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STATE OF MICHIGAN
DEPARTMENT OF LABOR
BUREAU OF EMPLOYMENT RELATIONS
STATUTORY ARBITRATION TRIBUNAL

In the Matter of Arbitration between:

ALPENA FIRE FIGHTERS ASSOCIATION,
Local 623, IAFF, AFL-CIO,

-and-

CITY OF ALPENA

MERC ACT 312
Case No. L92 B-0272
Chairman: Stanley T. Dobry
Union Delegate: Arnold Domke
City Delegate: Joseph Fremont

ACT 312 OPINION AND AWARD

Dated: May 4, 1994

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BUREAU OF EMPLOYMENT RELATIONS
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J. T. Dobry

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The Alpena Fire Fighters Association, Local 623, IAFF, AFL-CIO, is the recognized exclusive bargaining representative of the uniformed employees of the City of Alpena Fire Department, with the exception of the Fire Chief, under applicable Michigan law [Act 336, Public Acts of 1947, as amended by Act 379, Public Acts of 1965, as amended, being MCLA 423.201 et seq.; MSA 17.455(1), et seq.].

The Union initiated binding arbitration proceedings in its petition dated August 14, 1992 pursuant to Act 312, Public Acts of 1969 as amended (being MCLA 423.231 et seq.; MSA 17.455(31) et seq.) to resolve certain issues in dispute between the parties. The City of Alpena filed its Answer on August 26, 1992. The issues to be considered herein must be decided pursuant to Section 8 of Act 312, which states in pertinent part:

At or before the conclusion of the hearing held pursuant to section 6, the arbitration panel shall identify the economic issues in dispute, and direct each of the parties to submit, within such time limit as the panel shall prescribe, to the arbitration panel and to each other its last offer of settlement on each economic issue....As to each economic issue, the arbitration panel shall adopt the last offer of settlement which, in the opinion of the arbitration panel, more nearly complies with the applicable factors prescribed in section 9. The findings, opinions and order as to all other issues shall be based upon the applicable factors prescribed in section 9.

Section 8 of Act 312 provides for a decision of the Arbitration Panel "as to each economic issue" separately. Thus, the Panel must adopt the last best offer of one party on a particular economic issue. The Panel is not so bound as to the non-economic issues, but may render a

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decision on each of the issues which differs from the last offer made by either party. The parties have agreed that the contract which results from this proceeding shall be of five year's duration (July 1, 1992 through June 30,, 1997). Accordingly, Article XXV, Sections 1 and 2 shall be amended as follows:

Section 1 - Duration

This Agreement shall be effective the first (1st) day of July, ~~1989~~ 1992 and shall remain in full force and effect to and including June 30, ~~1992~~ 1997.

Section 2 - Future Negotiations

The parties agree that, commencing not later than February 1, ~~1992~~ 1997, they will undertake negotiations for a new Agreement for a succeeding period.

The parties have agreed that with respect to the issue of wages, each year shall be treated separately for purposes of last offers. The last best offers were submitted on that basis. Therefore, the Panel may adopt the last offer of one party on the issue of wages for one or more years of the contract, and the last offer of the other party for the remaining year(s).

Other than those at issue here, all other provisions of the July 1, 1989, to June 30, 1982, collective bargaining agreement shall be carried forward into the successor agreement unchanged. All pertinent dates will be changed to reflect that the successor collective bargaining agreement shall expire June 30, 1997.

The arbitration panel derives its authority from Act 312, which was enacted by the Michigan Legislature in

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recognition of the fact that where police and fire fighters are denied the right to strike by law, it is requisite to the high morale and efficient operation of such departments that an alternative, expeditious and binding procedure for the resolution of disputes be instituted as the guid pro quo for strikes or other job action by public safety employees [MCLA 423.231; MSA 17.344(31)].

As provided by Act 312, the Arbitration Panel is comprised of a delegate chosen by each party to the dispute, and an impartial chairperson, selected by the parties or by the Michigan Employment Relations Commission. The instant Panel is comprised of Chairperson Stanley T. Dobry, Joseph Fremont, panel member selected by the City of Alpena, and Arnold Domke, panel member selected by the Union. Hearings were held in this matter on the following dates:

September 21-24, 1993
October 12-15, 1993
October 26-28, 1993
February 21-23, 1994

As Act 312 is an extension of the bargaining process, it is the objective of the Panel to reach a resolution of the dispute which, in its opinion, would most nearly parallel an agreement that might have resulted had a voluntary settlement occurred.

Act 312 provides the Panel with the criteria upon which to make such an award. Section 9 of Act 312 requires the Arbitration Panel to consider a number of criteria in arriving at its findings, as follows:

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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, and wage rates or other conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions and order upon the following factors, as applicable:

- (a) The lawful authority of the employer.
- (b) Stipulations of the parties.
- (c) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.
- (d) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:
 - (i) In public employment in comparable communities.
 - (ii) In private employment in comparable communities.
- (e) The average consumer prices for foods and services, commonly known as the cost of living.
- (f) The overall compensation presently received by the employees including direct wage compensation, vacations, holidays and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- (g) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- (h) 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 through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

Although the following determinations are not necessarily the only solutions to the problems confronting the parties, the Panel is convinced they are closest in conformity with the terms of the statute. The Panel has reviewed each of the statutory criteria as they apply to the

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respective issues, and concludes that those criteria upon
this record, virtually command these determinations.

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Long Distance Transport - Article VIII, Hours of Employment,
New Section 3

The City's last offer is to add contract language to accommodate an expansion in the current emergency medical services performed by the fire department to include long distance transport operations. The last offer of the Union is to make no additional demands upon their bargaining unit in terms of additional emergency medical services.

The City argues that it currently provides county-wide ambulance service and long distance transports would expand the service and benefit the community. The Union presented evidence which detailed the time required on a long distance transport, which would require that the unit and personnel involved to be unavailable for use. While the Panel recognizes the additional responsibilities this service would place on the members of the bargaining unit, the Panel also recognizes the import of this service to the tax payers, and the benefit to the community. A majority of the Panel finds that the City's offer is supported by the applicable Section 9 criteria.

Decision: The last offer of the City is awarded.

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No layoff Clause - Article XI, Seniority, New Section 5

The City has offered layoff protection to all members of the fire fighter bargaining unit as long as the City continues to maintain an ambulance service. The Union prefers no such amendment be made to the agreement between the parties.

The Union is fearful of any provision specifying layoff. However, in light of the fact that the no layoff provision gives some protection to the bargaining unit, its fears are not well-founded.

The Panel believes the proposal of the City is reasonable and provides some additional measure of protection to the bargaining unit. A majority of the Panel finds that the City's offer is supported by the applicable Section 9 criteria.

Decision: The last offer of the City is awarded.

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Insurance - Article XIV, Section 1 and Schedule.B

The City has proposed to modify Article XIV, Section 1, to require that all employee's pay for any health insurance premium expense in excess of 10% over the previous year, the City's premium expense would not only be limited to 10% over the previous year, but also to provide paid premium coverage for only the employee's status in July 1994. In other words, if the employee has single person coverage on July 1994, marries and has children thereafter, that employee would only have premium coverage for single person coverage. Finally, the City's last offer would establish a health care committee which would be empowered with amending the health insurance plan coverage.

The City's last offer finds little support among the comparables. In addition, the other Act 312 and clerical units and the non-union management personnel in the City are not currently required to pay for health insurance premiums, nor has any health care committee been formed in the City with the ability to amend health insurance coverage.

The Union opposes the concept that premium expense should, in part, be borne by its membership. The Union has doubts that the Committee proposed by the City can legally amend health insurance coverage when such coverage is clearly a mandatory subject of bargaining. Finally, the Union cannot understand the City's proposal of placing the burden of health insurance premium increases upon its

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membership when there was a decrease for 2 person coverage and less than 2% increase for single and family coverage in premium expense for the current year over the previous year.

Even though the Union does not agree that there is a health insurance expense crisis in Alpena, it has offered to assist in reducing the City's premium expense by increasing the employee co-pay for prescription drugs from \$3.00 to \$5.00 per prescription effective July 1, 1994. The Union argues that its offer is more than generous, as most other employees pay only a \$2.00 co-pay for prescription drugs. The majority of the Panel recognizes that health insurance costs have increased substantially in recent years and appreciates the City's concern. There is, however, currently little support among the comparables for the City's proposal. The Union has offered some relief and it shall be awarded.

Decision: The Union's last offer to increase the prescription drug co-pay to \$5.00 effective July 1, 1994 is awarded.

Annuity Factor - Article XV, Retirement Plan, Section 1

The last offer of the Union would provide that the annuity factor (or multiplier) be increased from 2.1% for the first 25 years and 2% thereafter to 2.4% per year of service. The City offers 2.25% per year of service. Both offers have an effective date of July 1, 1992.

Most pension plans, like that presented here, are defined benefit pension plans. The pension "multiplier" affects the total retirement benefit level. Both parties offer an improvement in the multiplier in the pension plan. The Union's last offer of 2.4% would provide for a greater percent of FAC after 25 years of service. It would also increase the pension after 30 years to a percent of FAC greater than most communities. On the other hand, the 2.25% multiplier, offered by the City also yields a pension improvement at 25 and 30 years. A majority of the Panel finds that the 2.25% multiplier is supported by the applicable Section 9 criteria.

Decision: The last offer of the City is adopted increasing the multiplier to 2.25% for all years, or fraction of a year, of service, effective July 1, 1992.

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Employee Pension Contribution - Article XV, Retirement Plan,
New Section 2

Fire Fighters in Alpena currently contribute 7% of their earnings to the pension system. The last offer of the Union would reduce the employee contribution slightly each year so that by the end of the collective bargaining agreement, fire fighters would contribute 3.5% of their earnings. The City's last offer maintains the current contribution requirements.

The Union argues that the external comparables support a reduction in employee pension contribution. In addition, the Union points to the employer contribution rate to the pension system. In 1992, the City of Alpena had to contribute only 4.91% - less than the amount fire fighters are required to contribute - because the pension system is currently funded in excess of 125%. Finally, the Union notes that police patrol and command employees pay 3% of the first \$4,800, of earnings and 5% of annual compensation in excess of \$4,800, but only until vested. After vesting, the contribution rate is 3.15%.

In light of the record, a reduction in employee pension contribution is warranted.

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Decision: The Union's last offer is adopted, reducing the
employee contribution as follows:

Effective upon the date of this award:	6%
Effective July 1, 1995:	5%
Effective July 1, 1996:	4%
Effective June 30, 1997:	3.5%

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Annuity Withdrawal - Article XV, Retirement Plan, New
Section 3

The last offer of the Union provides that, effective July 1, 1993, employees may withdraw their contributions to the pension plan in a lump sum at retirement. The City's offer maintains the status quo.

In support of its offer, the Union looks to the other Act 312 units in the City. Both police patrol and command employees are permitted to withdraw their contributions upon retirement, even though Police employees contribute less than one-half what fire employees contribute to the pension system.

Because this option is available to other members of the pension plan, it is appropriate that the option be available to members of this bargaining unit.

Decision: The last offer of the Union is awarded.

Manpower, Article XXII

The expired collective bargaining agreement between the parties requires that a minimum of seven (7) fire fighters per shift be maintained. The last offer of the City is to reduce that number to six (6) per shift, as long as the City continues to maintain an ambulance service and four (4) per shift in the event the City no longer provides an ambulance service. In either scenario, the City will maintain four (4) full time fire fighters on duty within the City and able to respond to calls. The Union insists that the status quo be maintained.

The Union argues the current staffing level is already inadequate to safely provide fire suppression to the City and City/County emergency medical services -- that any further reduction would present greater risks to the fire fighters on duty. Further, the Union urges that their responsibilities at each fire, and particularly each medical emergency scene have steadily increased. The City argues that while total fire and EMS responses remain relatively constant in the last ten years, expenditures for the fire and ambulance services have increased each year - even deducting revenues from the ambulance service. Finally, the City argues that its last offer provides adequate fire protection. A panel majority holds the City's offer is supported by the applicable Section 9 criteria.

Decision: The last offer of the City is awarded.

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Residency - New Article

The Union proposes to add new language to the collective bargaining agreement which would permit members of its bargaining unit to live outside the City limits of the City of Alpena but within a fifteen mile radius of the fire station and within the county limits. The last offer of the City is to maintain the status quo.

The Union argued that it seems unreasonable that, while charged with the responsibility of going outside City limits to provide emergency medical services to all residents of the county, fire fighters not be allowed to live in that same geographical area.

The City strenuously argued its need for a readily available fire suppression and emergency medical staff to respond to call backs to duty. The Union met this argument by limiting residence to within 15 miles of the station so that fire department employees would be readily able to respond. The Union's request seems particularly reasonable in light of the City's last offer regarding auxiliaries and the parties' settlement of the grievance arbitration and unfair labor practice charge regarding the carrying of pagers.

Decision: The last offer of the Union permitting residency within 15 miles of the station and within the county is awarded.

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Auxiliaries - New Article XXV and New Schedule C

The City proposes the implementation of a system of auxiliary or volunteer personnel to supplement the current full time bargaining unit. The Union vehemently opposes the modification of fire and emergency medical service delivery.

In support of its last offer, the City points to its recognition that the full time fire fighters need assistance and argues that auxiliaries can provide the requisite support at the fire scene. The I.A.F.F. argues that auxiliary personnel would erode their bargaining unit through the performance of work that has historically been carried out by full time personnel only. In addition, the fire fighters fear that auxiliary personnel would endanger their safety -- full time fire fighters would have no reasonable knowledge of the training and experience of auxiliary personnel, nor would they have an established "buddy system" to rely upon.

The City's last offer of settlement resolves the objections. The last offer of the City specifies minimum training standards and calls for the establishment of a committee of fire department employees to develop the standards of auxiliary personnel. Further, the call-in of auxiliary personnel is limited by shift assignment. An award permitting the City to utilize auxiliary personnel is appropriate. In addition, the rights of the bargaining unit are afforded some protection due to their involvement in

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establishing standards and in the schedule for call in of personnel. A majority of the Panel finds that the City's offer is supported by the applicable Section 9 criteria.

Decision: The last offer of the City is awarded.

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Joint Labor Management Committee - New Article

The Union's last offer requires the establishment of a committee to address matters of import between the parties as they arise. The last offer of the City is to maintain the status quo. A joint committee may assist the parties in addressing

significant issues. The City does not oppose the concept but indicates that such discussions may currently be undertaken, albeit on an informal basis. Since both parties agree with the concept, it appears that a more formal procedure is appropriate.

Decision: The last offer of the Union is awarded.

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Useful Work, Pre-Fire Planning - New Article

The City proposes that members of the bargaining unit shall participate in pre-fire planning. The City argues that the performance of pre-fire planning duties is a common responsibility of the fire suppression personnel amongst the comparables. Both parties recognized the importance of the knowledge obtained from pre-fire planning in terms of advance awareness of the site and the contents normally attributable to the site. A majority of the Panel finds that the City's offer is supported by the applicable Section 9 criteria.

Decision: The last offer of the City is awarded.

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Wages - Schedule A, Section 1

The parties are in agreement that each wage year is to be considered as a separate issue for purposes of last best offers. The parties have stipulated to a contract duration of five (5) years - from July 1, 1992 through June 30, 1997. Each party submitted last offers in the form of across-the-board percentage wage increases for each year of the agreement as follows:

	<u>Union</u>	<u>City</u>
Effective 7-1-92:	4%	3%
Effective 7-1-93:	4.5%	3%
Effective 7-1-94:	4.5%	3%
Effective 7-1-95:	4%	3%
Effective 7-1-96:	4%	3%

In support of its last offers regarding wages, the Union relies on the maintenance of its ranking among the comparables. In addition, the police patrol received, through the Act 312 award of Arbitrator Gordon Knight, wage increases for the first three years of the agreement at issue here. Police patrol members were awarded the following:

Effective 7-1-92:	3%
Effective 7-1-93:	4.5%
Effective 7-1-94:	4.5%

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For the contract years beginning July 1, 1995 and July 1, 1996, there are no contract settlements from which to garner support for either last offer. However, a review of wage increases freely negotiated between the parties in the past warrants increases of 3% in each of those years.

Decision: The last offer of the City is adopted for contract years beginning July 1, 1992, July 1, 1995, and July 1, 1996 and the last offer of the Union is adopted for contract years beginning July 1, 1993 and July 1, 1994 for the following across-the-board increases:

Effective 7-1-92:	3%
Effective 7-1-93:	4.5%
Effective 7-1-94:	4.5%
Effective 7-1-95:	3%
Effective 7-1-96:	3%

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EMT Pay - Schedule A, Section 4

The Union has proposed that, effective July 1, 1993, fire fighters who maintain emergency medical state certification shall receive an annual bonus - \$250 for Basic EMT, \$450 for EMT Specialist and \$900 for Paramedic or Advanced. The City wishes to maintain the status quo - no annual bonus for EMS certifications.


At hearing, extensive testimony and exhibits were presented regarding the complexities and hazards of providing emergency medical services. It was argued that these increased as training and certification levels increased. The emergency medical service provided by the City of Alpena fire fighters has expanded in recent months and years. The responsibility of providing emergency medical response to both the City and County is clearly taken very seriously by both the City and the fire fighters. In light of the Panel's award of the City's last offer regarding long distance transport, the Union's last offer of an annual EMT bonus is justified. A majority of the Panel finds that the Union's last offer is supported by the applicable Section 9 criteria.

Decision: The last offer of the Union is awarded. Effective 7-1-93, an annual bonus will be provided to fire fighters who maintain EMS certifications of Basic, Specialist or Paramedic.

CONCLUSION AND AWARD

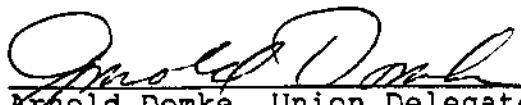
For all the above reasons, the Panel hereby awards the provisions aforesaid and adopts this statement as its complete award. Each of the rulings set forth in this Opinion is supported by a majority decision of the Panel. Union Delegate Domke concurs in the awards on those issues in which the Union's final offer were adopted. Union Delegate Domke dissents in the awards on those issues in which the City's final offers were adopted. City Delegate Fremont concurs in the awards on those issues in which the City's final offers were adopted. City Delegate Fremont dissents in the awards on those issues in which the Union's final offers were adopted. This matter is returned to the parties for the drafting of a collective bargaining agreement in accordance with these determinations.

The panel retains no further jurisdiction.



Stanley T. Dobry, Chair

For the Union:



Arnold Domke, Union Delegate

For the City:



Joseph Fremont, City Delegate

Dated: May 4, 1994