing. The absence of a specific written proposal creates somewhat of a problem since it is not the responsibility of the Arbitrator to speculate what specific type of provision the Union desires, nor is his responsibility to attempt to draft language that would accommodate the Union's very general unwritten proposal, particularly since the language in all the comparables' collective bargaining agreements is different.

Turning then to the statutory criteria, the Arbitrator generally agrees with the Union that external comparability is the most important criterion and that it ordinarily takes precedent over so-called "internal" comparability or parity. External comparability is a specific criterion, while internal comparability merely falls under the sixth "other factors" general criterion. As Arbitrator Axon pointed out in his 2001 decision involving the parties, an interest arbitrator has no control over what is implemented or agreed upon in other units, and the goal of an interest arbitrator ordinarily should be "to provide consistency [among internal units], not complete uniformity." That being said, the Arbitrator can only find that evidence the Employer provided concerning external comparability strongly supports its position.

In the first place, the Arbitrator agrees with the County that the external comparability criterion must be analyzed with reference to the overall wage/fringe benefit packages in existence at the County and at comparables; that is, the comparability evidence must be considered within the economic context of all relevant collective bargaining agreements. When such reference is made, the Arbitrator finds that the County proved that the agreed upon market base wage increases agreed upon by the parties did in fact take into account increases in the CPI, increases necessary for the County to "catch up," and increases that specifically incorporated and recognized the \$66.00 differential between the County and comparables in the health & welfare contribution. Moreover, the County's evidence convincingly established that, in all likelihood, in the last year of the 2004 Agreement County deputies will be \$85.00 ahead of comparable deputies.

In the second place, even when the County's health & welfare proposal is viewed by itself vis a vis comparables' health & welfare provisions, the County argument must be agreed with because, as already stated, all but one of those provisions provide for some type of cost sharing.

The evidence provided by the County regarding "internal" comparability, evidence properly

given secondary consideration by the Arbitrator under the statute's sixth criterion, also strongly supports the Employer's position. Since the late 1990s the County has been successful in reaching its goal of providing all of its units with the same health & welfare package, and it has been successful in reaching that goal because it has been able to negotiate the same package with each unit, and in the case of the Deputies unit, has been aided by the 1999 Beck interest arbitration decision, albeit involving a different bargaining representative, a case in which Arbitrator Beck specifically relied upon the fact that other represented units had agreed upon the health & welfare package then urged by the County.

Based upon all of the foregoing, the Arbitrator will award the County's proposed language.

ISSUE NO. 2. ARTICLE IX, SECTION 3, HOLIDAYS.

Article IX, Section 3 of the 2002 Agreement provides:

Section 3. When a recognized holiday falls on Saturday, the day preceding it will be allowed; and when it falls on a Sunday, the day following will be allowed as a regular paid holiday. It is expressly understood between the parties that the system of receiving a compensatory day in lieu of the holiday shall continue. The floating holiday is to be at the discretion of the employee with the approval of the supervisor, requiring one week's advance notice which may be waived by the supervisor.

County Proposal:

The County proposes deletion of the sentence: "It is expressly understood between the parties that the system of receiving a compensatory day in lieu of the holiday shall continue." In lieu of that provision, the County proposes that Deputies be paid time and one-half of those holidays that they are assigned to work. Specifically, Section 3 would read, with the underlined language representing the County's proposed change:

Article IX, Section 3. When a recognized holiday falls on Saturday, the day preceding it will be allowed; and when it falls on a Sunday, the day following will be allowed as a regular paid holiday. Any employee working on a holiday will be Paid 1.5 times their regular pay for all hours worked that day. The floating holiday is to be at the discretion of the employee with the approval of the supervisor, requiring one week's advance notice which may be waived by the supervisor.

Union Proposal.

The Union proposes to maintain current language.

County Contentions.

First, unlike other County employees, who generally do not work holidays, Deputies are on a 24/7 schedule and therefore regularly work holidays. The 2002 Agreement requires the County to maintain the "existing" practice of compensation, a practice which has required the County to credit eight hours of holiday pay for each of the eleven fixed holidays into a holiday bank for each bargaining unit member. Because Deputies historically have kept holiday hours in their banks, allowing them to accrue, the value of the overall holiday bank prior to the 2004 wage increases was about \$475,000.00, a huge and largely unfunded liability. In this era of financial accountability, the County is very concerned about the impact of the bank because, if several Deputies were to leave in one year, it would have a very significant impact. Recently, the County made an effort to reduce the size of the bank by initiating a program which allows Deputies to cash out \$10,000 from their bank. It has also begun a long term program of funding the bank, but it will likely take until 2015 to accomplish that goal. The County's proposal will significantly reduce the continued escalation of the holiday bank.

Second, the County's proposal is straightforward, easy to understand, and will have a favorable impact on Deputies since Deputies ultimately will receive more compensation than they currently receive.

Third, the County's proposed change is supported by the comparability factor since none of

the comparables have a system in place in which an employee is able to indefinitely bank holiday time. In most cases, those employees get paid a premium for work on a holiday, and in those cases where time is banked, it must be used within a specific, definite time.

Fourth, the County has, in essence, made an offer that "buys out" the existing practice.

Finally, the County recognizes that it has the burden of persuading the Arbitrator that the status quo should be changed but believes that it has satisfied that burden through the comparability evidence and through the evidence that the existing practice has a detrimental effect on the County.

Union Contentions.

The County's proposal was not made in mediation and is not supported by the evidence.

Arbitrator's Discussion and Analysis.

For the following reasons, the Arbitrator finds that the County satisfied its burden of showing that the status quo should be changed.

First of all, the comparability criterion supports the County. At Clallum County deputies who work on a holiday are paid 2.5 times their regular pay (including holiday pay); at Grays Harbor County deputies receive 1.5 times pay for all time worked; at Jefferson County deputies receive 1.5 times pay for all time worked, in addition to straight time holiday pay. At Island County each deputy receives 12 days of additional leave, which must however be used during the year or cashed out; a deputy who works on one of seven specified holidays receives 1.5 times pay for time worked. At Lewis County a deputy receives 80 hours of additional pay and 16 hours is put in the vacation bank; no additional pay is paid for working the holiday. None of the comparables have a system in place in which an employee is able to indefinitely bank holiday time.

Second, the sixth statutory criteria supports the County. Under that criteria, the Arbitrator properly may consider the effect the parties' proposals have on the general interest and welfare of the County and the persons it serves. Here the County proved that the existing language and the existing practice have had a significant detrimental effect on the County and will continue to do so in the future. The County finds itself in the virtually unworkable position of having an enormous, almost unfunded, liability of about \$475,000.00, a liability which increases every year. Eleven deputies have banks in excess of \$10,000.00. Another three have banks in excess of \$20,000.00. Four have banks of over \$30,000.00. One has banked over \$42,000.00. Those are very large amounts indeed, unbudgeted amounts that the County, under the existing program, will mostly have to pay from the general fund. Even with the positive steps that the County has already taken, persuasive evidence established that it will most likely take at least until 2015 for the County to achieve its objective of getting a handle on its liability. In the opinion of the Arbitrator, the evidence presented by the County clearly established that the continuance of the existing open ended program would be contrary to the best interests and welfare of the County and the persons it serves.

For both reasons, the Arbitrator will award the County's proposal.

AWARD

Article VII, Section 11 shall read:

Article VII, Section 11 . Health Care Insurance: The employer shall pay a maximum of six hundred forty-five dollars (\$645) per month effective December 2003 for each eligible employee for medical, dental, vision, and life insurance coverage through the Machinists Health and Welfare Fund. The maximum employer contribution shall increase to six hundred eighty dollars (\$680) beginning with December 2004 hours, and to seven hundred twenty dollars (\$720) beginning with December 2005 hours. Eligible employees are those working eighty (80) hours or more per month during the calendar year. Any monthly premium contribution required above the County's contribution shall be paid by a reduction of the necessary amount from each

employee's salary.

Time missed from work due to a worker's compensation claim will be considered as time worked for employee group insurance vacation purposes for a maximum of twelve (12) months.

The employer shall provide an Employee Assistant Program.

Article IX, Section 3 shall read:

Article IX, Section 3. When a recognized holiday falls on Saturday, the day preceding it will be allowed; and when it falls on a Sunday, the day following will be allowed as a regular paid holiday. Any employee working on a holiday will be paid 1.5 times their regular pay for all hours worked that day. The floating holiday is to be at the discretion of the employee with the approval of the supervisor, requiring one week's advance notice which may be waived by the supervisor.

Dated this 19th day of November, 2004,

Thomas F. Levak Arbitrator,
Portland, Oregon.

APPENDIX 3

In the Matter of the Interest Arbitration Between City of Redmond and Redmond Police Association, PERC No. 16791-5-02-00387

Martin Chaw, Financial Planning Manager
Doug Albright, Attorney, Ogden, Murphy, Wallace

For the RPA:

Glenn Kaleta, Guild negotiator (police detective)

EXHIBIT LIST

City's Exhibits:

GENERAL BACKGROUND

Interest Arbitration Statutes And Regulations

A.1 RCW 41.56

A.2 WAC 391-55

2001 Bargaining Agreement

A.3 Current Police Contract

Certification of Issues

A.4 PERC Letter Certifying Issues

City Proposal

A.5 City Proposal

Association Proposal

A.6 RPOA Proposal

Departmental Information

A.7 Police Department Organizational Chart

A.8 Employee Roster by Title, Education, Years of Service

A.9 Job Descriptions for Bargaining Unit Positions

A.10 Police Department Description

A.11 City Description

COMPARABLE EMPLOYER BACKGROUND

Overview of City's Methodology

B.1 City's Methodology

Population and Assessed Valuation Data

B.2 Population Chart

B.3 Assessed Valuation Chart

City & Association Comparables

B.4 Police Organizational Structure - External Comparison

ISSUES

Issue 1 - Probationary Period

1.1 Contract Language Reflecting TA

Issue 2 - Crime Prevention Functions

2.1 Contract Language Reflecting TA

Issue 3 - Vacation Accrual

3.1 Parties' Proposals Concur on this Issue

Issue 4 - Bereavement Leave

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I. PROCEEDINGS

This dispute, between the City of Redmond (City) and the Redmond Police Association (RPA) concerns certain terms of a Labor Agreement covering the period between January 1, 2002, and expiring December 31, 2004, between the Employer and its commissioned police officer bargaining unit. The parties reached an impasse in their negotiations on three issues. Pursuant to RCW 41.56.450, those issues were certified for interest arbitration by the Public Employment Relations Commission (PERC) and submitted to Neutral Arbitrator Jane R. Wilkinson for resolution. Evidentiary hearings were held in Redmond, Washington, on October 20 and 21, 2003. Each party had the opportunity to present evidence, examine and cross-examine witnesses and argue its case. A court reporter transcribed the proceedings; that transcript constituted the official record as required by RCW 41.56.450. The Arbitrator received the parties' post-hearing briefs on January 20, 2004, which shall be deemed the closing date of hearing. The parties stipulated to three-week extension of time for this award.

II. STATUTORY AUTHORITY AND CRITERIA

RCW 41.56.030(7), read in conjunction with RCW 41.56.430-.450, states that unresolved disputes concerning the terms and conditions of a collective bargaining agreement must be settled by interest arbitration when the affected bargaining unit is composed of "uniformed personnel," including:

- (a) ... (ii) beginning on July 1, 1997, law enforcement officers as defined in RCW 41.26.030 employed by the governing body of any city or town with a population of {- -} two thousand five hundred or more and law enforcement officers employed by the governing body of any county with a population of {- -} ten thousand or more;
- (b) correctional employees who are uniformed and nonuniformed, commissioned and noncommissioned security personnel employed in a jail as defined in RCW 70.48.020(5), by a county with a population of seventy thousand or more, and who are trained for and charged with the responsibility of controlling and maintaining custody of inmates in the jail and safeguarding inmates from other inmates;
- (c) general authority Washington peace officers as defined in RCW 10.93.020 employed by a port district in a county with a population of one million or more;
- (d) security forces established under RCW 43.52.520;
- (e) fire fighters as that term is defined in RCW 41.26.030;
- (f) employees of a port district in a county with a population of one million or more whose duties include crash fire rescue or other fire fighting duties;
- (g) employees of fire departments of public employers who dispatch exclusively either fire or emergency medical services, or both; or
- (h) employees in the several classes of advanced life support technicians, as defined in RCW 18.71.200, who are employed by a public employer.

RCW 41.56.450 specifies the powers and duties of the interest arbitration panel:

- Uniformed personnel--Interest arbitration panel--Powers and duties--Hearings--Findings and determination.

If an agreement has not been reached following a reasonable period of negotiations and mediation, and the executive director, upon the recommendation of the assigned mediator, finds that the parties remain at impasse, then an interest arbitration panel shall be created to resolve the dispute. The issues for determination by the arbitration panel shall be limited to the issues certified by the executive director. Within seven days following the issuance of the determination of the executive director, each party shall name one person to serve as its arbitrator on the arbitration panel. The two members so appointed shall meet within seven days following the appointment of the later appointed member to attempt to choose a third member to act as the neutral chairman of the arbitration panel. Upon the failure of the arbitrators to select a neutral chairman within seven days, the two appointed members shall use one of the two following options in the appointment of the third member, who shall act as chairman of the panel: (1) By mutual consent, the two appointed members may jointly request the commission, and the commission shall appoint a third member within two days of such request. Costs of each party's appointee shall be borne by each party respectively; other costs of the arbitration proceedings shall be borne by the commission; or (2) either party may apply to the commission, the federal mediation and conciliation service, or the American Arbitration Association to provide a list of five qualified arbitrators from which the neutral chairman shall be chosen. Each party shall pay the fees and expenses of its arbitrator, and the fees and expenses of the neutral chairman shall be shared equally between the parties.

The arbitration panel so constituted shall promptly establish a date, time, and place for a hearing and shall provide reasonable notice thereof to the parties to the dispute. A hearing, which shall be informal, shall be held, and each party shall have the opportunity to present evidence and make argument. No member of the arbitration panel may present the case for a party to the proceedings. The rules of evidence prevailing in judicial proceedings may be considered, but are not binding, and any oral testimony or documentary evidence or other data deemed relevant by the chairman of the arbitration panel may be received in evidence. A recording of the proceedings shall be taken. The arbitration panel has the power to administer oaths, require the attendance of witnesses, and require the production of such books, papers, contracts, agreements, and documents as may be deemed by the panel to be material to a just determination of the issues in dispute. If any person refuses to obey a subpoena issued by the arbitration panel, or refuses to be sworn or to make an affirmation to testify, or any witness, party, or attorney for a party is guilty of any contempt while in attendance at any hearing held hereunder, the arbitration panel may invoke the jurisdiction of the superior court in the county where the labor dispute exists, and the court has jurisdiction to issue an appropriate order. Any failure to obey the order may be punished by the court as a contempt thereof. The hearing conducted by the arbitration panel shall be concluded within twenty-five days following the selection or designation of the neutral chairman of the arbitration panel, unless the parties agree to a longer period.

The neutral chairman shall consult with the other members of the arbitration panel, and, within thirty days following the conclusion of the hearing, the neutral chairman shall make written findings of fact and a written determination of the issues in dispute, based on the evidence presented. A copy thereof shall be served on the commission, on each of the other members of the arbitration panel, and on each of the parties to the dispute. That determination shall be final and binding upon both parties, subject to review by the superior court upon the application of either party solely upon the question of whether the decision of the panel was arbitrary or capricious. [1983 c 28 § 2; 1979 ex.s. c 184 § 2; 1975-'76 2nd ex.s. c 14 § 2; 1975 1st ex.s. c 296 § 29; 1973 c 131 § 4.]

RCW 41.56.452 states that an interest arbitration panel is a state agency and specifies:

An interest arbitration panel created pursuant to RCW 41.56.450, in the performance of its duties under chapter 41.56 RCW, exercises a state function and is, for the purposes of this chapter, a state agency. Chapter 34.05 RCW does not apply to proceedings before an interest arbitration panel under this chapter. [1983 c 287 § 3; 1980 c 87 § 19.]

In RCW 41.56.465, the Washington Legislature specified that the interest arbitrator must apply the following criteria when resolving disputes over the terms of a new collective bargaining agreement:

(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) For employees listed in RCW 41.56.030(7)(a) through (d), comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of like employers of similar size on the west coast of the United States;
- ***
- (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. For those employees listed in RCW 41.56.030(7)(a) who are employed by the governing body of a city or town with a population of less than fifteen thousand, or a county with a population of less than seventy thousand, consideration must also be given to regional differences in the cost of living.

In resolving the issues in this dispute, whether or not fully articulated herein, the undersigned arbitrator has been mindful of these criteria and has given consideration to all of the evidence and arguments presented by the parties relative to these criteria.

III. BACKGROUND INFORMATION

The City of Redmond has a population of approximately 45,000, although it serves a daytime population of about 75,000. The RPA represents a bargaining unit of 63 commissioned officers and lieutenants.(fn:1) The parties' last contract expired on December 31, 2001. The parties negotiated for, but were unable to reach agreement on a successor contract.

fn:1 Lieutenants are first-line supervisors, the equivalent of Sergeants in other jurisdictions.

The Executive Director of the Public Employment Relations Commission certified 14 issues to interest arbitration and the arbitration hearing. Prior to the start of the hearing, the parties resolved eleven of those issues, leaving three in dispute (medical premiums, wages, and longevity/education premiums). At hearing, the parties presented testimony and exhibits on all three issues.

At the outset of the hearing, the parties' stipulated to using the Seattle-Tacoma-Bremerton CPI-W as the appropriate CPI index. The parties stipulated to a three-year agreement. They stipulated that the comparable jurisdictions in this case would be the following cities: Auburn, Bellevue, Everett, Federal Way, Kent, Kirkland and Renton.

According to the City's evidence, in 2002, the population of this comparator group was as follows:

City	2002
BELLEVUE	109,827
EVERETT	91,488

FEDERAL WAY	83,259
KENT	79,524
RENTON	45,256
KIRKLAND	45,054
AUBURN	43,047

Assessed valuation figures for 2003, ranked on a per capita basis, are as follows:

City	\$ Assessed Value	\$ Per Capita
REDMOND	8,571,688,595	\$ 184,417
BELLEVUE	689,734,478	\$ 177,747
KIRKLAND	7,107,874,257	\$ 155,772
RENTON	5,956,980,003	\$ 108,506
KENT	8,175,076,544	\$ 97,080
AUBURN	4,271,232,352	\$ 94,173
EVERETT	8,424,812,456	\$ 88,246
FEDERAL WAY	5,912,362,755	\$ 70,807

The parties have historically used the CPI-W for Seattle, Tacoma, Bremerton, previous year's June to June figures. The inflators using that index for 2002, 2003 and 2004 are as follows:

Year	CPI Inflator
2002	3.90%
2003	1.50%
2004	.90%

IV. PARTIES' PROPOSALS COMPARED

The following table shows the parties' proposals on the three issues in dispute:

	RPA Proposal	City Proposal
BASE SALARY: Appendix A,A 1 (Wages):	<p>Employee wages shall receive a retroactive wage increase as follows:</p> <p>January 1, 2002 - 4%* January 1, 2003 - 2%* January 1, 2004 - 90% of the CPI-W for Seattle-Tacoma-Bremerton (1982-84=100) (August to August)(fn:2) with a minimum of 3% and a maximum of 5%</p> <p>* Employees shall continue to receive Accreditation Pay in accordance with A.2</p> <p>At hearing, the RPA agreed to a June to June fn:2 measurement period for determining cost of living changes.</p>	<p>1/1/02 3.51% 1/1/03 90% Seattle-Tacoma-Bremerton CPI-W June to June (equals 1.35%) 1/1/04 90% Seattle-Tacoma-Bremerton CPI-W June to June (equals .81%)</p>
	<p>RPA Proposal</p> <p>Effective January 1, 2004, bargaining unit employees electing dependent medical coverage under the self-insured plan shall pay 10% of the premium for such dependent</p>	<p>City Proposal</p> <p>Effective January 1, 2003 bargaining unit employees electing dependent healthcare</p>

<p>DEPENDENT MEDICAL: Article IX</p>	<p>medical coverage. The Employer shall pay 100% of the premium for employee medical coverage and 100% of the premium for employee and dependent dental and vision coverage under the self-insured plan.</p>	<p>coverage under the self-insured plan shall pay 10% of the premium for such dependent healthcare coverage. The Employer shall pay 100% of the premium for employee healthcare coverage.</p> <p>Effective January 1, 2004 bargaining unit employees electing dependent healthcare coverage under the self-insured plan shall pay 20% of the premium for such dependent healthcare coverage. The Employer shall pay 100% of the premium for employee healthcare coverage.</p>																														
<p>LONGEVITY PREMIUMS Appendix A,A.3 (Premium Matrix)</p>	<p>RPA Proposal</p> <p>Employee wages shall receive a retroactive longevity increase as follows: Effective January 1, 2002:</p> <table border="0" style="margin-left: 40px;"> <tr> <td></td> <td style="text-align: center;">Increase</td> <td></td> </tr> <tr> <td>10-15</td> <td>from 1.5% to 2%</td> <td></td> </tr> <tr> <td>15-19</td> <td>from 2.5% to 3%</td> <td></td> </tr> <tr> <td>20-24</td> <td>from 3.5% to 4%</td> <td></td> </tr> <tr> <td>25+</td> <td>from 4% to 5%</td> <td></td> </tr> </table>		Increase		10-15	from 1.5% to 2%		15-19	from 2.5% to 3%		20-24	from 3.5% to 4%		25+	from 4% to 5%		<p>City Proposal</p> <p>No Change</p>															
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<p>EDUCATION PREMIUMS Appendix A,A.3 (Premium Matrix):</p>	<p>RPA Proposal</p> <p>Employee wages shall receive a retroactive education increase as follows:</p> <p style="text-align: center;">Effective January 1, 2002:</p> <table border="0" style="margin-left: 40px;"> <tr> <td></td> <td style="text-align: center;">Increase-AA</td> <td></td> </tr> <tr> <td>3- 4</td> <td>from 1.5% to 3%</td> <td></td> </tr> <tr> <td>5-14</td> <td>from 1.5% to 3%</td> <td></td> </tr> <tr> <td>15-19</td> <td>from 2 % to 3%</td> <td></td> </tr> <tr> <td>20+</td> <td>from 2.5% to 3%</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">Increase-BA</td> <td></td> </tr> <tr> <td>3- 4</td> <td>from 1.5% to 3%</td> <td></td> </tr> <tr> <td>5-14</td> <td>from 3 % to 6%</td> <td></td> </tr> <tr> <td>15-19</td> <td>from 4.5% to 6%</td> <td></td> </tr> <tr> <td>20+</td> <td>from 5 % to 6%</td> <td></td> </tr> </table>		Increase-AA		3- 4	from 1.5% to 3%		5-14	from 1.5% to 3%		15-19	from 2 % to 3%		20+	from 2.5% to 3%			Increase-BA		3- 4	from 1.5% to 3%		5-14	from 3 % to 6%		15-19	from 4.5% to 6%		20+	from 5 % to 6%		<p>City Proposal</p> <p>AA incentive increase to .75% effective on hire date.</p> <p>BA incentive increased to 1.5% effective on hire date.</p>
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V. PARTIES CONTENTIONS IN SUPPORT OF THEIR PROPOSALS

Arguments of the RPA

A. General Economic Considerations

1. Cost of Living: The Arbitrator should consider that
 - a. Redmond has a historical pattern of giving the bargaining unit increases equal to or more than the cost of living, making a 90% CPI increase unjustified.
 - b. Redmond is very affluent relative to comparators; its assessed valuation is second only to Bellevue's, even though it ranks sixth in population, and its median family income is the highest.

- 1) The assessed valuation of property in Redmond is higher than all of the other agreed to comparable jurisdictions except Bellevue even though Redmond ranks sixth in population.
 - 2) In terms of the correlation between police officer wages and assessed valuation, RPA Exhibit 2-43 shows that Redmond is 27.30% below the average correlation for all of the agreed to comparable jurisdictions. The correlation between first line supervisor wages and assessed valuation shows that Redmond is 30.51% below the average correlation for all of the agreed to comparable jurisdictions.
2. Ability to pay: Given its affluence, the City is not claiming an inability to pay; the difference between the parties proposals are between \$211,000 and \$257,000.
- a. The Comprehensive Annual Financial Report for the City of Redmond (hereinafter referred to as the "CAFR") for 2002 boasted of Redmond's rosy outlook:
 - 1) It states that Redmond's has become an employment center that has attracted many new and growing companies whose varied employment opportunities provide a hedge against high levels of unemployment". The CAFR also reflects that even in the face of the downturn in the United States and Puget Sound economies, the City of Redmond's net assets increased and the City's debt decreased in 2002.
 - 2) During 2002, both the City's governmental fund balances and the City's property tax revenues increased.
 - 3) The CAFR states that the "state"s budget woes will have only a minimal effect on Redmond's transportation capital funding from the state" and that the transfer of services from King County to Redmond will result in "little or no increase in costs to the city."
 - 4) Microsoft continues to add to its workforce and office space in Redmond, and was relatively unscathed by the recession.
 - 5) In 2002, Home Depot and Fred Meyer opened stores in Redmond, and Bon Marche, Cost Plus and a Marriott hotel were scheduled for 2003.
 - 6) Redmond claimed "excellent financial management and prudent fiscal policies" in the CAFR.
 - b. Martin Chaw, Financial Planning Manager testified that sales taxes comprise 35% of the City's revenues and property taxes are 20%. He testified as to certain negative factors regarding the City's fiscal strength.
 - 1) Nevertheless, the City's net assets increased and the City's debt decreased in 2002 and both the City's governmental fund balances and property tax revenues increased in 2002 [RPA Exhibit 6].
 - 2) Sales taxes were down in 2002 but this is most likely a "blip," given the opening of large new stores and the improving economy.
 - 3) The City's use of its reserve fund in 2002 probably was due to its \$30 million long-term capital improvement project (the City Campus Project) that the City funds on a pay as you go basis. Also, the City had the ability to increase its property tax by 1% per year but chose not to do so.
 - c. The Arbitrator must keep in mind that had this contract been settled in the ordinary course of bargaining in 2001, the wages and benefits would have been set based upon the economic conditions existing at that time. Thus, the City has not shown that its ability to pay the increase resulting from the proposals presented by the RPA is restricted.
3. Internal equity. In those interest arbitration cases where there is no history of internal equity with respect to an item in dispute, arbitrators have been unwilling to require internal equity. Montlake Terrace, 15590-I-01-354 (Croll, 2001).
- a. In the instant case, there is no history of internal equity between the bargaining unit and other City employees.
 - b. In all but three years since 1992, the RPA employees received a higher percentage increase than all other non-uniformed City employees, although in general, police officers received a lesser percentage increase than fire fighters.
 - c. With respect to health insurance, although the City is trying to persuade all City employees to pay 20%

of the premium, out of five groups on board, one group has no representation by a labor organization, and three groups are made up of non-uniformed employees who are not eligible for interest arbitration under the Public Employees Collective Bargaining Act. There are still at least three employee groups who have not agreed; two are in interest arbitration.

4. Turnover. At least two of 17 identified resignations went to Microsoft to earn more money doing security work and Assistant Chief Gainer identified two others who also left.

B. Wages

1. Benchmark: The RPA and the City seem to agree that benchmarks should include officers at five-year intervals to 20 years, with each advanced education configuration. The City also seeks to use starting officer pay and officers with 25 years; the RPA opposes this because there are few officers in these categories. Lieutenants should be used because they comprise 14% of the unit.
2. Comparator analysis: Wage increases proposed by the RPA are consistent with average comparator wage increases of 3.9% (2002) and 2.2% (2003). For those with contracts, 2004 saw a 1.9% increase.
 - a. The evidence showed that the unadjusted top step base salary for police officers in Redmond in 2003 was 3.94% below the average for police officers in the agreed to comparable jurisdictions in 2003 and that the unadjusted top step base salary for lieutenants in 2003 was 6.89% below the average for first line supervisors in the agreed to comparable jurisdictions in 2003.
 - b. This is also true when the top step base salary is adjusted for retirement, longevity, and education (the figures are 3.63% and 5.68%). Calculated on a monthly basis, officers were 4.24% behind average in 2003, and lieutenants were 6.27% behind. Police officer classifications in 2003 were on the average 4.24% below the total monthly compensation received by like personnel employed in the agreed to comparable jurisdictions in 2003.
 - c. The City seeks the more favorable "net adjusted hourly approach," which was rejected by Arbitrator Savage in City of Wenatchee, 16277-I-02-379 (Savage, 2002) where the "hours worked are close to the average."
 - d. The City has not shown that the hours worked by officers are not close to the average of the comparables; the evidence also shows that employees do not always use the leave hours available to them.

C. Dependent Health Premium:

1. Comparable benefits: The evidence shows that the health insurance benefits provided to bargaining unit employees are not richer than or out of line with the benefits provided by the comparators; a City witness so testified.^(fn:3) The cities of Kirkland, Renton, and Bellevue all pay more for health insurance coverage than does the City.

fn:3 The RPA states that after conducting further research, the RPA and the City appear to differ only on the amount paid for health insurance coverage for employees and their eligible dependents by the City of Bellevue. Compare RPA Exh. 3.2 and City Exh. 6.6). This difference may be due to the fact that Bellevue offers more than one plan (Tr. at 38-39) and the RPA used the plan that the most employees were enrolled in while the City used what it considered to be a "core" plan.

2. Comparable contributions: The evidence shows none of the employees in comparable jurisdictions pay anything like what the City proposes (10% of total dependant premium).
 - a. In Kirkland, Everett and Renton, employees paid nothing in 2003; in the latter two cities this will remain true for 2004. For Renton, starting 2004, employees will pay only \$50/mo towards dependant coverage.
 - b. In Auburn, Bellevue, and Federal Way, the employees pay only 10% of the premium for dependent medical insurance coverage, not 10% or 20% of the total premium for dependent health insurance

coverage. (Bellevue officers pay 20% for dependant dental).

- c. Kent officers pay a nominal amount, and this amount (as with the Renton officers) is comparable to (just a little bit less than) what employees will pay under the RPA's proposal.
 - d. Under the City's proposal, an employee will contribute \$71.54 monthly for full family coverage in 2003, compared with \$44 in Kent, \$46.53 in Federal Way, and \$53.98 in Auburn (i.e., 63% more than Kent, 54% more than Federal Way, and 33% more than Auburn in 2003).
3. Net effect: The City's combined base salary and health insurance proposals would result in 47 bargaining unit employees experiencing a net pay decrease in 2004. (A 1.4% decrease for officers with a spouse and one dependent and a 2.4% decrease with a spouse and two dependants. The effect on Lieutenants would be a decrease between .9% and 1.3%.
 4. Comparator support: Thus, the evidence shows that the RPA's proposal is consistent with comparators.

D. Education and Longevity Premiums

1. Comparators: The RPA's education proposal will bring the education premium paid to bargaining unit employees closer to the comparables.
 - a. Auburn, Bellevue, Everett, and Renton pay a higher education incentive.
 - b. The increase proposed by the RPA is supported by the comparators; currently, Redmond's longevity is below average.

Arguments of the City

A. Wages

1. Comparability analysis: The City's proposed wages will place compensation above the average of the comparators, using every combination of longevity and education, even though many of the comparable jurisdictions are substantially larger than the City of Redmond.
 - a. The City's analysis uses the long accepted approach of evaluating the top-step base compensation level (including, per the parties' hearing stipulation, the 2.5% physical fitness premium, adding in other premiums, insurance and other employer contributions that are shared by all bargaining unit members. This "Cash Comp" was then adjusted by the City's cost for insurance and the employer retirement contributions to arrive at "Cash Comp Plus Insurance." That amount was then divided by the Net Hours, which is the annual scheduled hours of work less vacation and holiday accrual, to determine the Adjusted Net Hourly Compensation. These calculations were then applied to the various degree and longevity combinations in the contract, including AA degrees, BA degrees and years of service. (The City believes the most appropriate benchmark is 10 years, BA degree)
 - b. The City's proposal for 2002 will place the City from 3.29% to 4.2% above market, depending on the officer's degree. Officers will remain above market in 2003 (from 2.9% to 3.8% with the City's proposed increase of 1.35%. For 2004 (.9% increase), wages will be from 2.41 to 3.05% over the comparables' average.
 - c. The RPA's comparability data is seriously flawed.
 - 1) The RPA inappropriately assumes that each jurisdiction is scheduled to work only 2080 hours per year. In fact, the Cities of Redmond, Auburn, Bellevue, Federal Way, and Kent are regularly scheduled 2086 hours a year. The Cities of Everett, Kirkland and Renton are scheduled to work 2190 hours a year.
 - 2) The RPA failed to take into consideration vacation and holiday accrual in calculating the officers total compensation for comparison purposes. Calculating the net hours worked as used by the City is a standard approach to ensure an "apples to apples" comparison.
 - 3) The RPA compares 2001 wages for the bargaining unit with the wages provided in 2003 for the comparable employers to suggest that the City's wages are below the average of the comparable jurisdictions.

- 4) Even using the RPA's calculations, the result shows that the City's offer will place the bargaining unit above the average of the comparators.
2. Cost of living: Redmond police wages have exceeded the cost of living by 3.01% over the last decade; in addition, current inflation rates are very low - less than 1%, and wage increases should be similarly so.
3. Internal Parity: Arbitrators give significant weight to internal parity so as to preserve internal equity and to avoid subjecting the employer to demands for equal treatment by other bargaining units. In addition, this bargaining unit has fared better in recent years than other City units, except for the fire fighters.
4. Workload: The bargaining unit workloads are at the low end of their comparables because the City's crime rate is among the lowest compared to its comparables.
5. Fiscal: The City's fiscal resources call for a cautious award. A number of negative factors are in play, including a decline in the growth of sales tax revenues (due in part because of a 1995 law that exempts Microsoft's R&D expenditures, costing the City \$13.7 million in 2002 alone), the reduction in revenues from initiatives limiting the growth of taxes, on transportation construction revenue, and on the motor vehicle excise tax, the ripple effect of the State's and King County's budgetary woes, and the State's generally poor economy.
6. Turnover: The City's modest turnover was due to family issues, relocation, or a desire for more police activity than commonly experienced in Redmond.

B. Dependent Medical coverage

1. Proposal: Despite skyrocketing health care costs, the City will continue to pay 100% of employee coverage. It only seeks employee contribution to dependant coverage, starting with 10% in 2002 and 20% in 2003 -- this proposal will have no effect on the 25% of the unit that have no dependants.
2. Internal Parity: Five of the City's eight employee groups have agreed to the City's proposal. This includes nonrepresented employees, and employees represented by RCHEA, AFSCME, IAFF (Fire Support), and SEIU (Commanders).
3. RPA 11th Hour Position: On the eve of this interest arbitration, the RPA revised its position, and now proposes for the first time that the employees pay ten percent (10%) of the cost of dependent medical coverage in 2004, with no contribution towards vision and dental coverage. The RPA's comparator analysis is not an "apples to apples" comparison and it used the wrong figure for Bellevue officers contribution. It also does not distinguish between full employee coverage (per the City's proposal) and jurisdictions requiring contribution to both employee and dependant coverage. Its analysis is based on full family coverage, even though a significant percentage of officers do not require this. E.g., Thus, while Kent's employee cost is \$44 compared to the City's proposal of \$71 for a full family, the City's proposal will affect fewer employees because it is for dependant coverage only.
4. Escalating Costs: When the City learned that premiums were insufficient to cover costs, it involved an employee committee (EBAC) in selecting outside consultants and proposed solutions. A consultant projected costs to continue to increase 14% annually. Unrepresented employees, presented the choice between a cut in benefits or a contribution to premium, chose the latter (the City's unions would not participate in the City's survey); thus, the City proposes an employee contribution to dependant coverage.
5. Comparable jurisdiction support: Despite the difficulty of comparing plans, employers are seeking some sort of cost sharing arrangement with their employees in order to mitigate the significant increases in health care costs, and provide an incentive to employees to consider design changes that may reduce costs. In 2003, four of the seven cities surveyed required some sort of employee contribution (\$44.00 to \$95.40 per month). By 2004, all seven of the employers had reached or planned to propose an agreement involving cost sharing. A recent Renton agreement reduced benefits, and increased the co-pay substantially, provided for an employee contribution to premium (\$50 plus, for 2005, 50% of the premium increase above 7%. Bellevue officers pay 10% of the dependant premium (20% for dental and vision), and the city proposes to increase that amount.
6. Trend: As this Arbitrator acknowledged in a prior award, the trend is towards employee cost sharing.

C. Longevity and Education Premiums

1. **Background:** Under the current contract, officers receive from .7% to 5% premium pay based upon an employee's years of services and education, starting the third year. The City proposes accelerating the receipt by starting them at the hire date. The RPA proposes to increase the longevity and education incentive pays by an additional .5% to 1%.
2. **Methodology:** The RPA isolates premium pay from a total compensation analysis, which is inappropriate and which this Arbitrator has repeatedly rejected.
3. **Comparability:** City's overall package is justified based on a comparability analysis.
4. **Management preference:** For the last twenty plus years, the City has resisted paying for longevity alone, whether for the police, other represented employees or nonrepresented employees. For example, the City has gone to a merit based pay system for all non-union employees and several bargaining units.
5. **Internal parity:** Police are the only employee group to receive an education premium pay. The longevity pay status quo also maintains internal parity (excepting the fire department).
6. **Overall cost:** The RPA's proposals overall would increase the City's expenditures over three years by \$1.762 million, versus \$1.247 million for the City's proposals. The RPA suggests that the City's proposal will cause the officers to lose money. The RPA's analysis is misleading because it once again ignores the officers' total compensation.

VI. ARBITRATOR'S DISCUSSION AND DETERMINATION

A. Statutory Considerations (Except Comparability)

The following discusses the pertinent statutory considerations in this case, except for comparability, which is discussed with the proposals in dispute.

1. The City's Financial Picture:

The recent economic downturn has reduced sales tax revenues, Financial Planning Manager Martin Chaw testified. However, since 2001, three large retail stores have opened in Redmond. The City's Financial Report for the fiscal year ending 2002 states that its largest employer, Microsoft, has emerged relatively unscathed from the downturn in the high tech industry. RPA Exh. 6, pg. 23. Chaw testified that in 1995, the State passed a high-tech sector sales tax exemption for R&D expenditures, which has cost the city about \$13 million since that time. The primary beneficiary of the law in Redmond is Microsoft, which has been aggressive in identifying expenditures as R&D. Initiative 747, passed in 1998 or 1999, limited property tax increases to 1% a year. Property taxes are a significant source of revenue for cities and counties. On the other hand, the City has an additional \$1.2 million in potential property tax revenues that it has not tapped. Initiative 695 significantly reduced the motor vehicle excise tax. The tax revenues were shared between the state and local jurisdictions, and the city was transferring about \$5 million annually to its road construction fund. Redmond lost about a \$1 million dollars a year in revenues. In 2000, however, the Legislature backfilled the lost revenues at a 50% rate for two years, and then eliminated those funds, Chaw testified. But, the City's Financial Report (fn:4) states that the state's budget woes will have only a minimal effect on Redmond's transportation capital funding from the state. *Id.* King County, the county in which Redmond is located, is in dire financial straights, is effectively transferring its parks and recreation functions to municipalities, charging higher fees for municipalities' use of its district court functions, and has told municipalities it will no longer house misdemeanor inmates within the county jail. The City's Financial Report states, however, that "Redmond has been successfully working with King County and surrounding cities to continue regional services with little or no increase in costs to the city." *Id.* Chaw testified that the City has had to reduce expenditures over the past several years. Since a significant portion of its spending is on salaries and benefits, the City first decided not to fill existing vacancies, eliminating 11.7 FTEs. See generally, City Exh. 8.5.1. The City had to reduce reserves from 10% to 8.5% to balance its budget for 2003-04. The reduction was controversial because 10% was in the ballpark for neighboring municipalities. The City Council agreed to cut the reserve only if it was restored to 10% for the 2005-06 fiscal year.

fn:4 This document, according to Chaw, was written for the benefit of the credit rating agencies of the City, hence its somewhat "rosy" statements. Tr. 188. Chaw, himself, did not have any input into the production of this document, he testified.

According to Chaw, the "current thinking on the street" is that the Seattle economy will not recover until late 2004 or early 2005. Tr. 70. This is based on the projections of two prominent local economists.

The City asks the Arbitrator to consider that the City's contributions to LEOFF are projected to go up for the next biennium due to the poor stock market performance over the past several years.

The parties came up with different cost estimates of one another's proposals. The City estimates that the RPA's proposal will cost \$514,863 more than the City's proposal over the three-year life of the contract. The RPA estimates that its proposal will cost \$211,164 more. Either figure, spread over three years, would not unbearably burden the City, in my opinion. In sum, the City obviously has the ability to pay the RPA's proposals, and it possibly could do so without curtailing other services. It is reasonable to prognosticate that its outlook for 2004 and beyond is better than what it experienced in 2002 and 2003.

One must bear in mind, however, that if interest arbitration is to replicate collective bargaining, one needs to turn back the clock to the first year of this contract cycle, 2002, which was stressful economically for the City, as well as the entire Puget Sound region, as was the next year, 2003. An economic downturn affects a jurisdictions revenues to the extent it relies on taxes that fluctuate with the economy, such as the sales tax. Although property tax revenues tend to be more stable, a municipality is ill-advised to tap any potential untapped property taxes during a recession, particularly one accompanied by the high unemployment rate that the State of Washington experienced during the most recent downturn.(fn:5) A breadwinner who is out of a job and struggling to make mortgage payments can scarcely afford to pay higher property taxes. These considerations favor the City's wage proposals, in my opinion, especially for the first two years of the agreement.

fn:5 According to BLS data, for most of 1997, 1998, and 1999, Washington unemployment rates were below 3.5%. They began inching upwards in the year 2000, and by January 2002, the first year of the contract at issue here, had reached 7.2%. After a slight decline during the remainder of the year, they again peaked at 7.2% in June and July, 2003. They began declining after that, but slowly, and continue to remain relatively high (6.1% in December 2003).

2. Changes in the Cost of Living

According to the evidence, the changes in the cost of living (CPI-W for Seattle-Tacoma-Bremerton) in recent years have been quite low. The figures are as follows:

June 2000 through June 2001 (used for 2002): 3.9%
 June 2001 through June 2002 (used for 2003): 1.5%
 June 2002 through June 2003 (used for 2004): 0.9%

The City submitted evidence showing that for the period from 1992 to 2003, with 2002 and 2003 based on the City's offer, police officer wages exceeded the changes in the consumer price index by 3.01%. I note that this figure would descend slightly with any 2004 award based on 90% of the CPI, as compared with 100% of the cost-of-living increase.

The RPA contends that Redmond historically has given bargaining unit increases that at least match the CPI increases, making a 90% increase unjustified.(fn:6) I agree, although for different reasons. A lower-than-CPI increase might be justified, despite the historical pattern, when, for example, bargaining unit wages have

become quite high relative to the jurisdictions comparators, when tight economic circumstances force slightly lower increases, or when the employer bears the burden of increases in certain significant areas, such as health care costs, to the benefit of its employees. Increases based on a percentage of the CPI (usually 80% to 90%), with a minimum and maximum, came into use when changes in the CPI were very high, but weren't being matched by corresponding increases in a jurisdictions revenues. Questions also were raised about the validity of the CPI measurements (the argument being that the increases were overstated), particularly since individuals are affected differently, depending on their pattern of consumption. I understand that the method of calculating the CPI has since been adjusted so that it no longer overstates actual inflation levels. The City did not present any evidence one way or the other on this point, at any rate. Therefore, percent-of-CPI increases should have an ancillary justification, such as the ones previously mentioned (e.g., tight economic circumstances or high increases in employer-paid health care costs). The same can be said of the "floor and ceiling" clauses that often accompanied CPI clauses during past periods of relatively high inflation. These clauses are particularly unnecessary when, as here, the CPI escalator for the contract period are already known. The RPA proposes a CPI-based increase, with an arbitrary floor of 3% and ceiling of 5%. This, of course, would virtually guarantee a 3% wage increase for 2003 and 2004, but without any particular justification.

fn:6 Curiously, the wording of the RPA's wage proposal for 2004 is "90% of the CPI," but since the RPA specifies a minimum of 3% and a maximum of 5%, and with the applicable inflator being less than 1%, the 90% specification is superfluous.

Accordingly, I conclude that other things being equal, any wage increases tied to the CPI should be at 100% of the CPI, with no minimum or maximum.

3. Other Considerations - Turnover

Larry Gainer, Assistant Chief of Police, testified as to turnover with the police department. Approximately 18 officers have left over the past five years. Three or four left in order to find more "action." Another left because his commute was too long (his new employer, however, gave him a take-home car). Several relocated to a new area for personal reasons. Four decided to get out of police work (two joined Microsoft, doing investigations, and a third joined a software company, for higher pay), and two joined the military. The RPA pointed out that the three officers who left for security related jobs in the private sector were attracted by the higher pay.

To me, the evidence concerning turnover in Redmond does not show that it is a problem. The higher pay offered for security work in the private sector could be a consideration if a flood of officers were going in that direction, but that is not the case here. Moreover, private sector security work, in my opinion, is not the "like personnel of like employers of similar size" contemplated by the Legislature. Although the RPA does not offer private sector employers as comparators, I believe the statutory criteria for comparable jurisdictions should be kept in mind when considering evidence regarding turnover, given that turnover itself was not specifically set out as a statutory criterion.

4. Other Considerations -- Relative Demographics

According to the City's evidence, among its comparators, only Kirkland's crime rate is lower, according to the City's evidence. The argument is sometimes made that jurisdictions with high crime rates should compensate their police officers at a higher level because of the higher demands of the job. Ipso facto, the reverse should be true. However, I have never seen a comprehensive study that has shown either proposition to be true, at least as a general rule. And, unfortunately, jurisdictions with the highest crime rates -- particularly when they are of small or moderate size - often cannot afford higher compensation levels, given that their crime rate and their relative poverty go hand-in-hand.

Reflecting its affluent bedroom-community status, many officers have complained they cannot afford to buy a house in Redmond. Unfortunately, it often is true in affluent areas with high property values that public servants, such as police officers and teachers, have to live elsewhere, where housing is more affordable.

The RPA attempts to parlay the fact of Redmond's affluence into an argument for higher wages.(fn:7) The RPA points out that Redmond's assessed valuation is second only to Bellevue's, even though it ranks sixth in population, and its median family income is the highest. The RPA then develops a correlation between police officer wages and assessed valuation, and states that for officers, Redmond is 27.30% below the average correlation for all of the agreed to comparable jurisdictions. For first line supervisors (lieutenants in Redmond), the figure is higher, at 30.51%.

fn:7 The RPA categorizes this as a "cost of living" argument. It is not a traditional consideration with respect to cost of living; therefore, I am placing it under the heading of "other."

Just as comprehensive data showing a correlation between wages and crime rates is lacking, so is any evidence showing that police wages and the community's affluence have any correlation. If one were to take this argument to its logical extreme, then the police officers in tiny, but wealthy, Medina or Clyde Hill should be the highest paid in the State. Moreover, I am unaware of any interest arbitration award that has taken the correlation between wages and affluence (whether measured by assessed valuation, median family income, or other measurements) into consideration. The RPA's argument is creative and novel, but without ample supporting evidence, is not usable.

5. Other Considerations -- Internal Equity

The City is, understandably, striving to seek parity in wage adjustments across its employee group lines, and in my opinion, internal equity can be a valid consideration, particularly in difficult economic times when it becomes necessary to ask employees to make sacrifices. Obviously, it does nothing for the morale of one employee segment to accept, for instance, a wage freeze, and then see another group receive a whopping increase, no matter how deserving the latter group is of that increase.

During the relevant contract period of 2002-2004, given the pressure on the City's resources, the City is asking all employee groups to accept the same deal, and it particularly wants all groups to sign on to its proposed health care premium cost sharing. Unrepresented employees, of course, have no choice. Four represented bargaining units, however, have agreed to the City's proposals. But, there are three holdouts: the police officers' unit, the firefighters unit, and one other.

As I indicated, I find internal parity considerations to be valid, but they may be weighted lower than the explicit statutory considerations.

B. Wages

1. Comparator Analysis

Although the parties did not agree upon a single "benchmark" in terms of years of service or education level, the evidence was that the average tenure in the bargaining unit is ten years, and although more officers (36) fall into the BA category than any other, a majority of officers (12 with AA, 32 with neither, and two on leave of absence whose educational attainment was not specified), have not attained a BA level. The parties presented the effect of their proposals on about 30 different longevity/education configurations (for officer and lieutenant) vis-a-vis the stipulated comparators. I will simplify this presentation by setting forth a ten-year benchmark for officers with three variations: no degree, AA and BA, although in reaching this award, I have considered the various permutations as well.

a) Methodology Review

I will begin with a analysis of the parties methodology and computations, since my first endeavor was to figure out why they analyzed the same comparators, but obtained different results. The following tables show, by way of illustration, each parties' comparison of base and total compensation against those of the stipulated

comparators for 10-year officers with no degree:

City's Figures (includes City's offer of 3.51% in Redmond calculations) (fn:8)
2002: 10 Years, No Degree
Net Hourly Before Benefits

	Annual Hours	Hours Vacation	Hours Holidays	Net Hours Worked	Base Pay	Base w/fit., long.	Net Hourly
Redmond	2086	142	148	1796	\$58,899	\$60,530	\$33.70
Auburn	2086	160	88	1838	\$56,051	\$58,013	\$31.56
Bellevue	2086	152	96	1838	\$59,400	\$59,400	\$32.32
Everett	2190	160	0	2030	\$58,512	\$63,811	\$31.43
Fed Way	2086	128	88	1870	\$57,288	\$59,007	\$31.55
Kent	2086	144	70	1872	\$58,668	\$62,140	\$33.19
Kirkland	2190	144	144	1902	\$62,592	\$65,096	\$34.23
Renton	2190	168	96	1926	\$60,618	\$63,043	\$33.03
Averages	2131	151	83	1897	\$59,018	\$61,501	\$32.47
Redmond to Average						-1.6%	3.8%

fn:8 This and the following table were taken from City Exh. 8.2.2 (revised Jan. 2004 and February 2004).

Net Hourly After Benefits (City)

	Net/Hr	Supple Rtmnt	SS Contrib	Total Supp Rtmnt	Med Ins	Dent Ins	Vis Ins	Disab Ins	Total Ins	Total Ins/Rtmnt	Net Hourly
Redmond	\$33.70	\$3,002	\$-	\$3,002	\$7,437	\$2,251	\$353	\$868	\$10,909	\$74,441	\$41.45
Auburn	\$31.56	\$-	\$3,597	\$3,597	\$8,211	\$1,546	\$233	\$ 58	\$10,048	\$71,658	\$38.99
Bellevue	\$32.32	\$3,683	\$-	\$3,683	\$9,357	\$1,310	\$ 54	\$444	\$11,345	\$74,428	\$40.50
Everett	\$31.43	\$1,200	\$-	\$1,200	\$6,968	\$1,243	\$110	\$-	\$ 8,321	\$73,332	\$36.13
Fed Way	\$31.55	\$3,068	\$-	\$3,068	\$6,942	\$1,425	\$189	\$447	\$ 9,003	\$71,078	\$38.02
Kent	\$33.19	\$1,173	\$3,783	\$4,956	\$9,828	\$-	\$-	\$162	\$ 9,990	\$77,086	\$41.19
Kirkland	\$34.23	\$3,027	\$-	\$3,027	\$7,987	\$1,458	\$233	\$285	\$ 9,963	\$78,086	\$41.05
Renton	\$33.03	\$3,783	\$3,909	\$7,692	\$8,424	\$2,590	\$-	\$240	\$11,254	\$81,989	\$42.57
Averages	\$32.47	\$2,656	\$3,763	\$3,889	\$8,245	\$1,595	\$164	\$273	\$ 9,989	\$75,380	\$39.78
Redmond to Aver.	3.8%									-1.25%	4.2%

RPA's Figures (fn:9)

2001 Redmond, 2003 Comparators: 10 Years, No Degree, Monthly

	Base w/ Fitness mo.	Long mo.	Edu mo.	Subtotal mo.	Health Ins mo.	Rtmnt mo.	Vac mo.	Hol mo.	Total Comp mo.
Redmond	\$4,801	\$72	\$0	\$4,873	\$1,058	\$460	\$319	\$225	\$6,935
Auburn	\$4,798	\$168	\$0	\$4,966	\$955	\$469	\$382	\$210	\$6,982

Bellevue	\$5,024	\$0	\$0	\$5,024	\$1,060	\$474	\$367	\$232	\$7,157
Everett	\$4,949	\$173	\$0	\$5,122	\$820	\$271	\$374	\$283	\$6,870
Fed Way	\$4,851	\$146	\$0	\$4,997	\$843	\$422	\$308	\$211	\$6,781
Kent	\$4,962	\$149	\$0	\$5,111	\$1,083	\$582	\$354	\$262	\$7,392
Kirkland	\$5,456	\$82	\$0	\$5,538	\$923	\$523	\$344	\$364	\$7,692
Renton	\$4,944	\$198	\$0	\$5,142	\$1,109	\$783	\$394	\$169	\$7,597
Averages				\$5,129					\$7,210
Redmond to Average				-5.52%					-3.97%

fn:9 This table reflects RPA Exh. 2.10 and RPA Exh. 4.2 (revised Jan. 2004).

The differences in the methodology are as follows:

- * The City includes its offer in the calculation of the City of Redmond wages for each specified year. The RPA compares the 2003 wage of the comparators with the 2001 wage of the bargaining unit. There is nothing inherently wrong with either method, so long as one keeps these differences in mind. I prefer, for simplicity's sake, to compare the bargaining unit wage for the final year of the previous contract (2001), to the comparator's wages for each of the following years that are relevant to this dispute, particularly the first year of the new contract (2002).

The RPA's calculation for vacations and holidays appears to be based on a one to one equivalency, assuming a 2086 hour work year, or eight hour day. In other words, a 10- year Redmond officer receives 136 hours of vacation annually. The 2001 base wage at 10 years (\$4684), with fitness, longevity and education pay (none) added, is \$4,873 monthly, or \$58,476 annually. An hourly equivalent (2086 hr/yr) is \$28.03. The annual vacation value was deemed 136 x \$28.03, which taken on a monthly basis is \$318. (The RPA's actual figure was \$319, which I ascribed to the effect of rounding in spreadsheets). Holiday pay (12 days or 96 hours a year) was similarly calculated.

The City, on the other hand, used 142 as the number of vacation hours, and 148 as holiday hours. The holiday hours are increased by 50% in those jurisdictions that allow a cash comp at that rate in lieu of taking the time off. The City then subtracts the vacation hours from the annual hours, to come up with a net hours worked, which then forms the basis for an hourly wage.

- * Both methods may be acceptable; it should not matter whether the value of the vacation is added to the base, or it is subtracted from the number of hours worked. There are some minor flaws in both parties methods, but ultimately not significant. The RPA apparently assumed that all jurisdictions start with a 2086-hour work year, which is not the case. The City's holiday figures for Redmond include an extra four hours, (fn:10) and the reason for this is unclear. It also, assumed Redmond has 142 annual vacation hours, as compared to the 136 assumed by the RPA. As whether the paid holidays should be calculated on a time-and-a-half basis, where that is available, there are arguments on both sides. (I note that neither party specifically addressed this point in the briefs). The City includes the Employer's social security contribution in its analysis, the RPA does not. It would make no difference if all jurisdictions participated in social security, but that is not the case since some have opted out. In this case, since the bargaining unit members do not participate, it is to the City's disadvantage to include it. It is controversial in interest arbitrations because it is questionable whether there is a dollar for dollar benefit. On the other hand, it is a real (and significant) payroll item for an employer. The fact that some bargaining units have not opted out of social security indicates their members perceive it as having value. On balance, I believe the better view is to include this item when doing total compensation comparisons.

fn:10 The product of 12 holidays and eight hours per day, raised by 50%, is 144, but the City's figure is 148.

- * For the Redmond bargaining unit, there are significant differences in the parties' figures on insurance and

retirement costs, The differences are as follows:

	City	RPA
Total insurance costs/year	\$10,909	\$12,696
Retirement, annualized	\$3,002	\$5,529

In a post-briefing communication with the parties, the RPA explained that:

- > The City used 2002 data, the RPA used 2003.
- > The City's retirement calculations did not include the LEOFF contribution but the Union's data did include LEOFF.
- > The Union indicated that the amounts for MEBT may have differed because the City assumed that 80% went to retirement, and the other 20% went to life insurance. The RPA assumed that 100% went into retirement, and the employee pays for life insurance.

It appears that either method is sound, so long as applied consistently. I have opted to use the City's figures in my analysis because they are based on 2002 wages, which I deem more appropriate as a starting point.

The parties also have one significant difference in viewing the results. The RPA would prefer viewing them on a monthly (or annual) basis, while the City urges that the comparison be made on an hourly basis. Because the bargaining unit has more holidays, the hourly computation works to the City's advantage.

As I stated in King County Fire District 44 (IAFF Local 3816), PERC No. 15764-I-01-360 (Wilkinson, 2002), given identical compensation levels, most people would rather have the job with fewer hours and more time off. If one has to work on holidays, then the employee comes out ahead compensation-wise because of the premium pay he or she will receive. Thus, with the salary as a constant, one's equivalent hourly wage is higher when one works fewer hours. Arbitrator Lankford reached the same conclusion in a case where the hourly wage analysis favored the union and was opposed by the employer):

What the statute requires an arbitrator to compare is not simply "wages" but "wages, hours, and conditions of employment." To the extent it is reasonably practicable, that comparison should be done on an "all things considered" basis, reflecting wages and hours of work together. For example, police officers who are making 20% less than the average wage paid by comparable jurisdictions have no particular reasons to expect a raise if they are also working a total of 20% fewer hours than the average (which the City would certainly be quick to point out if the shoe were on the other foot). Washington interest arbitrators have commonly recognized this interrelationship in the past.

City of Kelso (Kelso Police Officers Association) (Lankford, 2001), at 9-10. See also, City of Centralia (IAFF Local 451), PERC No. 11866-I-95-253 (Lumbley, 1997); City of Vancouver (Vancouver Police Officer's Guild), (Beck, 1997); City of Ellensburg (IAFF 1758) (Snow, 1992); City of Bellingham v. IAFF 106, (Beck, 1991); Cowlitz County v. IBT RPA 58, (Beck, 1987); City of Bellevue (IAFF 1604), (Gaunt, 1987); City of Seattle v. Seattle Police Officer's Guild, (Kienast, 1984).

The RPA cites City of Wenatchee, PERC No. 16277-I-02-379 (Savage, 2002), where the Arbitrator wrote:

Where, as here, the hours worked are close to the average of the comparables, the arbitrator sees little benefit in using a net hourly wage for comparison purposes and will make comparisons using monthly wage rates. Further, police officers have various types of leave that may take them away from the workplace, including leaves for illness, military service, and jury duty. It is quickly apparent that the number of hours an employee works in a given year is a matter of individual circumstances. Consequently, a precise comparison of hours worked is impossible.

In the case before me, the hours worked are not all that close to the average of the comparables, making Arbitrator Savage's view distinguishable.

The RPA contends that excluding vacation in the hours calculation is appropriate because some officers may not

use all of their accrued vacation hours in any given year. I disagree; ignoring accrued vacation in connection with hours worked doesn't give an accurate compensation picture. In any event, I note that the RPA also presented vacation and holiday compensation information (converting them to a dollar value) in its compensation analysis.

2. Arbitrator's Analysis of Compensation Data

For a detailed comparison, I am setting out my own calculations for the ten-year employee, an appropriate benchmark, in my opinion, and this is also the level that is the most behind the comparator group. My results are somewhat different than those shown by the parties, but the differences are not particularly significant.(fn:11)

Ten Year, No Degree -- 2001 Redmond vs. 2002 Comparators

	Net Hours Worked	Net Monthly	Net Hourly	Total Ins/Ret	Total Comp/Mo	Total Comp/Hr
Redmond	1806	\$4,875	\$32.39	\$13,911	\$6,034	\$40.09
Auburn	1838	\$4,834	\$31.56	\$13,644	\$5,971	\$38.98
Bellevue	1838	\$4,950	\$32.32	\$15,028	\$6,202	\$40.49
Everett	2030	\$5,318	\$31.43	\$ 9,521	\$6,111	\$36.13
Federal Way	1870	\$4,917	\$31.55	\$12,071	\$5,923	\$38.01
Kent	1872	\$5,178	\$33.19	\$14,946	\$6,424	\$41.18
Kirkland	1902	\$5,425	\$34.23	\$12,991	\$6,508	\$41.06
Renton	926	\$5,254	\$33.03	\$18,945	\$6,832	\$42.57
Averages		\$5,125	\$32.47		\$6,282	\$39.77
Redmond to Averages.		-5.1%	-0.3%		-4.1%	0.8%

fn:11 Calculated on a monthly or annual basis, the parties were only \$3.50 apart on Redmond base wage data (including fitness, longevity and education premiums) for a ten-year employee, in 2001. (The City's data on page 19, which appears higher, includes its 3.51% offer; that amount is backed out to obtain the City's 2001 base) Their figures were similarly close at other longevity and educational levels. Therefore, when I refer to the 2001 Redmond base wages, 10-year employee, no degree (including premium pay), I split the \$3.50 difference and used the number \$4875.

Ten Year, AA Degree -- 2001 Redmond vs. 2002 Comparators

	Net Hours Worked	Net Monthly	Net Hourly	Total Ins/Ret	Total Comp/Mo	Total Comp/Hr
Redmond	1806	\$4,950	\$32.89	\$13,956	\$6,113	\$40.62
Auburn	1838	\$5,123	\$33.45	\$13,852	\$6,277	\$40.98
Bellevue	1838	\$5,201	\$33.96	\$15,212	\$6,469	\$42.23
Everett	2030	\$5,491	\$32.46	\$ 9,521	\$6,284	\$37.15
Federal Way	1870	\$5,014	\$32.18	\$12,131	\$6,025	\$38.66
Kent	1872	\$5,228	\$33.51	\$14,983	\$6,477	\$41.52
Kirkland	1902	\$5,425	\$34.23	\$12,991	\$6,508	\$41.06
Renton	1926	\$5,456	\$33.99	\$19,241	\$7,059	\$43.98
Averages		\$5,277	\$33.40		\$6,443	\$40.80

Redmond to Average	-6.6%	-1.5%	-5.4%	-0.4%
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Ten Year, BA Degree -- 2001 Redmond vs. 2002 Comparators

	Net Hours Worked	Net Monthly	Net Hourly	Total Ins/Ret	Total Comp/Mo	Total Comp/Hr
Redmond	1806	\$5,049	\$33.55	\$14,015	\$6,217	\$41.31
Auburn	1838	\$5,114	\$33.39	\$13,852	\$6,269	\$40.93
Bellevue	1838	\$5,347	\$34.91	\$15,322	\$6,624	\$43.25
Everett	2030	\$5,488	\$32.44	\$ 9,521	\$6,281	\$37.13
Federal Way	1870	\$5,061	\$32.48	\$12,161	\$6,075	\$38.98
Kent	1872	\$5,326	\$34.14	\$15,055	\$6,580	\$42.18
Kirkland	1902	\$5,424	\$34.22	\$12,991	\$6,506	\$41.05
Renton	1926	\$5,557	\$34.62	\$19,389	\$7,172	\$44.69
Averages		\$5,331	\$33.74		\$6,501	\$41.17
Redmond to Averages		-5.6%	-0.6%		-4.6%	0.3%

As seen from these tables, although the lag appears significant on a monthly basis, when shown on the more appropriate net hourly basis (without retirement and insurance), the 2001 wages of this group are at the most, 1.5% behind the 2002 wages of the comparator group, and with retirement and insurance included, the total compensation (net hourly) very close to that of the comparators.

The percent differences at other longevity and compensation levels are approximately as shown on the next table, which was taken from the City's data, but with its 3.51% offer backed out of the Redmond figure:(fn:12)

Degree	Longevity	2001 Redmond to 2002 Comparators
BA Degree	One Year	10.7%
	Five Years	1.1%
	Ten Years	See above
	Fifteen Years	0.9%
	Twenty Years	0.4%
	Twenty-five Years	-0.9%
AA Degree	One Year	9.3%
	Five Years	0.4%
	Ten Years	See above
	Fifteen Years	0.3%
	Twenty Years	0.1%
	Twenty Five years	-0.3%
No Degree	One Year	8.5%
	Five Years	0.1%
	Ten Years	See above
	Fifteen Years	1.3%

Twenty Years	1.3%
Twenty-five Years	1.1%

fn:12 While there were some differences between the end result of the RPA's and the Employer's figures at different longevity and education levels. I note that the RPA asserts that before benefits, 2001 officers and lieutenants wages are on the average (and on a monthly basis) 3.63% and 5.68% behind the comparator average of 2002. After benefits are added in, the lag increases to 4.24% and 6.27% respectively. Thus, a 3.51% and a 1.5% increase make up this difference at many levels, and when viewed on the more appropriate hourly place officers and lieutenants at all levels above the average of the comparators.

For Lieutenants, the RPA offered the more comprehensive data. However, as stated previously, the RPA looked at comparator pay for 2003, while I prefer viewing it at 2002. In addition, the RPA prefers a monthly pay comparison, while I prefer hourly. The RPA's data shows, depending on longevity and education, Lieutenant's 2001 monthly pay to be between 5.25% to 7.82% behind the 2003 comparator average, including insurance and retirement, and a 4.31% to 7.39% lag, with those benefits excluded The RPA asserts that the comparators received, on the average, a 2.2% increase for 2003. See RPA Exh. 2-1. Backing that figure out, one can infer that Lieutenants are somewhere between 2+% and 5+% behind the 2002 comparator average, depending on longevity and education. When compared with the ten-year employee detailed above, Lieutenant's are better positioned on both a monthly basis. One can therefore infer that they are also better positioned on an hourly basis than the ten-year employee, meaning that their 2001 wages are close to the 2002 comparator average.

Based upon all the considerations identified above, I have concluded that the bargaining unit, with the City's offer of 3.51%, will be compensated above the average of the comparators, when viewed on an hourly basis.

3. Arbitrator's Determination

The following sets forth what I have determined to be the appropriate wage increase for this bargaining unit. In making this determination, I had in mind and took into account my disposition of the dispute over employee contribution to medical premiums, discussed in the next section.

For the first year of the contract, given the difficult economic times extant in 2002, the absence of an employee contribution to the rapidly escalating health care premiums, and the above-average positioning of the bargaining unit relative to the comparators, I am awarding the City's proposal of a 3.51% increase. This is a 90% CPI increase. For the subsequent two years of the contract, I am awarding an increase equal to 100% of the CPI-W change, for Seattle-Tacoma- Bremerton (June to June). I using the 100% of CPI figure in light of the improving economy, the increased burden on employees for contribution to premiums, discussed in the next section, and the fact the CPI increases are quite small.

These increases amount to a 6% cumulative increase over the life of the contract.(fn:13) The employer's contribution to health premiums, after deducting the employee's contributions for 2003 and 2004, is the equivalent of a 6.85% increase to the 2001 base wage (including fitness, longevity and education pay). In other words, with this award, there will be a 12.85% increase in the City contribution to compensation for the bargaining unit over the three years of the labor agreement. After subtracting the employee's share of dependant health costs for 2003 and 2004, the net increase in compensation for an officer with full family coverage will be 9.73%. For an officer with no dependants, the net increase will be 12.85%.

fn:13 The basis for the calculations in this paragraph were as follows:

- Base wage, with longevity, education and fitness - increase over three years, compounded: 6%
- Health premiums increase from 2001 to 2004 (full family): 6.85%
- Less employee contribution to dependant premiums (full family, 2003 and 2004: -3.12%

The net economic increase is 9.73%.

C. Employee Contribution to Dependent Medical Premiums

The City seeks a 10% contribution to dependant coverage for 2003, 20% for 2004. The City will pay for 100% of the employee's own coverage. The RPA has agreed to cost-sharing, but its proposal is for a 10% contribution to dependant coverage, beginning in 2004.

1. Inflationary Costs

By way of background, the City explained that in 1993, the City decided to self-insure (the plan is called "Red-Med") and went off the AWC (Association of Washington Cities) plan. The 1993 plan document set a benchmark of a 7% annual increase; its annual increases for five years were less than this amount. The City also formed an employee benefits advisory committee (EBAC) (fn:14) that met monthly to address mundane plan concerns. In 1999 and 2000 the City began more vigorously tracking its claims experience, and in the fall of 2002, hired consultants to gather information on costs and comparable costs and to look at ways to better control costs. EBAC, according to the City's evidence, became highly involved in looking at the issues for a consultant, and selecting and monitoring the consultant.

fn:14 Each of the City's four unions had one representative on the EBAC Committee, along with one nonrepresented member and a representative from the City. The City's four unions are RCHA (Redmond City Hall Employees Association), AFSCME, fire fighters (IAFF) and the Police Guild.

Consultant Ryan had been retained to project City's future plan costs. Ryan performed both a best case and worse case analysis based on current costs and trend rates to project future costs. Her findings were that with no changes, on a best case or worst case basis, the City's cost increases would be 10.8% to 14.6% annually over the subsequent five years. See City Exh. 6.4. She stated that her most pessimistic projection was comparable, or perhaps a little less than, what was projected in the marketplace generally. Unfortunately, according to Ryan, the City's experience since her report has shown that it reflects her "worst case" scenario. See City Exh. 6.8. Ryan explained that from an actuarial standpoint and in simple terms, the City's premium rates must cover claims, along with stop-loss premiums, the cost of a prudent reserve, and administrative costs. On cross-examination, Ryan stated that an objective of limiting annual increases to 7.7% was "absolutely" realistic. Tr. 58.

The City also retained Insurance Consultant Doug Evans, President of R.L. Evans Co. to review its plans and with Ryan, to propose and price out plan changes that would help control costs. The City's objective was to design plan changes that would put it back to its original objective of 7% annual rate increases.

City representatives met with EBAC and various employee representatives in February 2002 to begin a process for obtaining employee input on the best ways to reduce costs. The City gave the employees a menu of options, including reducing benefits, or requiring a larger contribution from employees to premiums.(fn:15) The feedback that the City received from EBAC was that employees would prefer paying a larger contribution to premium over a cut in benefits.

fn:15 According to City Exh. 6.1.5 most procedures covered by the City have a 20% employee co-pay, although preventive procedures receive 100% coverage, There sometimes is a ceiling on a benefit. The plan has a deductible of \$100/\$300 (individual/full family) for medical and a \$600/\$1200 (individual/full family) annual employee out-of-pocket limit.

2. Comparator Data

a) Premium Costs, by Jurisdiction

The City presented the following comparator analysis showing the total cost of premiums, along with employee and employer share, among the comparators.

Police Medical Full Family--2002

City	Total Medical	Total Dental	Total Ortho	Total Vision	Total Employer Paid	Total Employee Paid	Total Premiums
Auburn (2002-2004)	\$731.06	\$121.50	\$7.30	\$19.43	\$832.46	\$46.83	\$879.29
Bellevue (2001-2003)	\$845.49	\$141.63	none	\$5.15	\$908.43	\$83.84	\$992.27
Everett (2002-2004)	\$580.67	\$103.55	none	\$9.17	\$693.39	\$0.00	\$693.39
Federal Way (2002-2004)	\$618.80	\$118.75	none	\$15.76	\$713.04	\$40.27	\$753.31
Kent (2002-2004)	\$844.00	Included /medical	Included /dental	Included /medical	\$819.00	\$25.00	\$844.00
Kirkland (2001-2003)	\$665.60	\$121.50	none	\$19.43	\$806.53	\$0.00	\$806.53
Renton (2000-2002)	\$702.02	\$215.84	Included /dental	Included /medical	\$917.86	(fn:16) \$0.00	\$917.86
Average of above	\$712.52	\$137.13	\$7.30	\$13.79	\$812.96	\$27.99	\$840.95
Redmond	\$619.75	\$187.55	Included /dental	\$29.41	\$836.71	\$0.00	\$836.71

Police Medical Full Family-2003

City	Total Medical	Total Dental	Total Ortho	Total Vision	Total Employer Paid	Total Employee Paid	Total Premiums
Auburn (2002-2004)	\$841.59	\$134.65	\$8.10	\$19.43	\$949.79	\$53.98	\$1,003.77
Bellevue (2001-2003)	\$845.49	\$141.63	none	\$5.15	\$908.43	Per City: (fn:17) \$83.84 Per RPA: \$76.92	\$992.27
Everett (2002-	\$704.53	\$103.55	none	\$11.13	\$819.21	\$0.00	\$819.21

2003)								
Federal Way (2002-2003)	\$714.80	\$131.35	none	\$15.76	\$815.38	\$46.53	\$861.91	
Kent (2002-2004)	\$1,113.00	Included /medical	Included /dental	Included /medical	\$1,069.00	\$44.00	\$1,113.00	
Kirkland (2001-2003)	\$767.00	\$134.65	none	\$19.43	\$921.08	\$0.00	\$921.08	
Renton (2000-2002)	\$917.51	\$188.88	Included /dental	Included /medical	\$1,106.39	\$0.00	\$1,106.39	
Average of Above	\$843.42	\$139.12	\$8.10	\$14.18	\$941.33	\$32.62	\$973.95	
Redmond w/10% cost sharing	\$780.64	\$238.43	Included /dental	\$39.20	\$986.73	\$71.54	\$1,058.27	

fn:16 As noted previously, Renton police officers will begin contributing \$50 a month towards premiums in 2004.

fn:17 According to the RPA's post-hearing brief, the difference in these figures has to do with which Bellevue plan was used for comparison. The RPA chose the plan to which most employees subscribe, while the City chose the "core" plan.

b) Relative Benefits

As shown above, the City's cost for medical is less than the average of its comparators. But its costs for dental and vision coverage significantly exceeds the costs of the comparator group. Keeping in mind that an "apples to apples" comparison is difficult for medical benefits, the evidence suggested that Redmond's medical benefits were at least equal to the average of its comparators. No evidence disputing this point was offered at any rate. Doug Evans, the City's insurance consultant, opined that the City offered the best dental plan of the group and one of the best vision plan.

c) Employee Contribution to Premium, by Jurisdiction

The following chart shows the employee contribution to sharing of premiums in the comparable jurisdictions:

Auburn	Police officers pay 10% of dependant medical premium (not vision and dental). Unrepresented employees pay 25% of the dependant medical premium.
Bellevue	Police officers pay 10% of dependant medical premium and 20% of dependant dental and vision premiums. (fn:18)
Everett	The employer pays 100% of all premiums.(fn:19)
Federal Way	Employees pay 10% of the dependant medical (not dental, vision) coverage.
Kent	Employees currently pay a set amount each month as a contribution to premium; the amount (between \$27 and \$44) depends on the number of dependants. (fn:20)

Kirkland	The employer pays 100% of all premiums.(fn:21)
Renton	Up to January 2004, the employer paid 100% of all premiums. In 2004, Renton and its police officers unit agreed that officers should begin contributing \$50 a month for premiums. In addition, some co-pays were raised, as was prescription drug coverage. All employees, including police officers, will pay 50% of any premium increase in excess of 7%, starting in 2005, or the parties will negotiate plan changes that achieve the same result.

fn:18 The City states that Bellevue is currently negotiating to have police pay 50% of premium increases in '04, '05 and '06. In 2004, medical premiums increased in Bellevue by 13.8%, dental went up 6%, and there was no change in vision costs.

fn:19 The City states that Everett is looking at the premium sharing possibility when the police contract expires in 2005.

fn:20 The City states that Kent is working with all bargaining groups to increase employee and dependant premium sharing to 7% the first year, 10% the second year, and 20% the third year. Its Teamsters represented bargaining unit requires employees to pay 7% of employee and dependant premium in 2004, and 10% in 2005. It has a "me too" clause with its AFSCME unit. Its police officers contract expires in 2005.

fn:21 The City asserts that Kirkland is currently negotiating with its police officers' unit for a minimum 10% dependant medical premium cost sharing in the 2004-2006 Collective Bargaining Agreement.

3. Arbitrator's Determination

The strongest case for the City is based on internal parity. I can well appreciate the need benefit of uniformity and fairness when an employer is asking for concessions from employees. On the other hand, the comparator data gives no support to the City's proposal that employees pay 20% of dependant premiums. The RPA has agreed to pay 10% of dependant premiums, (for medical only, starting in 2004). Ten-percent of the 2003 premiums equals \$71.54. Only Bellevue police officers make a larger contribution to premiums, and the difference is not particularly large. Twenty-percent of premiums would result in this bargaining unit paying more than four times the average paid by comparable jurisdictions. Bear in mind that three jurisdictions paid 100% of premiums in 2002 and 2003, and two of those will continue to do so in 2004. The City presented evidence of intent on the part of several jurisdictions to negotiate increases in employee cost-sharing, and no doubt at least some of those employers will achieve some measure of success. But what those employers would like, and what they will end up with, are two different things. In any event, those employers are seeking far less from their police officers' unit than the City proposes.

The City emphasizes that its proposal will not effect some 14 officers (25% of the bargaining unit) who do not require dependant insurance. Nevertheless, I note that 75% of the bargaining unit will be affected by the cost-sharing proposals.

As the City noted in its brief, in a prior award I reviewed Washington interest arbitration awards between 1997 and 2001, and observed a trend to require employee cost sharing. See, King County Fire District 44, PERC No. 15764-I-01-360 (Wilkinson, 2002). The City updated my survey in its brief, showing that this trend continues. However, I note that in general, arbitration awards have not imposed the degree of cost-sharing that the City seeks for 2004. In the King County Fire District 44 case, I imposed a cost-sharing arrangement on subscribers to the highest priced plan; those subscribers with a spouse and two dependants would pay \$51.72 monthly for 2002.

In my opinion, a 10% cost-sharing is a reasonable starting point for this bargaining unit. As to whether it should begin in 2003 or 2004, I have determined that 2003 is appropriate. Just as wage awards are generally retroactive -- so as not to penalize bargaining unit members for delays in obtaining a new labor agreement, then other provisions should be also - to the extent proposed. Since the 10% for 2003 (and for 2004 to the date this award is implemented) will come out of the back pay award, the retroactive imposition of the 10% contribution to

premium will not cause financial hardship to unit members.

The RPA has proposed that the employee contribution be limited to medical only. However, I have analyzed this issue in terms of cost to the employee, and have determined that a cost of \$71.54 is within the realm of reasonableness, I will include vision and dental with the employee's 10% cost-sharing obligation.

Accordingly, the new contract will contain a 10% contribution to dependant premiums for medical, dental, and vision for both 2003 and 2004.

D. Education and Longevity

The RPA proposes increasing longevity premiums by one-half of one percent. The City opposes this change. The RPA also proposes increasing the educational premium by between .5% to 3%, depending on the employee's position on the education/longevity matrix. The Employer opposes this proposal, but proposes to add a .7% and 1.5% premium at the entry level for an AA degree and BA degree, respectively.

Thirty-six of the 63 bargaining unit members hold a BA degree, and twelve hold an AA degree. Thus, more than half are qualified for the education incentive.

The RPA bases its proposal on comparator analysis. It contends that the bargaining unit's longevity pay is below average, and that Auburn, Bellevue, Everett 22 , and Renton pay a higher education incentive.

fn:22 Employees in Everett can choose either education or longevity but not both; see RPA Exhibit 7-1.

The City argues that the RPA inappropriately isolates premium pay from a total compensation analysis, that internal equity and the increased cost do not justify the RPA's proposals. It also contends that the City has had a long-standing policy against paying for longevity alone. Doug Albright, Attorney, (Ogden, Murphy, Wallace) testified that he has negotiated a number of collective bargaining agreements for the City, including agreements for its police bargaining unit. According to Albright, the City has had a long-standing policy against paying employees strictly for longevity, and has avoided the practice when possible, although there are exceptions such as in the firefighters' contract. The City prefers adding incentive pay for other reasons.

As the City pointed out, I am generally against awarding increased premium pay in interest arbitration. Rather, I look at the entire wage and economic structure and make my award accordingly. If the parties wish to divide the economic pie differently, they are free to negotiate changes. There could be exceptions, particularly for longevity when it is apparent that one or two particular levels of tenure are significantly out of step with the others. A longevity premium could be a workable way of correcting the disparity. But that was not the case here, and the RPA did not propose changes that equalize certain longevity levels. As to how to value other skills, duties, and contributions, those are determinations best made by those with knowledge of how valuable they are to the service provided by the employer. In other words, it is something better left to the parties for negotiation. I also agree with the City that isolating premium pay for purposes of comparison inappropriately leaves out the rest of the economic picture. For example, a bargaining unit could be way above average in pay generally, and below average for premium pay. That is an insufficient reason to raise premium pay. Conversely, one should not ignore a lag in base pay merely because an employer's premium pay is above average. The reason for performing a total compensation analysis is to give appropriate weight to all aspects of the pay structure. That is what I have done in this case with the wage award, discussed previously.

Accordingly, the RPA's proposals are denied. The City's proposal to increase the entry level education premium is awarded.

VII. AWARD SUMMARY

The decision and award of the Arbitrator in this dispute is as follows:

A. Wages:

2002	Across-the-board increase of 3.51%
2003	Across-the-board increase of 1.5%. This amount is equal to 100% of the CPI-W, Seattle-Tacoma-Bremerton, as measured from June to June.
2004	Across-the-board increase of .9%. This amount is equal to 100% of the CPI-W, Seattle-Tacoma-Bremerton, as measured from June to June.

B. Contribution to Health Care Premiums

2003	10% employee contribution to dependant medical, vision, and dental premiums
2004	10% employee contribution to dependant medical, vision, and dental premiums

C. Longevity and Education Premium Pay

* There will be no change to longevity pay.

* The parties' 2001-2003 collective bargaining agreement will contain, for entry-level employees, a .75% premium for an AA degree and a 1.5% premium for a BA degree.

Date: March 3, 2004

Jane R. Wilkinson
Labor Arbitrator

APPENDIX 4

In the Matter of the Interest Arbitration Between City of Bellevue and Bellevue Fire Fighters Local 1604, International Association of Fire Fighters, AFL-CIO, PERC No. 03642-I-81-0083

**Bellevue Fire Fighters Local 1604, International Association of Fire Fighters, AFL-CIO, CLC
And
City of Bellevue
Interest Arbitration
Arbitrator: Howard S. Block
Date Issued: 06/30/1982**

**Arbitrator: Block; Howard S.
Case #: 03642-I-81-00083
Employer: City of Bellevue
Union: IAFF; Local 1604
Date Issued: 06/30/1982**

ARBITRATION OPINION AND AWARD

**In the Matter of Arbitration)
)
Between)
)
CITY OF BELLEVUE) Issues: Contract Terms
)
and)
)
BELLEVUE FIRE FIGHTERS)
LOCAL 1604, INTERNATIONAL)
)
ASSOCIATION OF FIRE)
FIGHTERS, AFL-CIO, CLC)
_____)**

Impartial Arbitrator

**Howard S Block, Esq.
1226 North Broadway
Santa Ana, California 92701**

Hearing Held

**March 16, 17 and 18, 1982
City Hall
Bellevue, Washington**

Appearances

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PRELIMINARY OBSERVATIONS

This arbitration Proceeding arises out of an impasse in negotiations between the City of Bellevue, Washington (sometimes hereinafter referred to as "City") and the Bellevue Fire Fighters Local 1604 (sometimes hereinafter referred to as "Union") and was conducted pursuant to Chapter 41.56 RCW (Joint Exhibit 1).

The Union and the City are parties to a Collective Bargaining Agreement which expired on December 31, 1981 (Joint Exhibit 2). The parties commenced bargaining in Summer, 1981 for a new labor agreement covering approximately 90 bargaining unit employees in the City's Fire Department. They reached impasse on a number of issues and the Union invoked the provisions of RCW 41.56.430 et seq. for binding arbitration to resolve the impasse on these issues. Several issues were settled by the parties immediately prior to or during the hearing. The unresolved issues submitted for decision in this proceeding are the following:

1. Monthly Salaries--Appendix A.
2. Cost-of-living Adjustment--Appendix A.
3. Hours of Duty--Article XII.
4. Vacation Leave--Article XVII.
5. Insurance Coverage--Article XXVII.
6. Disability Leave and Sick Leave for Employees Hired On or After October 1, 1977- -Article XXVIII.
7. Performance Recognition Program --Article X and Appendix B.
8. Longevity--New Section.
9. Communication Procedure (Labor~Management Committee)--Article XXV.

10. Prevailing Rights--Article XX.

11. Reduction and Recall--Article VII.

The parties waived the tripartite arbitration panel and selection procedures provided in RCW 41.56.450 and agreed to submit the foregoing issues to Impartial Arbitrator Howard S. Block, serving as sole Arbitrator, with all powers and duties of an arbitration panel under the statute. A hearing was held before the Arbitrator on March 16, 17 and 18, 1982, at which time all parties concerned were given a full opportunity to present evidence and argument bearing on the issues. Each party concluded its case with the filing of a Closing Brief on May 7, 1982. At the Arbitrator's request, the parties waived the 30 day statutory time limit for rendering the decision (Tr. 673:20-674:3).

The record of this 3-day proceeding is voluminous covering almost 700 pages of transcript and more than 100 exhibits, most of which contain detailed statistical comparisons concerning the issues submitted for decision. In addition, as part of their comprehensive Closing Briefs, the parties submitted both judicial and arbitral case authority to support their respective positions. While the Arbitrator has carefully scrutinized all of this evidence and argument, no constructive purpose would be served by reviewing all of the conflicting contentions of the parties or even most of them. Instead, the Arbitrator will focus his attention solely upon those considerations deemed controlling in resolving the issues presented for decision.

STATUTORY CRITERIA

RCW 41.56.460 (sometimes hereinafter referred to as the "Statute") sets forth the factors by which the Arbitrator must be guided in resolving the disputed issues. RCW 41.56.460(c) stresses the paramount importance of comparisons; it requires:

Comparison of the wages, hours and conditions of employment of the uniformed personnel of cities and counties involved in the proceedings with the wages, hours and conditions of employment of uniformed personnel of cities and counties respectively of similar size on the west coast of the United States.

On first reading, it would appear that the foregoing language offers an unambiguous basis for comparison. Further reflection, however, poses a number of immediate questions. An assumption is warranted that "similar size" refers to Population; but does population mean only within the City limits or does it include contract areas served by the Fire Department - - a significant difference in the instant case which the Union has emphasized. How close in size to be considered similar? What of intra-city comparisons, a factor of considerable importance in maintaining internal stability, which the City has stressed. Must all West Coast cities of similar Size be given the same weight in comparative analysis? Are the wages and benefits of metropolitan and rural cities truly comparable? Are there "other factors" (RCW 41.56.460(f)) that should be considered? These are just a

few of the questions that, in the final analysis, must be considered in order to render a realistic decision that satisfies the statutory intent.

The range of alternatives available for comparison is nowhere more apparent than in the record of this Proceeding. The City and Union have both offered plausible contentions for sharply conflicting interpretations of the statutory criteria. In a prior proceeding between these parties just 2 years ago, the Union offered a somewhat different interpretation of how "similar size" should be construed (City Exhibit 23).

All of which brings us to the main point of this discussion, namely, that the legislature must have intended a flexible application of the statutory criteria in order to satisfy its stated "intent and purpose" as set forth in RCW 41.56.430. Otherwise, how could a single statute be administered equitably to cities as diverse as Seattle, Bellevue and Yakima, to name just a few? For example, on the basis of firmly established principles of wage and salary administration, the most relevant comparison to Seattle would be other large metropolitan cities on the West Coast. Since appropriate local comparisons are not available; for Bellevue, the most relevant comparisons would be Puget Sound cities and West Coast cities of similar size that are contiguous to large metropolitan areas (a point elaborated shortly); and for Yakima, located in rural Washington, a separate and distinct basis of comparison is indicated.

In summary, the Arbitrator is convinced that the comparative criteria set forth in RCW 41.56.460(c) must be applied flexibly depending upon the particular city (or county) involved. The Arbitrator finds further support for this conclusion in the provisions of RCW 41.56.460(f) which requires consideration of:

Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment (Emphasis added.)

The foregoing statutory language provides authority for the Arbitrator's reliance upon area comparisons, intra-city comparisons and the concept of individual issues in the context of a total economic package.

With these general observations in mind, we turn now to an application of these criteria to the instant case.

COMPARATIVE CITIES

While the City and Union both agree that comparisons of terms and conditions of employment are critical in this case, they have sharply divergent perceptions of the West Coast cities of "similar size" deemed comparable. That is hardly surprising. After all, the Union's and City's Counsel have an obligation to present their clients' case in the best Possible light. They have done so with resourcefulness and great conviction. Ambiguities in the Statute have been resolved in away most favorable to their respective client's Position. As a result, the evidence submitted reflects their highly Partisan views.

The comparative data offered by both the City and Union are useful and illuminating, but both are flawed in significant respects. For example, in the selection of its 15 comparative cities from Washington, Oregon and California (5 from each state), Bellevue has ignored one crucial fact namely, that it is located in the midst of a large metropolitan area. It is clear from the record of this proceeding and undisputed by the parties that compensation levels in large metropolitan cities and their environs are higher than those in less densely populated areas.¹ On the other hand, the comparative cities selected by the Union are more relevant, but the population spread of those cities (up to 249,999) is overbroad; furthermore, there is considerable merit to the City's arguments that the comparative data presented by the Union do not represent a true picture. A further analysis of these comparative data is presented in the discussion of "Monthly Salaries."

¹ Mr. Dow, the City's negotiator, concurred with Professor Knowles, the Union's economist, that higher wages generally prevail in metropolitan areas (Tr. 353:19-21).

What then constitutes an appropriate basis for selecting comparative cities bearing in mind that exact comparisons are rarely, if ever, possible? Understandably, the parties were faced with a dilemma in attempting to select cities of "similar size" within Washington that are truly comparable. No matter how loosely the "similar size" criterion is construed, few Washington cities other than Everett are truly comparable to Bellevue. Almost all Oregon cities of similar size are located outside of major population centers and, therefore, lack an important ingredient of comparability.

In interest arbitration, we usually look first for relevant local and regional comparisons because area peer parity is most meaningful to all those involved. The reasons have been explained with exceptional clarity by UCLA Professor Irving Bernstein, a distinguished arbitrator, in the following excerpt from his authoritative work on wage arbitration:

Comparisons are preeminent in wage determination because all parties at interest derive benefit from them. To the worker they permit a decision on the adequacy of his income. He feels no discrimination if he stays abreast of other workers in his industry, his locality, his neighborhood. They are vital to the union because they provide guidance to its officials upon what must be insisted upon and a yardstick for measuring their bargaining skill. In the presence of internal factionalism or rival unionism, the power of comparisons is enhanced. The employer is drawn to them because they assure him that competitors will not gain a wage-cost advantage and that he will be able to recruit in the local labor market. Small firms (and unions) profit administratively by accepting a ready-made solution; they avoid the expenditure of time and money needed for working one out themselves. Arbitrators benefit no less from comparisons. They have 'the appeal of Precedent and awards based thereon are apt to satisfy the normal expectations of

the parties and to appear just to the public'.
(Emphasis added.)²

In short, area comparisons of like jobs is a criterion of fundamental importance in interest arbitration.

2. Arbitration of Wages Publications of the Institute of Industrial Relations (Berkeley: University of California Press, 1954), p. 54.

Bellevue, it must be noted, is located centrally in the Puget Sound area, immediately east of Seattle. Puget Sound is an integrated economic area with a common labor market. Therefore, applying the above rationale to Bellevue, the Arbitrator concludes that comparison with cities in the Puget Sound area offers the most Persuasive basis for comparison and a criterion fully sanctioned by RCW 41.56.460(f). Furthermore, data submitted for Puget Sound cities are the most relevant comparative data contained in the record of this Proceeding for reasons elaborated in the discussion below.

To further implement the statutory mandate, comparison must also be made with other West Coast cities outside the Puget Sound area. In order to maximize the relevancy of such comparative data to Bellevue's Fire Department, these additional cities should be: (1) cities of similar size (including contract areas served)³; and (2) located in a major metropolitan area. Most of the California cities and all of the Oregon cities offered for comparison by Bellevue do not satisfy this latter point. On the other hand, most of the Union-selected cities meet this two-fold test. However, the Union has not submitted specific comparative data for Washington and Oregon cities on wages, hours or conditions of employment. Its "per compensable hour" comparisons provide a general indication of how these cities compare but these data do not offer sufficiently specific criteria for determining the particular issues submitted for decision in this case.

- ³ Bellevue's Fire Department provides fire suppression services to a total population of approximately 95,000 persons, including contract areas served.

To summarize, in arriving at his decision on the issues in this case, the Arbitrator has considered cities of similar size on the West Coast of the United States as mandated by Statute; he has also taken into account other factors customarily considered in interest arbitration cases. On the basis of the record before him, the Arbitrator concludes that the comparative data submitted for Puget Sound cities are more relevant to the decision in this case and, therefore, entitled to much more weight than data from other West Coast cities. All comparative data, like all other evidence, are not necessary entitled to equal weight.

Before leaving this general discussion of comparisons, one additional point must be mentioned. In its evidence and argument, the City has stressed internal comparisons -- i.e. comparisons with other employee groups employed by the City. The Arbitrator agrees that such comparisons are entitled to

significant weight, Particularly when dealing with a general city-wide benefit like group insurance, for example. This criterion of intra-city comparison will be amplified as it relates to particular issues discussed below.

Finally, the Arbitrator will simply note here that he has carefully reviewed and taken into account the judicial and arbitration decisions interpreting RCW 41.56.460 (Exhibits A, B, C and D attached to City's Closing Brief) before arriving at his interpretation of this statutory language.

MONTHLY SALARIES APPENDIX A

Proposals of the Parties

The City proposes that all 1982 monthly salary rates be increased by \$144 across the board which amounts to 7.2% for a top-level Fire Fighter⁴

⁴ The City offer is reduced to 6.8% overall because its \$144 across the board proposal amounts to a 7.2% increase for top Fire Fighter, 6.3% for top Lieutenant and 5.7% for Captain (City Exhibit 67).

The Union proposes that all 1982 monthly salary rates be increased by 20.2% (\$2,411 for a top-step Fire Fighter) and that Paramedic classifications be amended to reflect a 10% higher rate than the same classification without Paramedic qualification.

Positions of the Parties

The City's Proposed increase in monthly salaries would place its top-step Fire Fighters third in rank among the 15 similar size West Coast cities (City Exhibit 11) and at the median of Puget Sound cities used as comparators by the Union during negotiations (City Exhibit 14). The City's salary offer, when considered in conjunction with its total proposed economic package, also treats Fire Fighters favorably in comparison with other City employee groups (City Exhibit 67) and maintains the historic relationship between Police Officers and Fire Fighters. The City also proposes a flat dollar increase instead of a uniform percentage because the present rank differentials are much wider than those found in comparable cities. Finally, contends the City, the Union's proposed increase for Paramedics cannot be justified by the comparative data (City Exhibit 28) and it urges that Paramedic pay increases be included in the Performance Recognition Program (PRP) as it has Proposed.

The Union maintains that its comparative data should be accepted by the Arbitrator because its figures are based upon comparable metropolitan cities not the rural comparisons offered by the City. According to the Union's compensable hour comparisons, the disparity which prevails between the level of overall Fire Fighter compensation in Bellevue and the norm for overall compensation in fairly comparable cities lies between 39.5% and 43.2% (Union Exhibit 9). Thus, contends the Union, its proposed 20.2% across the board salary increase would represent reasonable progress toward parity but by no means eliminate

existing differentials. Next, the Union claims that its Proposal for Paramedic premium pay is justified by comparison with other medics' salary levels (Union Exhibit 27), by the skills and training they acquire, by their proven value to the City and the adjacent areas they serve, by community support for the program, and by their special responsibilities and difficult working conditions. Finally, contends the Union) Bellevue is an affluent community with an extremely favorable fiscal Status and potential revenue sources far in excess of any amounts required to bring its compensation for Fire Fighters into parity with other comparable cities (Union Closing Brief, p 32).

Opinion of the Arbitrator - Monthly Salaries

The provisions of RCW 41.56.460 are necessarily broad with considerable latitude for interpretation. In construing it, the parties have applied their own perceptions of equity and, not surprisingly, have reached conflicting conclusions concerning appropriate salary levels.

Bellevue is located in a major metropolitan area. Yet, over half the cities selected for comparison by Bellevue are located outside of major population centers i.e. all S Oregon cities, Yakima, Bellingham, El Cajon and Santa Barbara. Both the testimony and documentary evidence establish that generally lower levels of compensation prevail outside metropolitan areas. The substantial wage disparity between metropolitan and rural cities is confirmed by an analysis of the City's comparative salary data which reveal a direct correlation between salary levels and Proximity to metropolitan areas. Consider, for example, the significant difference in Fire Fighter salary levels between Richmond (\$1,854-\$2,245) located in the metropolitan San Francisco-Oakland Bay area and Springfield (\$1,301-\$1,582) located in rural Oregon (City Exhibit 11). Yakima, located in rural Washington, has the lowest salary levels of all Washington cities offered for comparison by both the City and Union. These are, by no means, isolated examples. In short, the City's data have a distinctly rural or non-metropolitan bias.

The Union's selection of West Coast comparative cities is more representative although its outer parameter (250,000 Population) is overbroad. In any event, the Arbitrator is not persuaded that the Union's "per compensatable hour" data supports its conclusions for at least three principle reasons: First, the 1981 International City Management Association yearbook data (Union Exhibit 13) are useful to provide broad, general comparisons of diverse economic benefits among a large number of cities but are not sufficiently complete, current or specific to warrant the Arbitrator's reliance on them to support specific findings; Second, the Arbitrator is not convinced that the Union's "per compensable hour" computations offer a reliable common denominator for resolving the specific issues submitted for decision; at some point in the analytic process, the economic data must be subjected to the ultimate test of an issue by issue comparison of each disputed item standing alone; and Finally, when the Union converts its "per compensable hour" data into a salary equivalent, it results in a proposed Fire Fighter monthly salary (\$2,411) which cannot be justified by comparative salary levels for any other city listed in the record of this proceeding.

Since neither the City's or Union's data are conclusive, what then is the appropriate basis for comparison in this case. Before arriving at his decision, the Arbitrator has carefully reviewed, evaluated and considered the comparative data for all West Coast cities. In his opinion, the most relevant, reliable and persuasive data in the record are for those Puget Sound cities set forth on Exhibit A (attached hereto). Based upon his analysis, the Arbitrator concludes that a monthly salary increase of \$250 across the board⁵ is warranted. This will place Bellevue Fire Fighters 4th in the Puget Sound area, behind Everett (\$2,350), Tacoma (\$2,315), Renton (\$2,322) and on a par with Kirkland (\$2,254).

⁵ The Arbitrator has awarded a fixed dollar amount instead of a flat percentage increase, as proposed by the Union, to reduce present disparities in pay levels (Tr. 335:1-22).

The Arbitrator has also given careful consideration to the City's emphasis upon the long-term relationship between the monthly salaries of its Police Officers and Fire Fighters (City Exhibit 22). While the Arbitrator agrees that this is a factor of considerable importance, he cannot agree that it should be decisive when, as here, the wage data for Fire Fighters in comparable cities so clearly justifies a more substantial increase.

Finally, on the issue of salaries, it should be noted that the citizens of Bellevue enjoy a relatively high standard of living. According to data submitted by the Union, only 5 out of the 72 West Coast cities between 50,000 and 250,000 population exceed Bellevue's per capita income. The general financial status of a community where an employee lives and works is an appropriate factor for consideration although less important than the other criteria discussed above. On a related point, it is noteworthy that the City has not claimed inability to pay (Tr. 416:14-23), although it argues that new funding sources or cuts in other City programs would be necessary to fund the Union's demands - a contention sharply controverted by the Union.

Next and finally is the issue of Paramedic Premium pay. Nowhere is Chief Sterling's emphasis upon excellence and individual initiative more apparent than in Bellevue's Emergency Medical Services (EMS) Program; according to the Chief's testimony, "our Paramedic level of service is Probably the most critical service we are supplying at this time as far as the public demand for service." (Tr. 591:2-5) EMS calls have been escalating dramatically over the past decade; medical emergency calls are now more than twice as frequent as fire calls (Union Exhibit 26). Approximately 60% to 70% of Fire Department responses are now for EMS (Tr. 48:11-20). These emergency services are provided both to the City and, by contract, to adjoining areas with a combined population of approximately 144,000 persons covering a large geographical area.

Paramedics are a highly trained, dedicated group who have earned an excellent reputation for their emergency medical services over the past 10 years. Lt. Norris outlined the extensive training the Department's Paramedics receive to enable

them to handle these medical emergencies: 1,800 hours of formal instruction, spanning approximately a year of Fire Fighter's service. As Norris put it, the skills of these Paramedics can make the difference between life and death (Tr. 304:10).

The current \$124 per month pay differential has been in effect for at least 5 years (Tr. 421:6-9) In the Arbitrator's opinion, an increase to \$200 per month is certainly in order on the basis of their skill, training, responsibility for human life and proven record of service to a constantly expanding population area.

Award - Monthly Salaries

All bargaining unit employees are awarded a \$250 across the board increase in their monthly base salaries. The Paramedic pay differential shall be \$200 per month. Both increases retroactive to January 1, 1982.

COST-OF-LIVING ADJUSTMENT - APPENDIX A

Proposals of the Parties

The City proposes a monthly cost-of-living adjustment for the second year of the Contract (1983) equal to the greater of \$130 or 80% of the percentage increase of the Personal Consumption Expenditure Index (PCE) from January, 1982 through December, 1982 with a maximum cap of \$200 per month.

The Union Proposes that the second year cost-of-living increase should be equal to the percentage change in the Consumer Price Index for Urban Consumers (1967=100), published by the Bureau of Labor Statistics, adjusted for the Seattle area, from November, 1981 to November, 1982.

The recently expired Contract provided a second-year increase equal to 80% of the Percentage annual increase in the Seattle area Consumer Price Index (CPI), with an upper limit of a 12% total increase.

Positions of the Parties

The City maintains that the CPI measures inflation, not changes in the cost-of-living; furthermore, the following four factors cause an estimated 24.37% upward distortion in the CPI (City Exhibit 3): The home ownership component (16.75%); medical care costs, which are substantially covered by insurance paid for by employers, not individuals (4.62%); substitution by consumers (3%); and increase in quality. Therefore, tying a second-year increase to the total percentage increase in the CPI would greatly overstate the actual cost-of-living increase experienced by Fire Fighters. The City proposed PCE, by contrast, is considerably more accurate than the CPI in gauging changes in the cost-of-living due primarily to its use of a rental imputation component to measure housing costs. The City insists that its proposal for a second-year increase equal to 80% of the increase in the PCE, with a limit of \$200 per month, represents a generous approximation of the actual change of living costs experienced by Fire Fighters.

The Union points out that the CPI is almost universally accepted as an inflation measurement standard and even the City invokes it to explain fiscal matters to its taxpayers (Union Exhibit 34). The City was unaware of any other labor agreement that incorporates the PCE, which is conducted solely on a nationwide basis and its data vary over time because of retroactive adjustment. In its Closing Brief, the Union has offered a detailed, point-by-point rebuttal to the 4 factors cited by the City as its explanation for rejecting the CPI (Union's Closing Brief, pp 42-46).

Opinion of the Arbitrator - Cost-of-living Adjustment

The CPI and PCE are both broad economic indicators which have charted sometimes above and sometimes below each other (Union Exhibit 12). Both have certain flaws, particularly as a short-term measurement of price change (City Exhibits 3 and 4)

The PCE has some obvious drawbacks when compared to the CPI it is subject to periodic retroactive adjustment and is published only nationally. However, the Arbitrator's main concern is prompted by City Economist Dawson's inability to name a single collective bargaining agreement that uses the PCE (Tr 212:17 - 213:16); nor is the Arbitrator aware of any. An assumption seems warranted that, if the PCE were indeed more accurate than the CPI, its use would be far more evident.

The City's principal concern about distortion in the CPI is based upon estimates of the 1981 home ownership component (City Exhibit 3). There is absolutely no reason to assume, however, that the upward spiral of real estate prices has continued; on the contrary, all current reports indicate that real estate prices have leveled off and may be on their way down a conclusion reinforced by the drastic reduction in the CPI from 1981 levels. The evidence concerning 2 other factors which allegedly distort the CPI - substitution and increase in quality - is simply not convincing. Fourth and finally, medical care costs as an overstatement of the CPI (4.62%, City Exhibit 3) appear to be more significant in the PCE (9.56%, City Exhibit 4).

In summary, the Arbitrator is not persuaded that evidence in the record warrants a departure from the CPI, the broadly accepted index used to measure changes in the costs of living in both public and private sector collective bargaining agreements. In particular, it seems doubtful that the home ownership component will continue to be a distorting factor in 1982. Finally, based upon reported cost-of-living data for 1982 and annual projections, a cap on the 1982 CPI cannot be justified.

Award - Cost-of-living Adjustment

Effective January 1, 1983, the monthly salaries of bargaining unit employees in effect December 31, 1982, shall be increased by the percentage increase of the Consumer Price Index, adjusted for the Seattle area, November, 1981 to November, 1982 (1967=100).

HOURS OF DUTY - ARTICLE XII

Proposals of the Parties

The City proposes to retain hours of duty at 53.23 and that the last sentence in the current Article XII⁶ be dropped to permit the City flexibility in establishing shift starting times.

⁶ The last sentence of Article XII reads as follows:

The regularly scheduled duty hours shall be scheduled for periods of twenty~four (24) consecutive hours, beginning at 0800 hours.

At the arbitration hearing, Mr. Dow clarified the proposal to retain the 24 consecutive hour shift requirement; as modified by Mr. Dow, the only words deleted from the last sentence would be "beginning at 0800 hours.", thus allowing the City to determine the starting time of each Fire Fighter's shift (Tr. 454:4-455:22).

The Union Proposes a reduction in hours to 50.48 hours per week, effective July 1, 1982 and Opposes elimination of the 0800 shift starting time.

Positions of the Parties

The City contends that its current 53.23 hour work week compares favorably with the work week of similar size cities on the West Coast. Fire fighters in the California and Oregon Cities selected for comparison uniformly work a 56-hour week (City Exhibits 33 and 34). The 53.23 hour work week also compares favorably with the Puget Sound cities selected for comparison (City Exhibit 34); as regards this latter comparison, the City insists that Everett, whose 42-hour work week was established by referendum rather than through bargaining, is not comparable on hours of work because Everett shifts are not assigned on a 24-hour basis; its 10 hour day shift/14 hour night shift is an anomaly among all cities surveyed (City Exhibit 33). In addition, the City points out that Fire Fighters already have substantial blocks of time off; counting Kelly days, vacation and holidays, a Fire Fighter's 2,912 hour annual cycle is reduced from 408 to 456 hours. Finally, declares the City, if the Union's Proposal were granted, at least 5 additional Fire Fighters would have to be hired to maintain current service levels; the cost (\$73,685) would strain an already overburdened City budget.

The City's proposal to drop the fixed 0800 starting time for the scheduling of shifts is necessary to permit increased scheduling flexibility to meet changing needs. For example, Chief Sterling testified that expanding needs may require adjusting shifts so that more Fire Fighters will be on duty during peak demand periods; also, shift adjustments may be needed to resolve administrative problems, such as the planning of parking space.

The Union asserts that Bellevue Fire Fighters work more regularly scheduled hours per week than Fire Fighters in every other Puget Sound area city except Kent (Union Exhibit 19). The Tacoma and Everett average is 45 hours per week. The weighted average of all 9 Puget Sound cities is 46.6 hours per week.

Thus, insists the Union, its proposed reduction from an average of 53.23 to 50.48 hours per week should be adopted.

The Union objects to the City's Proposal to drop the 0800 starting time as unjustified by the evidence and contrary to shift scheduling practices which have worked satisfactorily for years. The only reasons offered to support this claimed need for greater flexibility was Chief Sterling's testimony that he believed some future parking problem might thereby be avoided and that on occasions he might want to have someone come to work at 6:00 p.m. and be wide awake. No instances of past difficulties were described. The Union argues that these are not sufficient reasons for abandoning the established 8:00 a.m. shift starting time.

Opinion of the Arbitrator - Hours of Duty

The comparative data for Puget Sound cities and the West Coast cities cited by Bellevue stand in sharp contrast with each other as regards hours of duty. The average work week for Puget Sound Cities, as revealed by the record, may be summarized as follows:

1.	City Exhibit	33	49.9	hours ⁷
2.	Union Exhibit	19	48.5	hours ⁸
3.	Exhibit A		48.8	hours ⁹

On the other hand, Fire Fighters in the California and Oregon Cities included in Bellevue's comparative data uniformly work a 56 hour week (City Exhibits 33 and 34).

⁷ The Arbitrator has considered the City's argument that Everett should not be considered comparable because of its odd shift schedule (10 hour day shifts and 14 hour night shifts) and 42 hour work week adopted by referendum. He cannot agree that this warrants a different treatment of Everett's work week for comparative purposes. Therefore, Everett, which is included in City Exhibit 33, has been included in the average hours set forth above.

⁸ Union Exhibit 19 reports a weighted average of 46.6 hours; however, this gives undue weight to Seattle and Tacoma; the 48.5 hour figure set forth above represents the mean average.

⁹ Exhibit A (attached hereto) includes the Puget Sound Cities which the Arbitrator has adopted for comparative purposes.

That brings us to the principal consideration, namely, which of the comparisons summarized above are controlling. For the reasons already discussed at length earlier in this decision, the Arbitrator has concluded that comparisons with the Puget Sound cities are entitled to more weight than the West Coast cities cited by Bellevue. The Union's proposed 50.48 hour work week is clearly justified by comparison with Puget Sound cities and, therefore, is granted. The effective date is deferred until September 1, 1982 to give the City sufficient time to make an

orderly transition to the new schedule.

As regards the 8:00 a.m. starting time, the Arbitrator is not persuaded of the need to drop it for at least two principal reasons: (1) while there may be occasions when the needs of the Department would warrant a different starting time, the parties should adopt a special provision to meet these exceptional occasions instead of cancelling the long-standing 8:00 a.m. starting time; and (2) the established practice in other fire departments is to have a fixed starting time (Tr. 458).

Award - Hours of Duty

Article XII is amended by changing the number "53.23" to read "50.48" hours, effective September 1, 1982.

VACATION LEAVE - ARTICLE XVII

Proposals of the Parties

The City's vacation leave Proposal was linked to and made contingent upon the Arbitrator's ruling on the Hours of Duty issue (Tr. 476:19-477:22 and City Submission Agreement, footnote 1). Since the Arbitrator has granted the Union's proposed work week reduction from 53.23 to 50.48 hours, the City now proposes no change in its vacation policy.

The Union proposes to amend the vacation schedule appearing in Article XVII, Paragraph A (Joint Exhibit 2, p. 9) as follows:

<u>Years of Continuous Service</u>	<u>Shifts</u>		<u>Hours per calendar month of service</u>
	<u>Present</u>	<u>Proposed</u>	
1 - 4	4	5	10
5 - 9	5	6	12
10 - 14	6	8	16
15 or more	7		
15 - 20		9	18
after 20 years	-	10	20

Opinion of the Arbitrator - Vacation Leave

It may be apropos, at this point, for the Arbitrator to give voice to a problem most neutrals grapple with when dealing with a relatively large number of economic issues in an impasse proceeding. Realistically, even if the Arbitrator deemed the Union's position on all economic items to be meritorious, he would feel the full impact of the Rome-wasn't build-in-a-day principle. Under such pressures, consideration of which items are best deferred to a later period becomes a necessary element of impasse resolution.

In short, all economic issues must be evaluated as part of a total compensation package. Frequently in collective bargaining, some issues which have merit when considered alone, must be deferred because other issues are entitled to a higher Priority. In the instant case, the Arbitrator has placed a high Priority on two substantial cost items, an increase in salaries and a reduction in hours, in addition, other significant cost items are included in this Award. The Union's Proposed vacation

leave would add \$35,684 (City Exhibit 17) to the total Package. In the Arbitrator's opinion, this sum would increase the amount of total compensation in this Award to a level that cannot be justified. Therefore, the Union's Vacation Leave Proposal is denied.

Award - Vacation Leave

-
Vacation leave shall continue unchanged.

INSURANCE COVERAGE (MEDICAL-DENTAL) - ARTICLE XXVII

-
Proposals of the Parties

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The City proposes to pay 100% of the employee-only rate under either Blue Cross or Group Health, and 80% of the premium for dependent health care coverage) based upon the rates effective January 1, 1982. The remaining 20% of the dependent care coverage would be paid by the employee. Any increase in the stated premiums (City Exhibit 52) which Occurs during the term of the Agreement would continue to be borne on a 50-50 Cost-sharing basis by the City and the affected employee.

The City proposes to pay 100% of the employee-only dental care premium; for dependent coverage in the dental insurance plan, employees would be required to pay \$3.00 per month toward dependent coverage. The City further agrees to provide and pay for a \$10,000 life insurance policy for each bargaining unit employee.

The Union proposes to retain the same basic provision as in the prior Contract, with a change in the premium effective date to January 1, 1982. The effect of this Proposal would be to require the City to pay 100% of the current cost of medical and dental benefits for employees, Spouse and dependents, to continue the practice of allocating the cost of increases on a 50-50 basis, but to have employees share in increased costs only to the extent they exceed the maximum premium in effect on January 1, 1982.

Positions of the Parties

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The City emphasizes the drastic increases in medical/dental premiums for the same coverage - a 17% increase over City expenditures for medical insurance for Fire Fighters during 1981 and a 13% increase in dental premium costs. Were the City to absorb the full impact of these insurance premium increases, as the Union proposes, increased costs to the City from 1981 to 1982 would be 31% for medical insurance premiums and 23% for dental insurance premiums (City Exhibit 53). It is financially unrealistic of the Union to expect the City to be able to absorb the full impact of such drastic premium increases which are totally beyond the City's control.

Finally, stresses the City, its proposal sets a premium level to be paid for Fire Fighters which is approximately equal to or more than the contributions made on behalf of other groups of City employees (City Exhibit 55). If only to maintain equity

among various employee groups, the City's proposal should be adopted as the maximum to be paid by the City.

The Union points out that the parties' practice, at least in recent years, has been for the City to pay 100% of the insurance premiums for medical and dental insurance at the beginning of a Contract, and for any increases in premiums thereafter to be split between the City and the employees on a 50-50 basis. The Union proposes that practice be continued and that the City and any affected employees split the cost of any increases above the maximum premium paid by the City in effect on January 1, 1982.

The Union contends that its proposal is more consistent with the practice of comparable Puget Sound cities, most of whom pay 100% of both employee and dependent coverage (Union Exhibit 38).

Opinion of the Arbitrator - Insurance Coverage

When a general benefit, like group insurance, applies uniformly to a diverse group of City employees, an arbitrator should hesitate to order something different in the absence of clear and convincing evidence to prove an inequity. Deviations from a uniform benefit pattern can be highly disruptive to employee morale. In short, comparisons among employee groups of the same employer are no less important than comparisons with other employers.

The City's proposed maximum monthly medical insurance premium, at \$130.33 per month, is the same as that paid on behalf of Police Officers and approximately \$12.00 more per month than that paid on behalf of other City groups. The City's proposed dental premium is slightly less than that paid on behalf of Police Officers -- \$37.84 per month for Police Officers compared to \$36.25 offered to Fire Fighters (City Exhibit 55). (The reason for this slight discrepancy does not appear in the record.)

On the other hand, were the Union's proposal adopted, Fire Fighters would receive substantially more in medical and dental insurance premiums than any other City employee group currently enjoys. The only evidence offered by the Union to support its position shows that most Puget Sound cities offered for comparison pay 100% of both employee and dependent coverage but this evidence does not reveal either the premium cost or actual insurance coverage provided by these cities (Union Exhibit 38). Therefore, cost comparisons cannot be made from these data. This is not the kind of clear and convincing evidence which the Arbitrator deems necessary to justify a departure from the generally uniform insurance coverage provided to the City's other employees.

For the reasons set forth above, the Arbitrator adopts the City's proposal on insurance coverage amended only to provide a maximum monthly dental premium of \$37.84 (instead of the proposed \$36.25) in order to make both the medical and dental benefits of Police Officers and Fire Fighters identical.

Award - Insurance Coverage (Medical-Dental)

The City's medical and dental insurance coverage proposal

(as set forth in City Exhibit 52) is hereby adopted effective January 1, 1982; provided, however, the maximum monthly dental premium paid by the City shall be \$37.84.

**DISABILITY LEAVE AND SICK LEAVE FOR EMPLOYEES
HIRED ON OR AFTER OCTOBER 1, 1977 - ARTICLE XXVIII**

Proposals of the Parties

The City has accepted the Union's proposal to increase the amount of paid sick leave available for new Fire Fighters from 1 shift to 3 shifts, which must be repaid to the City within a prescribed period. The remaining disputed issue is whether the City should pay on behalf of employees hired on and after October 1, 1977, 100% of the insurance premium, currently \$12.00 per month for Supplementary Income Replacement insurance for occupational and non-occupational disability.

Positions of the Parties

The Washington State Legislature has established a disability retirement system applicable to all law enforcement officers and fire fighters (LEOFF), which was converted into 2 separate plans in 1977. The first plan (LEOFF I) applies to law enforcement officers and fire fighters employed prior to October 1, 1977; the second plan (LEOFF II) applies to those hired on and after October 1) 1977.

The state plan in effect prior to 1977 provided 6 months paid disability leave to any covered individual, followed by a disability retirement benefit. The generous benefits provided under that system resulted in nearly 60% of all covered employees taking disability rather than normal service retirement. To eliminate such abuses, the Legislature in 1977 sharply curtailed the benefits of LEOFF II personnel by removing disability benefits for non-duty related injuries and placing them under the state's workers' compensation program.

The Union maintains that this \$12.00 per month supplementary disability insurance pension premium for LEOFF II employees is the Union's highest priority in these proceedings because of the inadequate coverage now provided LEOFF II Fire Fighters. For example, as reported recently in a local newspaper, a Seattle Fire Fighter was crippled as a result of an on-the-job injury and received a LEOFF II disability pension of \$1.56 per month (Union Exhibit 39).

The City declares that the Union is simply attempting to reinstate, at City expense, a system which the Legislature has determined should be eliminated. Fire Fighters in other comparable cities do not enjoy the kind of coverage the Union is now proposing and similar proposals have been rejected by interest arbitrators in the City of Kent (Exhibit C), the City of Everett (Tr. 580:11-16), and by Arbitrator Champagne in the prior arbitration between the parties to the instant dispute (City Exhibit 23).

Opinion of the Arbitrator - Disability and Sick Leave

While Captain Pedee has identified this proposal "as the highest priority on our list of issues", Pedee candidly conceded that he knew of no other city which pays this insurance premium (Tr. 568:11-20 and 572:12-13). Furthermore, it is undisputed that similar proposals have been rejected in 3 prior Washington interest arbitration proceedings.

The Arbitrator has no reason to doubt the Union's sincerity when it denominates this as the highest priority issue. Providing adequate compensation to disabled Fire Fighters is, understandably, an important Union objective. What the Arbitrator questions, however, is whether arbitration is the proper forum to raise the issue. In the past, this issue has been handled on a state-wide basis by the Washington Legislature. If the law deals harshly with LEOFF II employees, as the Union insists, that problem should be addressed to the Legislature for a state-wide solution. The Arbitrator is simply not convinced that this matter should be handled on a city-by-city basis. Therefore, the Union's proposal is denied.

Award - Disability Leave and Sick Leave
for Employees Hired on or after October 1, 1977

The second paragraph of Article XXVIII shall be amended by changing "one shift off with pay" to "three shifts off with pay"1. The Union's proposal for Supplementary Income Replacement insurance is denied.

LONGEVITY (UNION PROPOSAL) VERSUS

PERFORMANCE RECOGNITION PROGRAM (CITY PROPOSAL)

Proposals of the Parties

The Union proposes a longevity premium of 2% after 4 years, 4% after 9 years, 6% after 14 years, and 8% after 19 years.

The City proposes to incorporate the Union's proposal for longevity pay, as well as the present Educational Incentive Program, into a comprehensive Performance Recognition Program which would base incentive pay on a combination of educational attainment, performance appraisal and years of service (City Exhibit 40).

Positions of the Parties

According to the Union, Bellevue is the only city in the state with a Population of over 50,000 with no longevity compensation (Union Exhibit 20); only Kirkland (bargaining unit size 22) and Edmonds (bargaining unit size 14) of the other 9 cities in the Puget Sound area do not provide longevity compensation. The Union argues that the City has offered no credible rationale for opposing longevity compensation other than its own ideology.

In its Closing Brief (pp. 57-62), the Union has expressed

vigorous Opposition to the City's PRP proposal which is characterized by the Union as "ill-planned, insufficiently detailed, disruptive of labor harmony, totally unworkable and probably unlawful." (p. 62).

The City, for its part, points out that its proposed Performance Recognition Program is designed to provide incentive bonuses which are greater as a Fire Fighter's educational attainment, performance and years of service increase. According to the City, such a performance-linked plan is superior to either a plan based purely on either education or longevity because neither longevity nor educational level per se is related to an employee's value to an organization. The parties have traditionally determined, however, that education is a valued characteristic, while the Union has sought additional longevity pay. The PRP incorporates both these elements in a matrix which adds in a value for job performance as well and, as a result, rewards employees who are actually of greatest value to the organization.

The City adamantly opposes the Union's longevity proposal on the ground that there is no correlation between length of service and quality of work performance. Furthermore, declares the City, no similar-size West Coast city has both premium pay systems, one based on educational attainment and the other on longevity (City Exhibit 41); nor does any city selected by the Union as comparable have such a double incentive system. Yet, the Union now seeks both. A similar demand by the Union was rejected in arbitration 2 years ago (City Exhibit 23).

Opinion of the Arbitrator - Longevity vs. PRP

Even assuming, *arguendo*, that the Union's longevity proposal were deemed meritorious, its projected cost (\$67,332 - City Exhibit 17) cannot be justified in the context of the total economic package. In the Arbitrator's opinion, the other economic benefits already approved must be given a higher priority. Therefore, the Union's longevity proposal is denied.

In evaluating the City's Performance Recognition Program, 2 important points stand out which are difficult to reconcile. On the one hand, the PRP requires the cooperation and participation of all bargaining unit employees (Tr. 508:15-21 and 528:21-25). On the other hand, the Union (in its institutional capacity) has expressed ideological differences about the value of this program and, in its Closing Brief, has offered a number of arguments which lend support to its concern - - arguments which deserve more careful consideration than is revealed by the record of this proceeding. How, it must be asked, can a program (any program), dependent on mutual cooperation, hope to succeed when one party is convinced that the Program is contrary to its interests? Until a number of the Union's objections have been more fully explored, the Arbitrator cannot agree that PRP should be included in the parties' Agreement. In arriving at his decision, the Arbitrator also deemed it significant that the City was not able to name any city in Washington or elsewhere on the West Coast with a similar program (Tr. 544:13-545:1).

Award - Longevity vs. Performance Recognition Program

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The Union's longevity proposal (Union Exhibit 20) and the City's proposed Performance Recognition Program (City Exhibit 40) are both denied.

COMMUNICATION PROCEDURE - ARTICLE XXV

Proposals of the Parties

The City proposes to amend the existing communication procedure in the following 3 respects: (1) to clarify that subjects discussed under the grievance procedure of the Contract may not also be presented in the communication procedure; (2) to bar the labor-management committee from using the procedure to modify express terms of the parties' Contract; and (3) to substitute the Fire Chief for the City Manager as the City's coordinator.

The Union proposes no change in the existing language of this provision.

Positions of the Parties

The City explains that the reasons for these proposed changes are: (1) to underscore the separation, in the current Contract language, of discussions about grievances from those matters discussed by the labor-management committee; otherwise, informal agreements reached with the Fire Fighters' bargaining unit may be interpreted to apply to other City employees as well; (2) under the City's system of government, department heads are to run their own operations, subject to review by the City Manager and City Council; it is consistent with this system to have the Fire Chief designated as the City's representative in the communication procedure, rather than the City Manager; of course, points out the City, this would not preclude Union officials from meeting with the City Manager on any appropriate subject.

The Union opposes these proposed changes as completely unnecessary.

Opinion of the Arbitrator - Communication Procedure

The City-proposed changes simply emphasize that the Communication Procedure (Article XXV) and the Grievance Procedure (Article XXIV) are 2 separate and distinct contractual processes. In addition, the Fire Chief is substituted for the City Manager in conducting the initial discussions prescribed by the Communication Procedure. Since the Fire Chief has the principal responsibility for running the Department, it is appropriate that the Contract make clear his authority to conduct such discussions. In short, the City has advanced persuasive reasons for its proposed changes.

Award - Communication Procedure

Article XXV is amended by adopting the City's proposal (City Exhibit 64) in place of the existing Contract language.

PREVAILING RIGHTS - ARTICLE XX

Proposals of the Parties

The City seeks to enumerate specific rights reserved to it under the existing clause (City Exhibit 61), to the extent permitted by its Contract with the Union.

The Union proposes to modify the existing clause to provide that the Union had not waived its right to bargain on any mandatory subject not covered by the Contract.

Positions of the Parties

The Union insists that an added provision is necessary in order to clarify its continuing right to bargain on mandatory subjects. The Union maintains that its position is supported by a March, 1980 decision by the Public Employment Relations Commission of the State of Washington (PERC), which held that the parties did not waive their rights to bargain on mandatory subjects during the term of their agreement; that an order issued by Bellevue directing Fire Fighters to disclose outside employment to the Fire Chief was a mandatory bargaining subject; and that the City had violated its bargaining obligation by unilateral promulgation of the order (Union Exhibit 40). According to the Union, its proposed contract amendment will avoid confusion in the future.

In opposition to the City's Management Rights proposal, the Union argues that it is unlawful based upon a preliminary ruling of an unfair labor practice charge (Union Exhibit 41) filed during the pendency of these proceedings and summarized in the Union's Closing Brief as follows: On March 18, 1982, the Union filed a complaint with PERC alleging that by insisting to impose on its Management Rights proposal that the Union waive its rights for the term of the next collective bargaining agreement to bargain on mandatory bargaining subjects not covered in the agreement, and that by pressing its demands for such a waiver in this proceeding, the City violated RCW 41.56.100 (Union Exhibit 41). On March 30, 1982, the Executive Director of PERC issued his preliminary ruling in the matter as follows (Attachment G to Union's Closing Brief):

Assuming for purposes of this preliminary ruling that all of the facts alleged are true and provable, it appears that an unfair labor practice violation could be found.

Subsequently, by its letter to the Executive Director of PERC dated May 5, 1982 (Attachment H to Union's Closing Brief), the Union withdrew its complaint and agreed that the Issue could be decided by this Arbitrator.

Finally, the Union argues that the City's proposal is unjustified by any evidence in the record. In particular, the comparative data submitted by the City (City Exhibits 62 and 63), reveals no prevailing pattern among comparable cities. A review of the examples set forth in City Exhibits 62 and 63, according to the Union, shows great diversity of draftsmanship and

possibility of interpretation. Few of the samples are as broad or as sweeping as the City's proposal.

The City, for its part, declares that the parties have come to a point in their bargaining relationship at which the Union frequently challenges the City's decisions on subjects which have traditionally been prerogatives of management. For example, Chief Sterling listed as examples the Union's questioning of overtime assignments, his challenge of the City's determination on minimum manning and its threat to file a similar charge for the City's decision on the areas to be served by Medic I units. These are merely a few examples, asserts the City, which underscores the need for a clear enumeration of Management Rights.

The City claims that the reasonableness of its position is demonstrated by the presence of detailed management rights clauses in the contracts of many similar-sized West Coast cities (City Exhibit 62) and of most Puget Sound area cities (City Exhibit 63).

In rebuttal to the Union's reliance upon the unfair labor practice charge which it filed on the final day of the arbitration hearing (Union Exhibit 41), alleging the City committed an unfair labor practice by presenting its management rights proposal in interest arbitration, the City maintains that the determination of what subjects may properly be pressed to impasse and to interest arbitration is within PERC's exclusive jurisdiction. The City's position that this issue is properly before the Arbitrator is supported by a May 26, 1982 letter from the Executive Director of PERC to the Arbitrator, written at the City's request.

Opinion of the Arbitrator - Prevailing Rights

The first question that must be addressed with regard to the City's Management Rights proposal is the Union's argument that it is unlawful. If the Union's unlawful argument were correct) the Arbitrator would reject the City's proposal on that ground.

The Union's "unlawful" argument is based upon: (1) its belated unfair labor practice charge (Union Exhibit 41) contending that the City's Management Rights proposal violates the Union's statutory rights and (2) a March 30, 1982 preliminary ruling by the Executive Director of PERC.¹⁰ After carefully reviewing all of the evidence and argument on this point, the Arbitrator has concluded that the City's proposal is not unlawful; he has reached this conclusion for the following three principal reasons: (1) PERC's March 30, 1982 ruling on the unfair labor practice charge is preliminary, not a ruling on the merits (see PERC's May 26, 1982 letter); (2) this issue was certified to arbitration by PERC in accordance with statutory procedures without Union objection; in view of this, any doubts about the legality of this proposal must now be resolved against the Union; and (3) based upon a review of the Statute, the Arbitrator is simply not persuaded that the City's proposal is unlawful. Finally, it must be noted, the Union has agreed that the Arbitrator should decide this issue on the merits (Tr. 671-672).

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In addition to this March 30, 1982 post-hearing ruling from

PERC's Executive Director, certain other post-hearing evidence was submitted (Attachments G and H to the Union's Closing Brief and a May 26, 1982 letter from PERC's Executive Director to the Arbitrator). Normally, such supplementary evidence would be disregarded. However, since both parties submitted post-hearing evidence on this matter and neither party objected, the Arbitrator has considered this evidence in arriving at his decision.

We turn now to the merits of the City's proposal, which expands the current clause by adding a list of specific management rights exempt from negotiation during the term of the Contract (City Exhibit 61). Quite clearly, City Management must have the right, during the Contract term, to exercise the administrative initiative and managerial discretion necessary to carry out its responsibility for running the Department on a day-to-day basis. On the other hand, the Union's determination to retain its statutory right to bargain on mandatory subjects that neither party could foresee when the Contract was negotiated, is also understandable. Selecting a proper balance between these two competing objectives has been a continuing source of controversy over the years in both the public and private sectors.

The Arbitrator has carefully reviewed the specific provisions proposed by the City. Several of these provisions are extremely broad in scope, much broader than the language found in most of the management rights clauses which the City has offered for comparison (City Exhibits 62 and 63). Furthermore, the City's proposal goes considerably beyond the specific types of problems mentioned by Chief Sterling (Tr. 608:17-609:3). Unfortunately, an arbitration proceeding does not lend itself to the type of give-and-take necessary to formulate a more appropriate provision. In its present form, the Arbitrator must reject the City's proposal as overbroad.

The Union's proposal regarding mandatory subjects of bargaining is covered by the Statute. No constructive purpose would be served by including its proposal in the Agreement.

Award - Prevailing Rights

The changes proposed by the City and Union in the Prevailing Rights provision are denied.

REDUCTION AND RECALL — ARTICLE VII

Proposals of the Parties

The City proposes to modify the existing provision covering reduction and recall to permit it to retain key personnel in the event of any reduction in force based upon the following criteria (City Exhibit 57):

1. The needs of the Fire Department.
2. Qualifications.
3. Experience.
4. Performance.
5. Special training or skills.

If, in the judgment of the City Manager or her designated representative, two or more firefighters are deemed to be equal as a result of the consideration of the above criteria, the firefighter with the least amount of seniority shall be selected for layoff.

The Union proposes no change, thus retaining seniority as the sole criterion.

Positions of the Parties

The City explains that, even though no reduction in force is contemplated during the term of this Contract, it must be prepared to meet that situation should it arise. The importance of the City's medical emergency program is well established by the record in this case. Paramedics have been given extensive training to enable them to handle medical emergencies. The City must be able to retain these valuable skills and its substantial investments in them should a lay-off become necessary. In addition, the Department is developing a program to train certain Fire Fighters to deal with the peculiar characteristics of hazardous waste emergencies. The City must also have the flexibility in cases of lay-off to retain these special skills as well. In rebuttal to the Union's claim that this proposal is unlawful, the City has submitted a Memorandum of Authorities (City Exhibit 60) which refutes that contention.

The Union offers the following principal arguments in its opposition to the City's proposal: (1) RCW 41.08.080 and Bellevue Ordinance No. 700 establish seniority as the controlling criterion for a reduction in force; the City's proposal represents an unlawful departure from these provisions; (2) the City's proposal cannot be justified by comparative data; (3) the City has offered no proof to establish that the current lay-off provisions are unworkable; and (4) the only rationale advanced by the City for its proposal was to retain highly trained medics in place of lesser trained senior employees; by rational selection of candidates for medic training, the City can easily maintain a reasonable number of junior employees who have not undergone medic training.

Opinion of the Arbitrator - Reduction and Recall

In the overwhelming majority of collective bargaining agreements in both the public and private sectors, seniority has been adopted as the sole criterion covering lay-offs. The principal reasons are: (1) seniority (i.e. length of service) is a completely objective criterion; when subjective factors are introduced, such as those proposed by the City, favoritism is almost always suspected when a senior employee is laid off and a junior employee is retained; this can cause serious dissatisfaction in the work force that far outweighs any presumed benefits derived from alternative selection procedures; and (2) in a lay-off situation (contrasted with a promotion, when subjective criteria are often used in addition to seniority), current incumbents are presumably capable of performing the work in a satisfactory manner.

The foregoing reasons for using seniority as the sole criterion to determine lay-offs are just as applicable to the City's Fire Fighters with one exception -- paramedics. The City has advanced persuasive reasons for retaining Paramedics in the event of a lay-off. Their special skills and training are vital to provide emergency medical services both to the City of Bellevue and, by contract, to adjoining areas with a combined population of approximately 144,000 persons. The City should have the discretion to retain sufficient Paramedics to meet the needs of this critical medical program.

Finally, the Arbitrator has carefully studied the Union's illegality argument and the City's rebuttal (City Exhibit 60). He is convinced that a lawful provision can be drafted.

Award - Reduction and Recall

Article VII shall be modified to include a provision which allows the City to retain, out of seniority order, sufficient Paramedics to meet the needs of its emergency medical services program. This issue is remanded to the parties for the purpose of drafting a suitable provision. The Arbitrator retains jurisdiction to resolve this issue if the parties are unable to do so.

AWARD SUMMARY

Based upon a careful consideration of all of the evidence and argument, it is the decision of the Arbitrator that:

1. Monthly Salaries: All bargaining unit employees are awarded a \$250 across the board increase in their monthly base salaries. The Paramedic pay differential shall be \$200 per month. Both increases retroactive to January 1, 1982.
2. Cost-of-living Adjustment: Effective January 1, 1983, the monthly salaries of bargaining unit employees in effect December 31, 1982, shall be increased by the percentage increase of the Consumer Price Index, adjusted for the Seattle area, November, 1981 to November, 1982 (1967=100).
3. Hours of Duty: Article XII is amended by changing the number "53.23" to read "50.48" hours, effective September 1, 1982.
4. Vacation Leave: Vacation leave shall continue unchanged.
5. Insurance Coverage (Medical-Dental): The City's medical and dental insurance coverage proposal (as set forth in City Exhibit 52) is hereby adopted effective January 1, 1982; provided, however, the maximum monthly dental premium paid by the City shall be \$37.84.
6. Disability Leave and Sick Leave for Employees Hired on or after October 1, 1977: The second

paragraph of Article XXVIII (covering LEOFF II employees) shall be amended by changing "one shift off with pay" to "three shifts off with pay". The Union's proposal for Supplementary Income Replacement insurance is denied.

- 7. Longevity vs. Performance Recognition Program: The Union's longevity proposal (Union Exhibit 20) and the City's proposed Performance Recognition Program (City Exhibit 40) are both denied.
- 8. Communication Procedure: Article XXV is amended by adopting the City's proposal (City Exhibit 64) in place of the existing Contract language.
- 9. Prevailing Rights: The changes proposed by the City and Union in the Prevailing Rights provision are denied.
- 10. Reduction and Recall: Article VII shall be modified to include a provision which allows the City to retain, out of seniority order, sufficient Paramedics to meet the needs of its emergency medical services program. This issue is remanded to the parties for the purpose of drafting a suitable provision. The Arbitrator retains jurisdiction to resolve this issue if the parties are unable to do so.

HOWARD S. BLOCK
Impartial Arbitrator

Santa Ana, California
June 30 1982

PUGET SOUND CITIES (EXCLUDING SEATTLE) WITH FIRE DEPARTMENTS SERVING 25,000 OR MORE POPULATION¹¹

	<u>Fire Fighters</u> <u>Salary Top-Step</u>	<u>Hours</u>
AUBURN	\$ 2,146	49.3
BELLEVUE	2,256	50.48
BREMERTON	2,024	52.31
EDMONDS	n/a	48.0
EVERETT	2,350	42.0
KENT	2,122	54.0
KIRKLAND	2,254	50.48
RENTON	2,322	46.5
TACOMA	2,315	48.0

¹¹ The Bellevue Fire Department provides fire suppression services to a population of approximately 95,000 people, including contract areas served (see City Exhibits 9, 20 and 21, and the post-hearing Affidavits of Ron Pedee and Cabot Dow).

EXHIBIT A