

IN THE MATTER OF
CITY OF TROUTDALE

AND

TROUTDALE POLICE OFFICERS ASSOCIATION

03/13/13

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Date Issued: January 16, 2013

INTEREST ARBITRATION OPINION

OF

ALAN R. KREBS

Appearances:

CITY OF TROUTDALE

Kathy A. Peck

TROUTDALE POLICE OFFICERS ASSOCIATION

Patricia Bridge Urquhart

**IN THE MATTER OF
CITY OF TROUTDALE
AND
TROUTDALE POLICE OFFICERS ASSOCIATION**

OPINION OF THE ARBITRATOR

PROCEDURAL MATTERS

The Arbitrator was selected by the parties with the assistance of the Oregon Employment Relations Board in accordance with Oregon Statute, ORS 243.746(2). A hearing was held in Troutdale, Oregon on October 10 and November 1, 2012. City of Troutdale was represented by Kathy A. Peck of the law firm Williams, Zografos & Peck. Troutdale Police Officers Association was represented by Patricia Bridge Urquhart of the Urquhart Law Office. At the hearing, witnesses testified under oath and the parties presented documentary evidence. There was no court reporter, and therefore, the Arbitrator tape recorded the proceedings for the sole purpose of supplementing his personal notes. Post hearing briefs were submitted to the Arbitrator.

ISSUE

The parties' most recent collective bargaining agreement has an expiration date of June 30, 2011. They reached an impasse in their efforts to reach a successor agreement. ORS 243.736(g) provides that it is unlawful for police officers to strike. ORS 243.742 provides for compulsory arbitration to resolve contract impasses involving police officers, recognizing that

such an alternate procedure “is requisite to the high morale of such employees and the efficient operation of such departments.” This dispute involves a bargaining unit of 17 police officers employed by the City of Troutdale. During their collective bargaining negotiations, the parties reached agreement on all provisions, including all those related to compensation, except for health insurance, which is the only provision at issue here. They agreed that there would be no wage increase for the entire three year term of the agreement, but that the City would newly pick up the entire employee contribution to the PERS retirement program, and would reimburse employees for their six percent contribution retroactively to July 1, 2011. They agreed that the new agreement would have a duration from July 1, 2011 through June 30, 2014.

Standards

ORS 243.746(4) and (5) provide:

(4) Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, unresolved mandatory subjects submitted to the arbitrator in the parties’ last best offer packages shall be decided by the arbitrator. Arbitrators shall base their findings and opinions on these criteria giving first priority to paragraph (a) of this subsection and secondary priority to paragraphs (b) to (h) of this subsection as follows:

(a) The interest and welfare of the public.

(b) The reasonable financial ability of the unit of government to meet the costs of the proposed contract giving due consideration and weight to the other services, provided by, and other priorities of, the unit of government as determined by the governing body. A reasonable operating reserve against future contingencies, which does not include funds in contemplation of settlement of the labor dispute, shall not be considered as available toward a settlement.

(c) The ability of the unit of government to attract and retain qualified personnel at the wage and benefit levels provided.

(d) The overall compensation presently receive by the employees, including direct wage compensation, vacations, holidays and other paid

excused time, pensions, insurance, benefits, and all other direct or indirect monetary benefits received.

(e) Comparison of the overall compensation of other employees performing similar services with the same or other employees in comparable communities. As used in this paragraph, "comparable" is limited to communities of the same or nearest population range within Oregon. Notwithstanding the provisions of this paragraph, the following additional definitions of "comparable" apply in the situations described as follows:

(A) For any city with a population of more than 325,000, "comparable" includes comparison to out-of-state cities of the same or similar size;

(B) For counties with a population of more than 400,000, "comparable" includes comparison to out-of-state counties of the same or similar size;

(C) Except as otherwise provided in subparagraph (D) of this paragraph, for the State of Oregon, "comparable" includes comparison to other states; and

(D) For the Department of State Police troopers, "comparable" includes the base pay for city police officers employed by the five most populous cities in this state.

(f) The CPI-All Cities Index, commonly known as the costs of living.

(g) The stipulations of the parties.

(h) Such other factors, consistent with paragraphs (a) to (g) of this subsection as are traditionally taken into consideration in the determination of wages, hours, and other terms and conditions of employment. However, the arbitrator shall not use such other factors, if in the judgment of the arbitrator, the factors in paragraphs (a) to (g) of this subsection provide sufficient evidence for an award.

(5) Not more than 30 days after the conclusion of the hearings or such further additional periods to which the parties may agree, the arbitrator shall select only one of the last best offer packages submitted by the parties and shall promulgate written findings along with an opinion and order. The opinion and order shall be served on the parties and the board. Service may be personal or by registered or certified mail. The findings, opinions and order shall be based on the criteria prescribed in subsection (4) of this section.

Health Insurance Proposals

For a period of some years, Association members have had their choice of two health plans offered by City-County Insurance Services (CIS). They could select the Blue Cross/Blue Shield Preferred Provider Plan V-A PPP RX 3 (\$100 deductible) (Plan V-A) or the Kaiser

Permanente Plan B with Vision and Drug Plan. In its last five year agreement expiring in 2011, and still in effect pending resolution of this dispute, the parties agreed to divide the health insurance premium costs, with the City paying 91% and the employees 9%. For the Agreement at issue, the parties have agreed to retain the Kaiser Permanente Plan and also to increase the employees' share of premium costs from 9% to 11%.

The Association's proposal is for the change in its raised share of premium costs to be effective for the remaining term of the new Agreement, but that it not be applied retroactively.¹ The Association proposes to change the V-A Plan to the similar, but less costly Blue Cross/Blue Shield Preferred Provider V-B PPP RX4 Plan (\$200 deductible) (Plan V-B). The Association proposes that this change to substitute Plan V-B for Plan V-A become effective the first day of the month following execution of a successor Agreement.

The City in its last best offer, proposes replacing Plan V-A with the Co-Pay Plan B (\$500 deductible) with VSP Vision and Alternative Care Options (Co-Pay Plan B). The City's proposal calls for the 11% employee contribution to apply for the term of the Agreement, i.e., retroactive to July 1, 2011, with the employees' increased share of the premium since that date to be deducted from the reimbursement that employees are to receive for the City's pick-up of the employees' PERS retirement contributions. The City further proposes to add a new Voluntary Employee Benefit Account (VEBA) benefit which employees could utilize to defray their health expenses.

¹ The Association's last best offer, as written, provides that the 89%/11% premium split would apply "[f]or the term of this Agreement." The Association asserted that this should read "[f]or the remaining term of this Agreement," and the City agreed that it understood that that had been the Association's position in bargaining and did not object to this being considered the Association's position in arbitration.

Findings

Description of the Two Plans At Issue and the VEBA

Plan V-B has a \$200 deductible per person, \$600 deductible per family. After a deductible is fully met, additional costs are paid 90% by the insurance and 10% by the employee. Chiropractic care is included in the Plan V-B coverage. The maximum payout by an employee in a given year under Plan V-B is \$1,600. Preventative care is covered at 100%. The currently in effect Plan V-A is similar to Plan V-B, but has a \$100 deductible per person, \$300 deductible per family, with a maximum payout by the employee of \$1,300.

The City's proposed plan, Co-Pay Plan B, has a \$500 deductible per person, and a \$1,500 deductible per family. After a deductible is met, additional costs are paid 80% by the insurance and 20% by the employee, with a maximum payout by an employee in a given year of \$5,500. Chiropractic care is excluded. Preventative care under Co-Pay Plan B is covered at 100%. Office visits to a doctor are not subject to the deductible, but rather are subject to a \$20 co-pay. The first \$400 of outpatient laboratory and radiology services are fully paid under Co-Pay Plan B, with the deductible waived.

CIS is an employee benefits trust which provides the insurance for City employees. Pamela Bowles, a CIS benefits representative, testified that CIS is a non-profit self-insured trust which insures 280 cities and counties. Ms. Bowles testified that CIS contracts with Regence Blue Shield to provide customer service and to act as its claims agent. She testified that Regence Blue Shield pays the claims, and is then reimbursed on a monthly basis by CIS. She testified that premium rates are set based on CIS overall experience with a particular plan. CIS has established the monthly rate for its premiums for all of 2013 as follows:

	Employee	Employee + Child	Employee + Children	Employee + Spouse	Employee + Family
Plan V-A	\$611.54	\$1,141.77	\$1,519.61	\$1,302.96	\$1,749.84
Plan V-B	600.66	1,121.46	1,492.55	1,279.75	1,718.64
Co-Pay Plan B	480.15	896.59	1,193.13	1,022.73	1,373.29

Among the bargaining unit employees, twelve are enrolled in Plan V-A and five are enrolled in the Kaiser Permanente Plan. Of the Plan V-A enrollees, eight have employee and family coverage, two have employee and child coverage, one has employee and spouse coverage, and one has employee only coverage. The Association Plan V-B proposal would cost the City about \$35,628 more than the City proposal. The City's cost for the Plan V-A family coverage has increased about 40% from 2007 through 2012. The premium increase put into effect on January 1, 2013 for Plan V-A was 5.8%.

The VEBA benefit, which is part of the City's offer, involves an annual City contribution to a VEBA trust account on behalf of each employee who elects Co-Pay Plan B coverage. Employees may utilize their VEBA account to file claims with the City's VEBA administrator for reimbursement of medical expenses and insurance premiums for which the employee would be responsible. The City would make annual contributions of \$250 for employee-only participants, \$500 for those with employee and one dependent coverage, and \$750 for those with employee and family coverage. The funds contributed are tax free and unused funds roll over from year to year.

The City argues that its offer of Co-Pay Plan B, coupled with a VEBA, actually creates a financial advantage for the typical employee in addition to saving unnecessary premium costs. It relies on Ms. Bowles' testimony that under Plan V-A, a majority of employees never met their

deductible limit, and very few reached the maximum out of pocket costs designated by the plan. Ms. Bowles noted that even the \$20 co-pay for a doctor visit under Co-Pay Plan B could actually cost the employee nothing when a VEBA account is utilized. The City asserts that the Association's proposal to maintain an insurance benefit that is not being used by typical employees, and at a significantly higher cost to both employees and the City, wastes already strained public resources and is inherently inequitable. The City asserts that "Cadillac" health plans such as Plans V-A and V-B are on the decline among public employers. In this regard, it relies on Ms. Bowles' testimony that CIS has decided to no longer offer Plan V-A, and also her testimony that from 2011 to 2012, CIS plans with a \$100 deductible decreased from 18.9% to 15.6% of those that it administered, and those with a \$200 deductible decreased from 17.1% to 13.2%, while those with a \$500 co-pay increased from 11% to 14%.

The Association argues that the health insurance plan proposed by the City represents a significant diminution in coverage from the excellent plan which has been provided to officers for many years. It presented evidence of several officers who have benefitted from Plan V-A, including an officer who died of leukemia last year, and another officer, David Licht, who had incurred large medical costs. Mr. Licht testified that he and his wife have had multiple back surgeries and other procedures since 2004 and they have depended on their excellent health plan. He testified that both he and his wife utilize a chiropractor, a benefit not offered under Co-Pay Plan B. The Association maintains that the City's proposed change in the status quo would reduce coverage and be destructive of morale and officer sense of well being. The Association submitted several scholarly articles which indicated that the stress endured by police officers tends to adversely affect their health and that affordable health insurance for them is an important benefit.

(a) The Interest and Welfare of the Public

ORS 243.746(4) requires the arbitrator to “select only one of the last best offer packages submitted by the parties,” based on specified criteria. Arbitrators must give “first priority to” “[t]he interest and welfare of the public,” and “secondary priority” to the other listed factors. The “interest and welfare of the public” is not defined and is an inherently vague concept, though its application in certain circumstances may be apparent. Perhaps the public policy expressed in ORS 243.742(1) provides some guidance as to legislative intent when it states that interest arbitration is needed where the right to strike is prohibited by law (as is the case for police officers), in order to maintain “the high morale of such employees and the efficient operation of such departments.” The requirement for efficient operations signifies a need to provide good services at reasonable cost. It is understandable that with the history of escalating health care costs and fiscal challenges that the City has dealt with in recent years, there would be a public interest in restraining expenditures for health care premiums. As suggested in the stated public policy, maintaining morale of employees such as police officers is also important, and, also serves the interest and welfare of the public. A significant reduction in what has been status quo for health care benefits for many years would tend to adversely affect employee morale. Apparently recognizing the legitimate concerns of the City, the Association offer does concede a modest reduction to the employee’s health care benefit. It has agreed to coverage which would double the deductible per person from \$100 to \$200 and would increase the employees’ maximum out of pocket expense from \$1300 to \$1600. Also, it has been mutually agreed that the employees’ share of the premiums would increase from 9% to 11%. The City proposal, overall, and considering its newly offered VEBA, significantly reduces the health care benefit, by raising the per-person deductible to \$500 and the maximum annual out of pocket expense to

\$5500. The City correctly points out that most officers, most of the time, would be better off financially with its proposed Co-Pay Plan B, because routine doctor visits would merely have a \$20 employee co-pay, there would be 100% reimbursement for the first \$400 of out patient laboratory and radiology service, and employees would have reduced premium payments and access to VEBA. However, under the Co-Pay Plan B, employees with large medical expenses and/or chiropractic care in a given year would have much higher out of pocket expenses. CIS is a non-profit self-funded insurer, and the substantially higher premium rate that it charges for Plan V-B over Co-Pay Plan B, reflects the higher pay out it incurs for the medical costs of employees. Presumably, if the health plan was changed as the City proposes, the employees, as a group, would either have to spend substantially more in medical expenses or forego treatment. It is understandable that the employees want to maintain their better coverage for years when they have large medical expenses, even if this costs them more in years when they have less need for medical services.

As the City recognizes in its brief, it is in the public interest to have stability in collective bargaining, and therefore arbitrators generally require a compelling reason for a proposal to take away a benefit which the parties had previously negotiated into their labor agreements. A much respected Oregon arbitrator explained this view:

. . . Inherent in the legislative decision to use a “last best offer package” approach to interest arbitration is a requirement that each party either meet the ‘compelling need’ test or show that a quid pro quo exists to justify taking away a benefit previously obtained through a negotiated settlement.

Bend Firefighters Assoc. and City of Bend, IA-09-95 (Snow, 1996). The City argues that the VEBA which it has offered is a sufficient quid pro quo to change the offered plan. In fact, even with the VEBA, a benefit neither sought, nor agreed to, by the Association, the City’s offer is a

very substantial benefit reduction since officers with high medical costs would pay significantly more out of pocket. The City's argument that its reduction in revenues compels its proposed modification of the status quo shall be discussed further below, in conjunction with its ability to pay, a secondary criteria.

(b) Ability to Pay

A secondary priority that must be considered is the City's "reasonable financial ability . . . to meet the costs of the proposed contract giving due consideration and weight to the other services, . . . and other priorities . . . as determined by the governing body." ORS 243.746(4)(b) further provides that a reasonable operating reserve against future contingencies . . . shall not be considered as available toward a settlement."

Erich Mueller, the City Finance Director, testified that City finances were adversely affected by the 2008 economic crisis. He testified that as a result, the City eliminated eight budgeted positions, which caused several layoffs, and it deferred capital expenditures and maintenance. The Association points out that in Troutdale Mayor Jim Kight's State of the City address made on February 21, 2012, he stated that a number of local planned "multi-million dollar projects will provide thousands of jobs to the economy and help to strengthen our economic base." Mayor Kight further stated that Moody's Investment Service gave the City an Aa2 rating, which is unusual for a city the size of Troutdale, and "noted [its] sound financial operations highlighted by strong reserve levels and low debt levels." The City's General Account Fund Summary indicates that the City's "current operating expenditures from the General Fund rose from \$8,441,382 in 2009-10 to an expected \$9,857,898 in 2012-13, while its "revenue (net of beginning fund balance) rose during the same period from \$8,564,088 to \$8,751,980, and its general fund balance decreased. Mr. Mueller testified that the City was faced

with additional financial challenges as 2012 unfolded. The State advised the City that effective July 1, 2013, its contribution to the PERS retirement system would increase from about 11% of payroll to about 15%. He testified that the City depends on property tax revenue for almost half of its total revenues, and the property tax assessed value took an unexpected decline of 0.88% for the 2012-13 fiscal year. He testified that he expected that this will result in the exhaustion of the City's budgeted contingency fund, a net deficit for the fiscal year of \$432,000, and a reduction in the unappropriated general fund balance to about \$2,000,000. No evidence was presented regarding what level of reserves would be deemed to be reasonable by municipal accounting professionals for a city with a budget the size of Troutdale's. The City pointed out that expenditures for its Police Department have taken an increasing percentage of City funds in recent years.

The evidence presented establishes that the City is stressed financially, which negatively affects its ability to increase expenditures. A consideration of this factor tends to reduce the total compensation that officers could otherwise expect to receive.

(c) Ability to Attract and Retain Qualified Personnel

The City hired two police officers in 2011 from among 176 applicants. Both of these new officers failed to pass their probationary period. No officer left City employment to take a job with another police department in recent years. In 2008, one officer did resign to take a police related position in Iraq.

The evidence presented establishes that the current compensation package enables the City to attract and retain qualified personnel. Whether a diminution in health benefits will negatively affect this is somewhat speculative, though offering a total compensation package

which is competitive with other nearby similar police departments would likely benefit the City's ability to attract and retain qualified personnel.

(d) and (e) Overall Compensation Comparison

ORS 243.746(4)(d) requires consideration of “overall compensation presently received by the employees, including (among other listed benefits) . . . insurance.” ORS 243.746(4)(e) provides for consideration of a comparison of the employees’ overall compensation with that received by “employees performing similar services . . . in comparable communities, meaning “communities of the same or nearest population range within Oregon.”

The City of Troutdale has a population of 16,244 and is situated in the Portland metropolitan area. Mayor Kight observed in his State of the City speech that “66% of [the] community commutes [for employment] to other locations throughout [the] Portland Metro area.”

The parties agree that the following cities are comparable to Troutdale:

<u>City</u>	<u>Population</u>
Sherwood	18,255
Canby	15,830

In addition, the City proposes the following cities as comparators:

<u>City</u>	<u>Population</u>
Forest Grove	21,488
Milwaukie	20,518
Wilsonville	19,715
St. Helens	12,905
Cornelius	12,107
Gladstone	11,626

The City argues that it has provided a fair and balanced set of comparators since it includes four with larger populations than Troutdale, and four with smaller populations, and all are situated in

the Portland metropolitan area. The Association disagrees with the City's suggested comparators, other than Sherwood and Canby, and proposes the following additional comparators:

<u>City</u>	<u>Population</u>
Coos Bay	15,903
Lebanon	15,711
Dallas	14,698
The Dalles	13,631
La Grande	13,102

The Association argues that its comparators are proper because they are close to Troutdale in population. It points out that geographic proximity is not a requirement of the statute.

I have chosen the City's suggested comparators as appropriate for comparison with Troutdale, with the exception of Wilsonville. The remaining cities proposed by the City are all reasonably close in population to Troutdale, with three larger and four smaller than Troutdale, and all are situated in the Portland Metropolitan area. The Association provided no explanation as to why all, but one, of its suggested comparators are smaller than Troutdale. While the statute requires selection of comparators "limited to communities of the same or nearest population range within Oregon," it does not prohibit arbitrators from further narrowing the selection based on proximity, when there are more than enough comparators based on population range. Cities of similar population all within the Portland metropolitan area have more in common than cities of similar population that are more distant, and likely more rural, with varying revenue and cost of living. Compensation comparisons for similar work in similarly sized nearby communities are particularly significant because of the effect on recruitment, retention, and morale caused by wide compensation disparities. Therefore, the cities of Coos Bay, Lebanon, Dallas, The Dalles, and

La Grande, none of which are in the Portland metropolitan area, have not been selected as comparators.

Wilsonville has been excluded as a comparator because that city does not employ police officers, but rather contracts with a county to provide police services. ORS 243,746(4)(e) (A) and (B) suggest the legislature intended that cities are to be compared with cities and counties are to be compared with counties. Arbitrator Stiteler aptly explained why Wilsonville should not be used as a comparator employer for another city in City of Milwaukie and Milwaukie Police Employees Association, IA-08-10 (Stiteler, 2011):

. . . Using a county as a comparator for a city may skew comparisons because of the different budget structures, revenue sources and operational priorities in the different political subdivisions . . . the compensation of employees of the County Sheriff's Department is based on different comparables than that of the City's police.

As Arbitrator Stiteler correctly reasoned, since Wilsonville does not have its employees performing police services, it is not an appropriate comparator for another city.

The City provided spreadsheets showing total compensation of police officers at time of hire, and at 5 years, 10 years, 15 years, and 20 years. Since only three officers will have more than 15 years of experience during the term of the new Agreement, focus will be placed on the total compensation at hire and at 10 years. The spreadsheets provided reflect total compensation as of January 1, 2013, including monthly base pay, basic certification pay for a new hire, advanced certification pay at ten years, longevity pay, vacation pay, holiday pay, PERS pickup, VEBA contribution, and deferred compensation, with the total reduced by the employee insurance contribution. While I believe that a more accurate reflection of total compensation would reflect the amount of the City's contribution for health insurance rather than a reduction for the employee's contribution, my analysis must be limited to the information provided, and the

cost to the comparators for health insurance was not provided. According to the City, the labor agreements for Forest Grove, St. Helens, and Cornelius have all expired, their last wage increases were all in 2011, and they are currently in contract negotiations. The Association submitted evidence proving that Cornelius has recently agreed to a wage increase effective July 1, 2012 of 2%, and another wage increase effective July 1, 2013 based on the CPI increase, with a floor of 2% and a ceiling of 4%. For purposes of a more fair comparison with Troutdale for 2013, I have increased the total compensation figures provided by the City for Cornelius, Forest Grove, and St. Helens, each by 2%.

Jan. 1, 2013 – Adjusted Monthly Total Compensation

<u>City</u>	<u>New Hire</u>	<u>Ten Year Officer</u>
Forest Grove	\$4,634	\$6,621
Milwaukie	4,505	6,516
Sherwood	4,654	6,472
Canby	4,800	6,726
St. Helens	3,992	6,114
Cornelius	4,419	5,973
Gladstone	<u>4,469</u>	6,136
Average	\$4,496	\$6,365
Median	4,505	6,472
Troutdale with/City proposal	\$4,361	\$6,056
Difference from Average	- 3.1% ²	-5.1% ²
Difference from Median	-3.3%	-6.9%
Troutdale w/Assoc. Proposal	\$4,262 ³	\$5,958 ³
Difference from Average	-5.5%	-6.8%
Difference from Median	-5.7%	-8.6%

² The City represented in its exhibits that it was even further behind the average of the comparators, since it includes Wilsonville, which provided compensation that was significantly higher than the average of its other comparators

³ The anomaly of the total compensation being less in the Association proposal than in the City proposal is based on the City representing the value of the health and welfare benefits, not by the cost to the City, but rather as a reduction in compensation based on the premium cost share of the employees.

The total compensation that would be received by Troutdale Police Officers, including the health and welfare proposals of either the City or the Association, is slightly below average at hire, and more below average at ten years, when compared with the comparators, with only one comparator providing lower total compensation.

According to information provided by the Association, the comparators provide the following health insurance benefits:

	<u>Plan</u>	<u>City/ee Split</u>	<u>Annual VEBA</u>
Forest Grove	Co-Pay Plan B	95/5	1% of Salary
Milwaukie	Plan V-B	85/15	Provided – but amt. not disclosed
Sherwood	Plan I-B	87/13	0
Canby	Pacific Source Plan I	90/10	0
St. Helens	Plan V-A	(Not disclosed)	2% of Salary
Cornelius	Plan V-A	95/5 until 7/1/13	0 until 7/1/13
		90/10 after 7/1/13	\$1,000 after 7/1/13
Gladstone	Co-Pay Plan B	90/10	\$500-\$1500

The Association proposal of Plan V-B, with employees paying 11% of the premium and no VEBA has not been shown to be significantly out of line with the plans offered by the comparators. The City offer of a Co-Pay Plan B with an 89%/11% split, and an annual VEBA of \$250, \$500, or \$750, depending on family status, appears to be less costly than the plans offered by the majority of the comparators.

(f) The CPI-All Cities Index

According to statistics provided by the Association, the Consumer Price Index (Urban Consumers) for U.S. Cities, commonly referred to as the CPI-U All Cities, rose by 1.6% in 2010, by 3.2% in 2011, and by an average of 2.4% during the first half of 2012. The City submitted evidence that during the five year period from 2006 through 2010, its officers received wage increases totaling 14.6%, while the CPI-U rose 11.2% during that time span.

The parties have already agreed that there would be no cost of living wage increase during any of the three years of the Agreement, and that the City would pick up the entire 6% employee share of the pension contribution. The pick up of the PERS employee contribution is a benefit that is provided by all of the comparators, except for Cornelius.

(g) and (h) Stipulations and Other Factors

The parties offered no stipulations to be considered by the Arbitrator as part of his decision. ORS 243.746(4)(h) provides that the arbitrator may not consider other factors, if those listed in (a) through (g) provide sufficient evidence for an award. The specified factors are sufficient for an award.

Opinion

Based entirely on the factors listed in ORS 243.746(4)(a) through (g), your Arbitrator shall award the Association's last best offer. The public has an interest in the stability in the labor relations of its Police Department and in maintaining high morale among its police officers. The City proposal eliminates the generous health plan that its officers have enjoyed for many years, and replaces it with a plan which would greatly increase employees' out of pocket expense when they need it the most because of hospitalization or other costly medical procedures. The City bears the burden of establishing a convincing justification for such a change in a long-standing benefit. The governing statute directs the arbitrator to consider "[t]he overall compensation received by employees, including direct wage compensation" and other benefits, such as "insurance." Thus, the officers' health insurance benefit cannot be considered in isolation, but rather must be viewed as a slice of their overall compensation package. In the past, through their collective bargaining, the parties agreed to a medical benefit which is particularly favorable to the officers, and which of course they desire to keep to the extent possible. They

also agreed to wage levels and other benefits which kept the officers' overall compensation, including the cost of their health benefits, below the average of the comparators. That has long been the parties' mutual agreement as to how to divide the compensation pie and that tradeoff should be respected. It should be noted here that the cities used for comparison were all suggested by the City. All are similarly sized to Troutdale and are situated in the Portland metropolitan area. Presumably, like Troutdale, they have been affected by the 2008 economic downturn and the slow recovery. No evidence was presented which would establish that Troutdale is unique in its economic condition or circumstances. Based on a comparison of overall compensation with these similar communities, it cannot be said that the cost to the public for its police services is excessive or out of line. In fact, based on the overall compensation comparison, the public is getting a very fair deal. Even with the award of the Association proposal, the City will likely still rank next to last in total compensation provided to its officers when compared with the seven comparators.

It is recognized that in this difficult economy, the City has had to deal with rising insurance premiums, an increase in retirement costs, disappointing revenues and a declining reserve. The Association offer does, to some extent, address these concerns, by calling for a modestly less expensive plan, and an increased percentage share of the insurance premium to be paid by the officers. It has not been sufficiently shown that by incurring the cost of the Association proposal, the City would then be unable to either reasonably meet its need for other services or to maintain reasonable reserves. It is significant that there was essentially no trade off for the significant reduction in the officers' health benefit. The parties did agree to a three year wage freeze, with the City picking up the employees' pension contribution, but that is a benefit which all but one of the comparators already provide. While this is a new benefit for the

Troutdale officers, still their total compensation increase with this Award likely does not exceed the increase in the cost of living during the term of the new Agreement. Given that the total compensation received by the City's police bargaining unit already does not compare favorably with the comparable employers, all of which are situated relatively close to Troutdale, the significant reduction in health benefits which would result from the City's offer, would not be helpful to the recruitment or retention of employees. Weighing the criteria set forth in ORS 243.746(4), I find that they support the Association's last best offer more than the City's last best offer.

ORDER

The Association's last best offer to resolve the parties' impasse regarding their Collective Bargaining Agreement for July 1, 2011 through June 30, 2014 is hereby awarded.

Sammamish, Washington

Dated: January 16, 2013

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