

ORDINANCE NO. 5952

**AN ORDINANCE AMENDING THE 2014 OPERATING BUDGET
TO FUND THE FIREFIGHTERS LOCAL NO. 1324 VS CITY
HEALTHCARE ARBITRATION AWARD**

WHEREAS, the current collective bargaining agreement (CBA) between the City and the Fairbanks Firefighters IAFF Local 1324 specified that the contract would be reopened in 2013 for negotiations on healthcare benefits for 2014 and 2015; and

WHEREAS, the parties were unable to negotiate new healthcare terms, so the matter was submitted to arbitration; and

WHEREAS, an arbitration hearing was held in March of 2014, and the arbitrator's decision was issued on July 11, 2014 (copy attached); and

WHEREAS, the arbitrator's decision awarded an increase to the City's share of the healthcare premium whereby the City would pay 80% of the cost of the premium effective January 1, 2014; and

WHEREAS, this ordinance amends the 2014 operating budget to fund the increases awarded by the arbitrator;

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, as follows [amendments shown in **bold** font]:

SECTION 1. There is hereby appropriated to the 2014 General Fund budget the following sources of revenue and expenditures in the amounts indicated to the departments named for the purpose of conducting the business of the City of Fairbanks, Alaska, for the fiscal year commencing January 1, 2014 and ending December 31, 2014 (see page 2):

REVENUE	APPROVED BUDGET	INCREASE (DECREASE)	AS AMENDED
Taxes, (all sources)	\$ 20,060,196	\$ -	\$ 20,060,196
Charges for Services	4,372,020	-	4,372,020
Intergovernmental Revenues	4,541,084	-	4,541,084
Licenses & Permits	1,444,914	-	1,444,914
Fines, Forfeitures & Penalties	1,022,185	-	1,022,185
Interest & Penalties	130,500	-	130,500
Rental & Lease Income	158,744	-	158,744
Other Revenues	215,000	-	215,000
Other Financing Sources	(700,543)	-	(700,543)
Total revenue appropriation	\$ 31,244,100	\$ -	\$ 31,244,100
EXPENDITURES			
Mayor and Council	\$ 507,865	\$ -	\$ 507,865
Office of the City Attorney	178,104	-	178,104
Office of the City Clerk	348,914	-	348,914
Finance Department	923,640	-	923,640
Information Technology	1,420,382	-	1,420,382
General Account	5,725,431	-	5,725,431
Risk Management	1,040,819	-	1,040,819
Police Department	7,200,352	-	7,200,352
Dispatch Center	2,051,459	-	2,051,459
Fire Department	6,357,074	60,500	6,417,574
Public Works Department	7,534,588	-	7,534,588
Engineering Department	518,231	-	518,231
Building Department	670,308	-	670,308
Total expenditure appropriation	\$ 34,477,167	\$ 60,500	\$ 34,537,667
12/31/13 general fund balance	\$ 13,270,040		\$ 13,270,040
Decrease to fund balance	(3,233,067)	(60,500)	(3,293,567)
Nonspendable	(424,514)	-	(424,514)
Committed for snow removal	(250,000)	-	(250,000)
Assigned self insurance	(785,248)	-	(785,248)
12/31/14 Unassigned balance	<u>\$ 8,577,211</u>	<u>\$ (60,500)</u>	<u>\$ 8,516,711</u>

Minimum unassigned fund balance requirement is 20% of budgeted annual expenditures but not less than \$4,000,000.

\$ 6,907,533

SECTION 2. All appropriations made by this ordinance lapse at the end of the fiscal year to the extent they have not been expended or contractually committed to the departments named for the purpose of conducting the business of said departments of the City of Fairbanks, Alaska, for the fiscal year commencing January 1, 2014 and ending December 31, 2014.

SECTION 3. The effective date of this ordinance shall be the _____ day of _____ 2014.

JOHN EBERHART, MAYOR

AYES:
NAYS:
ABSENT:
ADOPTED:

ATTEST:

APPROVED AS TO FORM

Janey Hovenden, MMC, City Clerk

Paul J. Ewers, City Attorney

FISCAL NOTE

**ORDINANCE 5952, AMENDING THE 2014 OPERATING BUDGET
TO FUND THE FIREFIGHTERS LOCAL NO. 1324 VS CITY
HEALTHCARE ARBITRATION AWARD**

ESTIMATED REVENUES and OTHER FINANCING SOURCES (USES)

NO CHANGE

1. Taxes – No Change
2. Charges for Services – No Change
3. Intergovernmental Revenues – No Change
4. Licenses & Permits – No Change
5. Fines, Forfeitures & Penalties – No Change
6. Interest & Penalties – No Change
7. Rental & Lease Income – No Change
8. Other Revenues – No Change
9. Other Financing Sources & (Uses) – No Change

FISCAL NOTE CONTINUED
ESTIMATED EXPENDITURES

\$60,500 INCREASE

1. Mayor & Council – No Change
2. City Attorney’s Office – No Change
3. City Clerk’s Office – No Change
4. Finance Department – No Change
5. Information Technology – No Change
6. General Account – No Change
7. Risk Management – No Change
8. Police Department – No Change
9. Dispatch – No Change
10. Fire Department – \$60,500 Increase
 - \$60,500 Increase to Benefits (FFA LOCAL 1324 Healthcare Arbitration Award)
11. Public Works – No Change
12. Engineering – No Change
13. Building Department – No Change

BEFORE THE ARBITRATOR

In the matter of the Interest Arbitration
between:

CITY OF FAIRBANKS

and

FAIRBANKS FIREFIGHTERS UNION

ARBITRATION AWARD

FMCS No. 13-59010-8

Paul J. Ewers, City Attorney, appeared on behalf of the Employer.

Cook, Schuhmann and Groseclose by **Robert B. Groseclose**, Attorney at Law,
appeared on behalf of the Union.

The City of Fairbanks (Employer) and the Fairbanks Firefighters Union (Union) selected the undersigned Arbitrator to determine a dispute arising from terms of a collective bargaining agreement in effect from May 1, 2012 through April 30, 2015. The collective bargaining agreement specified that the contract would be reopened on January 1, 2014 to negotiate changes in health insurance. The agreement was reopened, but the parties were unable to finalize new health care terms. Accordingly, the dispute was submitted to arbitration for resolution. A hearing was conducted in Fairbanks, Alaska on March 11 and 12, 2014. During the course of the hearing, both parties presented testimony and exhibits and had the opportunity to examine and cross-examine witnesses. The parties submitted closing briefs on April 18, 2014.

FACTUAL BACKGROUND

The City of Fairbanks is located in the Fairbanks North Star Borough, approximately 350 miles north of Anchorage, Alaska. Operating through a "Council-Mayor" form of government, policy and legislative authority is reserved to the City Council. The City

Council is composed of six elected Commissioners and the elected Mayor. At the time of hearing, the city and its surrounding area had a population of approximately 100,000.

The City Council adopts a general fund and a capital fund budget annually. The Council must ensure that the general budget is balanced, where current revenues cover current expenses. The Council's budget work is constrained by several tax limitations that inhibit the amount of revenue that can be raised. A "tax cap" specifies that the amount of municipal taxes that can be levied during a particular fiscal year may not exceed the total amount approved by the City Council for the preceding year by more than a fixed percentage. The percentage amount is determined by the percentage increase in the federal Consumer Price Index for Anchorage from the preceding fiscal year. In addition, property tax revenues are limited to a maximum of 4.9 mills.

The City of Fairbanks employs approximately 200 full-time employees. The Employer has collective bargaining relationships with four bargaining units:

- Fairbanks Firefighters Union (FFU)
- Public Safety Employees Association (PSEA) (police department and emergency communications employees),
- International Brotherhood of Electrical Workers (IBEW) (administrative and supervisory employees) and
- AFL-CIO Crafts Council (several trade unions covered by a single collective bargaining agreement).

The Employer's workforce has been reduced, and that reduction has a direct bearing on the instant dispute. In 1997, the City of Fairbanks sold its local public utility, the Fairbanks Municipal Utilities System. The sale, which had to be approved by a city-wide vote, meant that the City of Fairbanks would no longer receive revenue from electrical, water, sewer, telephone, steam and hot water heat services. With the citizens' approval, the utility was sold, and the Employer's workforce was reduced accordingly.

Prior to the utility sale, the City of Fairbanks was self-insured for health insurance. After the sale, the Employer's "pool" of eligible employees for insurance purposes was reduced to the point that it no longer made economic sense to maintain a self-insured position. The Employer then negotiated with its various collective bargaining units to have their members join other insurance plans. At the time of hearing, a number of city employees were covered by the IBEW and AFL-CIO insurance plans. In addition, police department and emergency communications employees were covered by the PSEA Healthcare Trust insurance plan, and Fairbanks firefighters participated in the Northwest Fire Fighters Trust healthcare insurance plan. It must be noted, that the firefighters had been covered under the PSEA health insurance plan until 2012, when the PSEA union exercised its option to drop the firefighters from coverage under the PSEA plan. The Fairbanks firefighters then looked for other insurance plans to provide health care coverage, finally deciding on the Northwest Fire Fighters Trust.

The Employer is subject to the provisions of AS 23.40.070 *et seq.*, the Public Employment Relations Act (PERA). The statute specifies that an impasse in negotiations between an employer and "fire protection employees" must be submitted to arbitration. Arbitration proceedings are to be carried out under terms of AS 09.43.030 or 09.43.480, to the extent allowed by AS 09.43.010 and 09.43.300. The arbitration process is set forth in AS 09.43.420 in the following terms:

- (a) An arbitrator may conduct an arbitration in the manner the arbitrator considers appropriate for a fair and expeditious disposition of the proceeding. The authority conferred upon the arbitrator includes the power to hold conferences with the parties to the arbitration proceeding before the hearing and, among other matters, determine the admissibility, relevance, materiality, and weight of any evidence.
- (b) An arbitrator may decide a request for summary disposition of a claim or particular issue
 - (1) if all interested parties agree; or

- (2) on request of one party to the arbitration proceeding if that party gives notice to all other parties to the proceeding and the other parties have reasonable opportunity to respond.
- (c) In an arbitrator orders a hearing, the arbitrator shall set a time and place and give notice of the hearing not less than five days before the hearing begins. Unless a party to the arbitration proceeding makes an objection to lack or insufficiency of notice not later than the beginning of the hearing, the party's appearance at the hearing waives the objection. On request of a party to the arbitration proceeding and for good cause shown, or on the arbitrator's own initiative, the arbitrator may adjourn the hearing from time to time as necessary but may not postpone the hearing to a time later than that fixed by the agreement to arbitrate for making the award unless the parties to the arbitration proceeding consent to a later date. The arbitrator may hear and decide the controversy on the evidence produced although a party who was notified of the arbitration proceeding did not appear. The court, on request, may direct the arbitrator to conduct the hearing promptly and render a timely decision.
- (d) At a hearing under (c) of this section, a party to the arbitration proceeding has a right to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at hearing.
- (e) If an arbitrator ceases acting or is unable to act during the arbitration proceeding, a replacement arbitrator shall be appointed under AS 09.43.380 to continue the proceeding and to resolve the controversy.

In this case, the parties negotiated a collective bargaining agreement effective from May 1, 2012 through April 30, 2015. As part of that agreement, the parties included a contract re-opener to negotiate concerning health insurance effective January 1, 2014 through the remainder of the collective bargaining agreement's term. The parties were unable to reach agreement on the insurance issue, and the dispute was referred to arbitration for resolution.

THE HEALTH INSURANCE ISSUE

There is no dispute that the parties agree that medical insurance must be provided to bargaining unit employees. The question is how much the Employer and bargaining unit employees must pay for that insurance. As the Employer noted in its closing brief, the parties have a very different view of the situation. The Union asked to compare health insurance premium rates with certain other cities in Alaska and in Washington State. The Employer argued that such a comparison is not relevant to this dispute, and that the primary comparison must be with other city employee groups. It is appropriate to examine both lines of argument to determine the proper approach for resolving this dispute.

The Union's Argument

The Union analyzed the health insurance issue in light of its need to find a new insurance plan. As noted above, firefighters were traditionally covered by the PSEA health insurance policy, but the PSEA exercised its right to drop the firefighters from coverage in 2012. The Union and the Employer signed a letter of agreement in December 2012, recognizing that the firefighters were moving to the Northwest Fire Fighters Trust (NWFFT). By moving to the NWFFT, the firefighters' monthly insurance premium was reduced by \$250 to \$350 dollars per month. According to the Union's analysis, the NWFFT health plan cost \$1,443 a month, with the Employer paying \$1040 for the insurance plan. The bargaining unit employees were responsible for the difference of \$443. The Union contended that this "split" in payments meant that the Employer paid approximately 70% of the insurance premium cost and the Union employees paid approximately 30% of the premium cost.

The Union argued that the cost for medical coverage in Fairbanks, Alaska is very high, and is as much as 44% ahead of other cities of similar size. The Union noted that health care costs were still rising, with little evidence of any moderation in costs. The Union further argued that bargaining unit members have additional health care costs related to high deductibles and co-pays. At the time of hearing, each bargaining unit member had a \$1,500 annual deductible along with a 20% co-pay on medical services received.

While acknowledging that Fairbanks is in a unique position, the Union argued that it found comparable jurisdictions in Alaska and Washington State that support its contention regarding an appropriate level of insurance contribution. The Union contended that the information gained from its set of comparables showed that the Employer did not meet its obligation to provide health insurance at reasonable rates for bargaining unit employees.

Finally, the Union maintained that the Employer's attempts to focus its economic analysis on purely internal comparisons should be discounted. The Union reminded the Employer that it can only bargain for its members, and that each of the Employer's other bargaining units must be responsible for their own health insurance coverages and payments. The Union argued that each bargaining unit had its own unique set of needs and must be treated individually. If one bargaining unit wanted a higher deductible, with money to be used for other wage related improvements, it would be unfair to impose the same constraints on the other bargaining units which may have very different needs for insurance coverage. The Union concluded by arguing that the Arbitrator should award a medical premium of at least 80% employer contribution and 20% employee contribution.

The Employer's Argument

The Employer argued that it was paying an appropriate amount for medical insurance premiums, and that the amount of its contribution should not be increased. The Employer acknowledged that the Union's NWFFT plan saved money over the amount paid under the PSEA plan, but contended that those savings should not automatically lead to an increase in premium payments now.

The Employer maintained that the Union did not set forth the entire amount of money paid by the City of Fairbanks each month for bargaining unit members. In addition to the \$1040 monthly premium amount, the Employer also paid another \$100 a month into a Medical Expense Reimbursement Plan associated with the health insurance coverage. According to the Employer's calculations, bargaining unit employees paid \$302.44 per month for their

portion of the insurance premium. Following the Employer's reasoning and calculations, the City of Fairbanks provided 79% of medical insurance premium costs while bargaining unit members were responsible for 21% of premium costs.

The Employer maintained that the Union's effort to compare the situation in Fairbanks with other jurisdictions is not instructive for the instant dispute. While acknowledging that it had to be aware of what other jurisdictions do, the Employer argued that the most important comparison in this case is how the Union's employees match up with the rest of the Employer's workforce. Using this analysis, the Employer contended that the Union's bargaining unit was well-compensated and that it should not receive additional compensation in the form of higher health insurance premium coverage. The Employer contended that it would be unfair to the rest of its workforce if such a result occurred. Accordingly, the Employer asked to maintain the existing medical insurance rate for the remainder of the current collective bargaining agreement.

Analysis of the Issue Presented

The parties have a fundamental disagreement over the appropriate amount of money that the Employer should pay toward medical insurance premiums. In a sense, I must serve as an "interest arbitrator" in making the determination of an appropriate premium amount. In other words, I will be setting the parties' future interests in the collective bargaining agreement rather than deciding a grievance over a set of discrete events that have already taken place.

As the Employer properly notes in its closing brief, interest arbitration must be considered to be an extension of the collective bargaining process. I agree with Arbitrator Carlton Snow who set forth a controlling principle for interest arbitration decisions in *City of Seattle*, PERC Case No. 6502-1-86-148 (Snow, 1988):

[A] goal of interest arbitration is to induce a final decision that will, as nearly as possible, approximate what the parties themselves would have reached had they continued to bargain with determination and good faith.

A number of other arbitrators have expressed the same goal for interest arbitration. *See Kitsap County Fire Protection District No. 7*, PERC Case No. 15012-1-00-333 (Krebs, 2000); and *City of Centralia*, PERC Case No. 11866-1-95-253 (Lumbley, 1997). Arbitrator Snow's observation serves to provide a general framework for analyzing specific language and wage proposals. Arbitrator Timothy Williams stated this principle in the following terms:

[T]he panel is mindful that the basic function of interest arbitration is to provide what should have been achieved at the bargaining table.

Clark County Public Transportation Benefit Area v. Amalgamated Transit Union, Local 757, PERC Case No. 24063-1-11-570 (2011).

Having established that interest arbitration must be considered as an extension of the collective bargaining process, several other principles have also been developed to refine the use of arbitration to conclude bargaining. For example, it must be remembered that interest arbitration is conducted in the context of an existing collective bargaining relationship. The arbitrator must be aware of the parties' bargaining history to provide an appropriate context for an award that will set their future rights and obligations. *See City of Seattle*, PERC Case No. 6576-1-86-150 (Beck, 1988). As noted in Elkouri and Elkouri, *How Arbitration Works*, Sixth Edition (BNA, 2003):

[I]nterest arbitration is more nearly legislative than judicial . . . our task here is to search for what would be, in the light of all the relevant factors and circumstances, a fair and equitable answer to a problem which the parties have not been able to resolve by themselves.

The parties' bargaining history is instructive because it shows that the Employer has set different wage rates for the firefighters as compared to the other bargaining units. The Union employees received a wage increase of 4.75% in the first year of the agreement, with no further wage increase for the remainder of the contract. In addition to the wage increase, the Employer provided a corresponding 4.75% increase in pension contributions for the bargaining unit.

The Employer and the AFL-CIO craft unions concluded negotiations for a successor collective bargaining agreement in effect for the 2014 – 2016 time period. It should be noted that under terms of the AFL-CIO agreement, each participating union has its own insurance plan with correspondingly different payment requirements. At the time of hearing, the AFL-CIO contract covered 13 employees in the Laborers Union, 20 employees represented by the International Union of Operating Engineers, one employee represented by the Carpenters Union, one employee represented by the Plumbers Union, and three employees represented by the Teamsters Union. The contract also covers the Painters Union, but there were no employees represented by that union at the time the contract was executed.

Under terms of the AFL-CIO contract, employees were granted a 1.5% increase in the “package rate” on January 1, 2014, with an additional one-time “signing bonus” equal to 1% of the package rate. The contract called for reopeners in 2015 and 2016 for wage and benefit negotiations. The “package rate” refers to the cost of providing a wage increase and an increase in medical premium benefits. The collective bargaining agreement specified that the unions involved in the AFL-CIO contract had the latitude to decide how much of the 1.5% increase would be applied to wage increases and how much would be applied to medical insurance premiums.

Each union in the AFL-CIO contract had its own health insurance plan to deal with, and the contract set differing amounts of Employer contribution for each group. The following charts express monthly insurance premium costs:

	<u>Total Premium</u>	<u>Employer Pays</u>	<u>Employee Pays</u>	
Laborers Union		\$ 1126.28	\$ 1126.28	0
Operating Engineers		\$ 1256.68	\$ 1256.68	0
Carpenters		\$ 1482.00	\$ 1482.00	0
Plumbers		\$ 1,130.00	\$ 1130.00	0

Teamsters			
(employee only)	\$ 1102.40	\$ 1102.40	0
(employee + 1 or 2)	\$ 1275.00	\$1102.40	\$ 172. 60
Painters	\$ 1138.80	\$1138.80	0

The 2014 through 2016 IBEW collective bargaining agreement covered 42 employees and was settled on different economic terms. In that contract, the parties agreed to a 2.5% increase in the “package rate” for 2014, with a 2% increase in 2015 and a 2% increase in 2016, applied to the “package rate” each year. The IBEW contract called for health insurance premium payments of:

<u>Total Premium</u>	<u>Employer Pays</u>	<u>Employee Pays</u>
\$ 1590.00	\$ 850.00	\$ 740.00

The Employer has not used the “package rate” approach for the PSEA or the Fairbanks Firefighter Union contracts because the Employer’s pension obligation is set by the Alaska State Public Employee Retirement System (PERS). The PERS contribution amount is set by the State of Alaska and cannot be modified by the parties in bargaining. The PSEA contract sets medical insurance premiums as:

	<u>Total Premium</u>	<u>Employer Pays</u>	<u>Employee Pays</u>
“Heritage Plan” (54 employees)	\$ 1707.00	\$ 1040.00	\$ 667.00
“Catastrophic Plan” (14 employees)	\$ 1128.00	\$ 1040.00	\$ 88.00

For the Fairbanks Firefighters Union, two insurance plans are offered. For the “500 Plan” (covering 2 employees), the total premium cost is \$ 1,641.00, with the Employer paying \$1040.00. Employees pay \$601.40. For the “1500 Plan” (covering 40 employees), the total

premium cost is \$1,442.44, with the Employer paying \$ 1040.00. Employees must pay \$402.44 as their share of the monthly insurance premium amount.

In its closing brief, the Employer argued that it had to be mindful of providing reasonable medical insurance premium compensation for all of its employee groups. The record shows that the Employer has attempted to address specific insurance premium issues with each of its bargaining units, with little similarity in approach among the different groups. While the IBEW group pays almost 50% of its premium costs, at least five other bargaining units do not pay anything toward insurance premium payments. Those differences came about because of collective bargaining that led to a number of different results. Each bargaining unit had different interests, and it is clear that the Employer attempted to meet those interests by allowing such a variety of insurance premium results.

The Employer finds itself in a difficult position. In many cities, single city-wide insurance plans are offered, with the same rates paid by all city employees. While this approach provides predictability and uniformity, it removes the flexibility to address issues within the numerous bargaining units.

Turning to the instant matter, I have carefully examined the evidence presented by the parties and their respective arguments concerning the appropriate medical insurance premium amount. I must conclude that the Employer should pay 80% of the monthly insurance premium, with employees being responsible for 20% of the premium. This is not an arbitrary decision. It is based on several factors. First, it is very unusual for firefighters to pay more than 20% for their insurance premium costs.

I recognize that the City of Fairbanks is somewhat remote from other jurisdictions, but it would be unrealistic to isolate the firefighters so completely. The Employer has already shown a great deal of flexibility in reaching a number of agreements concerning medical insurance premiums, and I recognize that the Employer has invested a good deal of its budget

to meet its commitments. I must also find that the Union has presented a compelling argument supporting its position, and the "80/20" split in payment is logical and appropriate.

I recognize that several months have passed since the January 1, 2014 reopener date. It would be impossible to reconstruct the actual usage of medical premiums during that time, but it is certainly possible to calculate the difference that the Employer was paying at that time as compared to the amount owed under the 80/20 formula. Accordingly, the Employer will be directed to compensate each bargaining unit member for the difference. The payment will be made as a separate check for those months that have passed, and will continue as a separate payment until such time as the Employer is able to start paying the 80% amount toward medical insurance premiums.

As part of its proposed award, the Union asks that I order the Employer to pay for the Union's costs and fees for the presentation of its case. I have considered the Union's request, and will not make such an order here. I believe that the imposition of attorneys' fees should be reserved to those situations where a party has acted in some kind of bad faith or has otherwise been obstructive to the litigation. I cannot make such a determination here. Both parties presented their positions in good faith, and, apart from a disagreement on the way to resolve their dispute, showed a willingness to work together in the collective bargaining process.

AWARD

Based on the foregoing and the record as a whole, effective January 1, 2014, the City of Fairbanks is directed to pay an amount equal to 80% of the medical insurance premium payment for the Northwest Fire Fighters Trust (NWFFT) plan in effect.

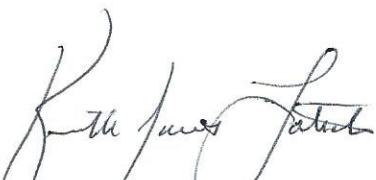
Employees represented by the Fairbanks Firefighters Union shall be responsible for 20% of the premium payments.

Until the City of Fairbanks is able to start paying the insurance premium to the NWFFT at the 80% amount, the Employer will pay bargaining unit members for the difference between the amount that the City of Fairbanks was paying and the amount to be paid at the 80% level.

The payments shall be made in a separate check, and not made part of the employees' base wages.

I retain jurisdiction in this matter for a period of 60 days to deal with any questions or difficulties in the implementation of this Award.

DATED at Lacey, Washington, this 11th day of July, 2014.



KENNETH JAMES LATSCH
Arbitrator