

## THE MATTER OF ARBITRATION BETWEEN

City of Ely, Minnesota	)	BMS Case No. 11PN1163
	)	
“Employer”	)	Issue: Interest Arbitration
	)	
and	)	Hearing Date: 09-20-20112
	)	
	)	Brief Submission Date: 10-19-2012
	)	
Law Enforcement Labor Services Inc.	)	Award Date: 11-19-2012
Local # 55	)	
	)	
“Union”	)	Anthony R. Orman,
	)	Arbitrator
	)	

---

### **JURISDICTION**

The hearing in this matter was held on September 20, 2012, in Ely, Minnesota. The parties appeared through their designated representatives. Both parties were afforded a full and fair opportunity to present their case. Exhibits were introduced into the record. The parties stated the issues as certified by the Minnesota Bureau of Mediation Service were properly before the Arbitrator. The parties submitted their statement of the issues and final positions. Post-hearing briefs were submitted on or before October 19, 2012, and thereafter the matter was taken under advisement.

### **APPEARANCES**

#### **For the Union:**

Kim Sobieck            Business Agent

Dennis Koponen      Stewart

**For the Employer:**

Kelly Klun	Attorney
Roger J. Skraba	Mayor
Terry Lowell	City Clerk/Treasurer
Warren Nikkola	Council Member
Heidi Omerza	Council Member

**I. BACKGROUND AND FACTS**

On April 26, 2012, the Minnesota Bureau of Mediation Services (here in after referred to as BMS) received a written request from Law Enforcement Labor Services Inc., Local 55, (here in after referred to as the Union) to submit contract negotiations in the above-entitled matter to conventional interest arbitration.

On April 30, 2012 the BMS notified the Union and Isanti County (here in after referred to as the Employer) of a REQUEST FOR FINAL POSITIONS and CERTIFICATION TO ARBITRATION.

The issues certified were:

1. Duration – Duration of Contract – Art. 26
2. Wages – Wage Adjustment 2011 – Art. 23
3. Wages – Wage Adjustment 2012 – Art. 23
4. Vacation –Timing/Accrual of Vacation – Art. 15
5. Health – Health Insurance Adjustment, if any, 2012 – Art. 20
6. Health – HAS/HRA Adjustments, if any, 2012 – Art 20

7. Residency – Should or Shouldn't Current Employees Be Subject to the City's Recently Adopted Residency Requirement - New

The parties were instructed to submit their final positions no later than May 15, 2012 to the BMS. In the April 30, 2012 letter from the BMS it stated:

The failure of a party to submit timely final positions in a conventional arbitration matter shall be noted by the arbitrator(s) and **may be considered by the arbitrator(s) in weighing the testimony** (emphasis added), evidence, and overall good faith behavior of that party with respect to the issues in dispute.

The BMS further stated:

If issue was pursued by either party during the mediation process and remains unresolved at the time of certification, it will be listed as an issue in dispute. The Bureau does not make legal arbitrability determinations in the listing of issues. **Questions of arbitrability are determined by the arbitrator** (emphasis added).

On June 29, 2012 the BMS informed Arbitrator Orman that he been selected by the parties to arbitrate the above-entitled matter. Included in the letter were the April 30, 2012 letter to the parties from the BMS and the final positions of the Union. At the arbitration hearing the Arbitrator was given the final positions of the Employer. The Arbitrator was informed the final position of the Employer had been delayed due a death of the Mediator assigned to the parties. The final positions of the Employer were accepted without question.

After several communications by electronic mail a hearing date was set for September 20, 2012 at the Ely City Hall in Ely, Minnesota.

## II. THE ISSUES

### A. Duration – Duration of Contract – Art. 26

- a. Union Position: The duration should be two years, 2011-2012
- b. Employer Position: the City's position with regard to duration is a 3 year contract. The contract term would be January 1, 20 11 through December 31, 2013
- c. Arbitrator discussion and decision:

The Union makes a strong argument the Employer's final position to the BMS was flawed and therefore the Arbitrator should take notice and rule in favor of the Union on several issues including a two year agreement retroactivity to January 1, 2012. It is imperative to the following decisions and awards the Arbitrator clarify this issue. The Commissioner certified duration as an issue in this arbitration to be determined by the Arbitrator. It is clear to the Arbitrator that he has the authority to both determine contract duration of three years, and if he does, determine how that year will be affected by the other issue certified by the Commissioner. The Arbitrator is well aware the final positions submitted by the Employer were late, but he accepts them as the final positions of the Employer. Changing positions during arbitration is welcomed by many Arbitrators as long as the change is positive and not regressive in attempting to reach a solution.

Arbitrators consider several factors in analyzing duration issues, including efficiency, stability of labor relations, historical patterns of negotiation, and internal patterns.

A strong internal pattern for contract duration does not exist. Only two of the five bargaining units have settled.

Since its inception, 75% of the contracts for this bargaining unit have been two year contracts.

The Employer argues its position for a three year contract based on the three adverse perspectives:

For the past decade, internal patterns indicate that the bargaining agreement duration between the City and the Union is consistently 3 years. The City of Ely and AFSCME recently agreed to a 3 year contract beginning January 1, 2011 through December 31, 2013, this is the same duration term requested by the City in this arbitration (Employer Exhibit 11). The contract term of 3 years is consistent with the duration trend of contracts in the past decade. (Union Exhibit 6).

There is an internal pattern which indicated that duration terms for LELS and AFSCME are generally identical. Furthermore, recent trends show that LELS's durations are identical to that of the AFSCME bargaining units.

Both parties agree that if the Arbitrator awards a contract duration period of two years the parties will immediately be back into negotiations after an already prolonged period of negotiations to reach the impasse which is before this Arbitrator.

After reviewing the evidence and the briefs the Arbitrator is more persuaded by the Employer's arguments. The Union stated 75% of the contracts have had two year periods, but to get to that percentage the Union used the historical period of inception of the bargaining unit back to 1980-

81. It is very unlikely any Arbitrator would go back more than 10 years in most cases for purposes of relevance. The facts the last 3 out of 4 contracts were three years is much more relevant. In addition, the fact that the LELS and AFSCME contract periods are almost mirror images and AFSCME agreed to a three year contract is compelling. Lastly, the Employer's need for stability in the coming year is supported by its testimony concerning finances, an unknown political climate at the state level and proper staffing needs.

Therefore the Arbitrator decision based on discussion above is for a three year duration beginning January 1, 2011 through December 31, 2013.

**B. Wages – Wage Adjustment 2011 – Art. 23**

- a. Union Position: The general wage adjustment should be 1%, effective January 1, 2011.
- b. Employer Position: The Employer makes no proposal for a wage increase.
- c. Arbitrator discussion and decision:

The Union argues the Employer took no position as to 2011 wage increase.

The Union's position should be awarded because the requested pay increase will not affect the Employer's compliance with the Pay Equity Act.

With the exception of 2010, the Union has received a general wage increase every year since 1980. Furthermore, the average increase over the last five years is 2.7%.

The Union's positions for general wage increases in 2011 are supported by the historic wage increase patterns for this bargaining unit. A strong pattern for general wage increases does not exist for 2011. Only two of the five Employer bargaining units have settled contracts for 2011 and beyond. This is particularly significant because every employee of the Employer, except the Clerk-Treasurer, is a member of a bargaining unit. The two settled contracts are AFSCME units with 0% in 2011. The Employer does not provide identical benefits amongst the bargaining units.

Because the Employer does not provide identical benefits, no compelling reason exists to follow the AFSCME wage increases for 2011. The external comparable average does not support a 0% increase in 2011. Two of the six external comparable cities provided general wage increases to their employees in 2011: Eveleth provided 1% and Hibbing provided 2%. The average general wage increase among the six cities is ½%. The Employer's proposal of 0% is below the external comparable average for 2011. The Union has been historically towards the top of its ranking, and also above the average wage for its external comparables. In 2010, the Union was 2.3% above the average. Under the Employer's 2011 and 2012 proposals, the Employer's above average percentage drops to 1.7% and 1.4%.

The Union's wage increase proposals should be awarded to ensure the wages of the bargaining unit maintain pace with increases in the cost of living.

The Employer argues for a 0% increase for 2011. The wages proposed by the City are consistent with internal patterns. The City has a historical pattern of providing identical wage increase across all bargaining units. In 2010, 3 of 4 bargaining units agreed to a wage freeze including LELS. (Union Exhibit 10-1)

External comparisons should be used to ascertain whether the involved bargaining unit is substantially underpaid to warrant a deviation from the internal wage pattern.

For 2011, a 0% increase is comparable to other cities in the region. The Union and City stipulated that St. Louis and Lake Counties are not valid comparisons. The Union and City stipulated that Chisholm, Eveleth, Gilbert, Hibbing, Two Harbors, and Virginia are acceptable comparable Cities. In 2011, 4 of the 6 comparable Cities bargained a wage freeze or 0% in wages. Therefore, a majority of the comparable Cities agreed to wages identical to the position of the City with regard to the calendar year of 2011.

The current wages of Ely's Officers are competitive when comparable with external comparisons and, in fact, wages are higher than average. Furthermore, if the City's position is accepted, the relative wage standing of our Officers when compared with other Cities' Officers will remain unchanged.

The economic downturn of the last four years is a significant

consideration in the City's overall financial situation, and in terms of its ability to pay wage increases and health care benefits. The Union's position with regard to wages and benefits creates an undue burden on the City. In light of the following, the City is unable to meet the demands of the Union:

The Minnesota Department of Management and Budget forecasts a State budget deficit of about \$5 billion for the 2014-2015 bienniums.

The City of Ely relies on Local Government Aid to fund approximately 1/2 of its general fund. Since 2008, the City has lost over \$565,602.00 in LGA through unallotments and reductions. (Employer Exhibit 25)

In 2011, there was a 16% decrease in the Taxable Market Value of the City of Ely. (Employer Exhibit 26). The City attempted to maintain its revenue from real estate levies by increasing the property tax levy by approximately 14%. (Employer testimony of Clerk-Treasurer Terry Lowell).

In reviewing the arguments of both parties the Arbitrator is again persuaded more by the Employer's arguments because of the supporting arguments of the Union. Clearly the Union has done well as evidenced by the Union's own statements that its member's are paid above average in comparison to the agreed to external comparables and have received average wage increases of 2.7% since 1980 except for 2010. The Employer does point out that all of the internal bargaining units and four of the six external comparable bargaining units have taken 0% increase for the year 2011. The Employer has made a strong argument about its ability to pay while maintaining a budget that did not result in any layoffs.

Therefore the Arbitrator decision based on the discussion above is for a 0% wage increase from January 1, 2011 through December 31, 2011.

**C. Wages – Wage Adjustment 2012 – Art. 23**

- a. Union Position: The general wage adjustment should be 1.5% effective January 1, 2012, and 1.5% effective July 1, 2012.
- b. Employer Position: The general wage adjustment should be 1%, effective March 1, 2012. In light of an AFSCME settlement, the Employer's position with regard to 2012 wages changed from when the Employer issued its final position to BMS. This position is identical to the final contract language between the Employer and AFSCME.
- c. Arbitrator discussion and decision:

Much of the argument by the parties as to their positions has already been discussed in the prior issue. The Arbitrator will seek not to revisit those issues except as to how they differ in this discussion and award.

The Union argues the Employer's proposal of 1% general wage increase for 2012 is also below the external average. The 2012 external comparable average is 1.4%.

The Union's proposals of 1% in 2011 and 1.5% in January and in July 2012 are necessary to maintain the Union in its #2 ranking. The Union has been historically towards the top of its ranking, and also above the average wage for its external comparables.

An analysis of the CPI indicates that the cost of living has risen. The CPI supports the Union's proposals for general wage increases. For the first half of 2012, the CPI-U was 2.3. The Union's proposals of 1% in 2011 and 1.5% in January and July 2012 do not equal the CPI-U; however, the general wage increases will help.

Additionally, the average weekly wage rose in the Arrowhead region (excluding Duluth) for state and local government workers. From 2010 to 2011, the wage rose 2.1% for local government workers. The most recent data show that a seven percent increase between the weekly wages for the first quarter of 2011 compared to the same time period in 2012.

Halfway through the arbitration hearing, the City decided to introduce a new issue. The City proposed that the effective date for any 2012 general wage increase be the date of the arbitration award. Given that the City (1) filed its final positions over a month late; (2) filed its final positions in a format not sanctioned by the Bureau of Mediation Services; (3) filed its final positions by emailing them to the mediator, instead of the Commissioner, thereby further delaying communication of positions; (4) included issues that were not certified; and (5) now seeks to add a new, uncertified issue in the MIDDLE of arbitration, the Union objects. More importantly, the Arbitrator is restricted from issuing an order regarding issues that were not properly certified. PELRA provides:

[T]he arbitrator or panel has no jurisdiction or authority to entertain any matter or issue that is not a term and

condition of employment, unless the matter or issue was included in the employer's final position. Any decision or part of a decision issued which determines a matter or issue which is not a term or condition of employment and was not included in the employer's final position is void and of no effect.

Minn. Stat. Sec. 179A.16, subd. 5.

It is undisputed that the effective date of the 2012 wage increase is a term and condition of employment. It is also undisputed that the effective date of the 2012 wage increase was not certified, or included in the City's final positions. Therefore, the Arbitrator has no jurisdiction to entertain the effective date of the 2012 wage increase.

A strong internal pattern for wages is absent. However, the bargaining unit's historical pattern, external comparables, and economic factors support the Union's wage proposals for 2011 and 2012.

The Employer argues for 2012, a 1% increase is comparable to other cities in the region. (Union Exhibit 11)

The City's 1% increase position in 2012 is essentially similar to the average position of cities in the area. Some comparable Cities did agree to a 2% increase, however, others agreed to a 0% and 1%, respectfully. The City's position is comparable.

The City believes that its position will further the goals and objectives of the Pay Equity Act in light of the internal consistency requested by the City. The bargaining unit is comprised solely of males. In light of AFSCME's bargaining agreement, the Arbitrator should find that a similar wage scale will promote, rather than, hinder the City's compliance with the Pay Equity Act.

The Union's position with regard to wage increases is not required to keep the unit in relative pace with CPI. The Union submitted data relative to the 2011 and 2012 CPI and argued that this wage increase position is justified to avoid wage erosion. However, despite the negative 2009 CPI, the bargaining unit still received a general increase of 2.5% as indicated in Union Exhibit 9-1. Therefore, over the past 4 years, this unit has kept relative pace with the CPI.

The Union appears to create a question as to the Arbitrator's authority to establish an effective date for a wage adjustment other than the one the Union has proposed. The Union has quoted PELRA, pointed out the lateness of the Employer to file its final position and then during the hearing to change its position to which the Union objects. The Commissioner certified the issue as Wages – Wage Adjustment, if any, 2012 – Art. 23. It is up to the Arbitrator to fashion a remedy based on the evidence and testimony of the parties that would be most like an agreement the parties would have reached themselves. This could include both setting an implementation date for a wage increase and the percentage.

For this issue the Arbitrator believes the Union's general arguments are the most pervasive, but the Arbitrator is still concerned with the Employer's claim about the ability to pay.

It is the external comparisons rather than the internal comparisons the Arbitrator believes are the most relevant in deciding this issue. Half of the external comparables provided a 2% increase in wages, while two more

provided a 1.5% increase in wages for 2012. The Arbitrator believes it is important for both the Union and the Employer to maintain the relative wage relationships with the external comparisons to maintain stability in the work force.

The Internal comparisons are less important because only two of the five bargaining units had settled.

The Union has made a good argument concerning pay equity that its proposal would not adversely affect balance of equity. The Union used the same software used by the State of Minnesota to calculate the outcome and this was not refuted by any evidence presented by the Employer.

What the Union did not do was to counteract the argument by the Employer about its ability to pay. This issue still concerns the Arbitrator. To resolve this question the Arbitrator goes back the first final position submitted to the BMS of an initial offer of 1% for 2012 by the Employer. The fact that the Employer attempted to change its position and move away from an amount that was more likely to gain settlement with the Union is not lost on the Arbitrator. Again, the Arbitrator states it is the Arbitrator's purpose to create a settlement that the parties would most likely negotiate themselves. Although the change in offer does not unduly affect Arbitrator's decision the change was made not because the Employer did not have the ability to pay, but because of the Employer's desire to have uniform settlements between the bargaining units. The Employer provided the evidence it has the ability to pay 1% in 2012.

Therefore the Arbitrator decision based on the discussion above is for a 2% increase effective on the first pay period following July 1, 2012 retroactive.

**D. Wages – Wage Adjustment 2013 – Art. 23**

- a. Union Position: Because it is undisputed that by the time the arbitration award is issued, the parties will need to negotiate a 2013 contract, during the hearing, the Union agreed to the 2% general wage increase for 2013.
- b. Employer Position: January 3, 2013- 2%
- c. Arbitrator discussion and decision:

The parties were in agreement with the wage rate at the hearing. Therefore the Arbitrator's decision based on the discussion above is for a 2% increase effective on the first pay period following January 1, 2013.

**E. Vacation –Timing/Accrual of Vacation – Art. 15**

- a. Union Position: The current past practice of “front loading” shall continue? (New) Section 7. All annual vacation time shall be credited on January 1<sup>st</sup> of each year. Employees, who leave employment prior to the end of the calendar year, shall have their annual vacation time prorated.
- b. Employer Position: Vacation shall be credited upon the employee's first anniversary date with the City. Thereafter, vacation shall be prorated and accrued per pay period in accordance with Article 15, Section 1.
- c. Arbitrator discussion and decision:

Both the Union and the Employer agreed that a problem exists in the vacation benefit area. An employee who resigns or retires may receive unearned vacation due to vacation being awarded on an annual basis.

During the hearing the Union wanted to continue of the Employer's past practice of "front-loading" vacation, with the expressed provision of prorating vacation for employees who leave the City before the end of a calendar year. The position of the Employer in the final positions to the BMS stated, "The City's position is that of the previous contract, we propose no change to the contract language." During the hearing the Employer advanced a new position, "Vacation shall be credited upon the employee's first anniversary date. Thereafter, vacation shall be prorated and accrued per pay period as established in Article 15, Section 1.

Although the Arbitrator sees the logic of the Employer's proposal for administrative purposes and is familiar with many other contracts with this type of system there are several other factors that are missing that would need to be addressed. Examples would be how many days should employees be able to carry over and how would we make sure no current employees would not be injured. The Arbitrator has very little evidence to go on and this issue is better resolved long term at the negotiations table.

The Arbitrator is convinced the Union recognizes the problem and has offered a workable solution in its final position to the BMS. In this instance due to the long past practices concerning the vacation benefit the

Arbitrator is convinced the best solution is one that does the least amount of harm.

Therefore the Arbitrator's decision based on the discussion above is for the Union's proposed language effective January 1, 2013.

**F. Health – Health Insurance Adjustment, if any, 2012 – Art. 20**

- a. Union Position: For 2012 Employees on the HealthPartners Choice 300-25 or \$2500/80% Plans shall make monthly contributions to health care premiums as follows: \$25 for each employee who elects single coverage under the group health plan. \$50 for each employee who elects family coverage under the group health plan.
- b. Employer Position: For 2012 & 2013 Employees on the HealthPartners Choice 300-25 or \$2500/80% Plans shall make monthly contributions to health care premiums as follows: \$45 for each employee who elects single coverage under the group health plan. \$90 for each employee who elects family coverage under the group health plan. \*\*In light of an AFSCME settlement, the City's position with regard to 2012 & 2013 premium contributions changed from when the City issued its final position to BMS. This position is identical to the final contract language between the City and AFSCME.
- c. Arbitrator discussion and decision:

Due to the complexity of this issue and the changes of positions of the parties in the hearing the Arbitrator has elected to show the final positions of the parties using the Employer's descriptions from its brief. Simply put the Union proposed a \$25/\$50 in premiums toward the cost while the Employer wants \$45/\$90. This issue is simply the Employer wanting to shift costs to the labor side of the equation. How much should it be? Here the Arbitrator is more influenced by the Employer's arguments both internal and external. The internal argument is the Employer already has an agreement with one of the largest bargaining unit in the city for the Employer's position. As to the external argument the Employer provides evidence that most, if not all, of the external comparison cities' employees pay about 10% of insurance premiums. The Employer states that the proposed premium would still be less than 10% of current cost of premium. The Employer sites its inability to pay 100% of the premium due to the increased costs of insurance in the future even though it did in the past even when it was not required. This is recognized by the Union through testimony and in its brief.

Therefore the Arbitrator's decision based on the discussion above is for the Employer's proposed premium contribution of \$45/\$90 effective January 1, 2013.

**G. Health – HAS/HRA Adjustments, if any, 2012 – Art 20:**

- a. Union Position: Employer Contributions under HealthPartners Choice

300-25 Plan. 2012- Employer shall make HRA contributions as follows:

\$900.00- Family annual contribution or \$75 per month

\$300.00 Single annual contribution or \$25.00 per month

2013-Employer shall make HRA contributions as follows:

\$900.00- Family annual contribution or \$75 per month

\$300.00 Single annual contribution or \$25.00 per month

b. Employer Position:

Employer Contributions under Health Partner Empower \$2,500/ 80% Plan.

2012-Employer shall make HSA contributions as follows:

\$4,000.00- Family annual contribution or \$333.33 per month

\$2,000.00- Single annual contribution or \$166.67 per month

2013-HSA contributions as follows

\$4,000.00- Family annual contribution or \$333.33 per month

\$2,000.00- Single annual contribution or \$166.67 per month

c. Arbitrator discussion and decision:

Again, as in the previous issue, the Arbitrator has used the comparisons from the Employer's brief so as try and simplify a very complex issue. The Arbitrator is more persuaded by the Employer's arguments for the reason stated in the previous issue and because the Union has received some of its requested benefit for a transition period by default. It was agreed by both parties in the hearing that retroactivity for

insurance was impractical and nearly impossible to calculate. The Union will receive several months of benefits not included in the AFSCME settlement for the deductibles. In the Arbitrator's opinion the internal comparisons are more relative to his decision than the externals. It is nearly impossible to compare insurance benefits between the communities without seeing the policies. Finally, for benefit of both the Union and the Employer, it is important to have a homogeneous group for future bidding to maintain stability for insurance premiums. Because awarding the Employer's position could create reservations by employees as to the plan they have chosen based on current rate the Arbitrator believes the Employer must offer a new window for selection of plans.

Therefore the Arbitrator's decision based on the discussion above is for the Employer's proposed premium contribution of \$4000/\$2000 effective January 1, 2013. The Employer is required to provide a period of open enrollment with proper notice of one week and a selection period of two weeks for employees in this bargaining unit to change health plans prior to implementation of insurance of premium or annual contribution rates.

**H. Residency – Should or Shouldn't Current Employees Be Subject to the City's Recently Adopted Residency Requirement - New**

- a. Union Position: During the hearing, the Arbitrator and parties discussed the issue. The parties understand that the Arbitrator will issue an award that provides for a new contractual provision, however, the residency

requirement will be “20 minutes driving time” and, regardless of the drive time, current employees will be “grandfathered in” at their current drive time.

- b. Employer Position: This issue was addressed at length in arbitration and it was stipulated that the parties will move to a response time standard in establishing residency requirements and that current officers will be grandfathered in as to their current address. However, the parties were unable to agree as to the proper timeframe to be utilized. The City requests that the response time standard be 20 minutes. The Arbitrator will render a decision on this issue and has advised that no further discussion or arguments need be given.

- c. Arbitrator discussion and decision:

After hearing the parties discuss the issue of residency the Arbitrator indicated to the parties he might not be able to rule due to State and Federal Laws concerning discrimination. As both parties were represented by legal counsel a discussion off of the record occurred which included a discussion about response times. After consultation with their constituents both parties agreed that the issue was not residence but response time and that 20 minutes under normal conditions was appropriate. Current employees who live outside of the 20 minute response time would be grand fathered under the contract until such time as they change residences. The new residence would have to be within the 20 minutes response time.

Therefore the Arbitrator's decision based on the discussion above is effective the date of this award. All new employees hired by the City of Ely shall be required to live within a 20 minute response time to their work assignment. Any current employee who lives outside of the 20 minute response time shall be grand fathered until such time as they obtain a new residence. The 20 minute response time shall be determined based on normal seasonal weather patterns and exclude extreme weather conditions.

### **III. RELEVANT CONTRACT PROVISIONS AND GOVERNING RULES**

#### **ARTICLE 26: AMENDMENTS OR TERMINATION**

The rules and regulations embodied in this Agreement shall become effective as of January 1, 2010 and continue in full force and effect until December 31, 2010 and thereafter unless the City or the Union shall give ninety (90) days written notice prior to the termination date of a desire to amend aid rules or regulations.

#### **ARTICLE 20: HEALTH AND WELFARE PLAN**

**Section 1.** All regular employees shall be covered under:

**Employer Contributions under Health Partner Choice 300-25 Plan.** The City will contribute 100% of the annual Health Partners Insurance Premium for all qualified bargaining unit members who work a minimum of 40 hours per week. Qualified bargaining unit members who work less than 40 hours per week will receive pro-rated premium and HRA contributions based on the hours worked. Additionally, the City will make a monthly contribution to the employee's HRA account of: \$25.00 (\$300 annual) for each qualified bargaining unit member who elects single coverage; and \$75.00 (\$900 annual) for family coverage.

**Employer Contributions under Health Partners Empower \$2500/80% Plan.** The City will contribute 100% of the annual Health Partners Insurance Premium for all qualified bargaining unit members who work a minimum of 40 hours per week. Qualified bargaining unit members who work less than 40 hours per week will receive pro-rated premium and HSA contributions based on the hours worked. Additionally, the City will make a monthly contribution to the employee's HSA account of: \$208.33 (\$2500 annual) for each qualified bargaining unit member who elects single coverage; and \$416.66 (\$5,000 annual) for family.

## **VII. AWARD**

For all the reasons set forth by the Arbitrator in the discussion the award is:

A. Duration – Duration of Contract – Art. 26

Three year duration beginning January 1, 2011 through December 31, 2013.

B. Wages – Wage Adjustment 2011 – Art. 23

0% wage increase from January 1, 2011 through December 31, 2011.

C. Wages – Wage Adjustment 2012 – Art. 23

2% increase effective on the first pay period following July 1, 2012 retroactive.

D. Wages – Wage Adjustment 2012 – Art. 23

2% increase effective on the first pay period following January 1, 2013.

E. Vacation – Timing/Accrual of Vacation – Art. 15

The Union's proposed language effective January 1, 2013.

Section 7. All annual vacation time shall be credited on January 1<sup>st</sup> of each year. Employees, who leave employment prior to the end of the calendar year, shall have their annual vacation time prorated.

F. Health – Health Insurance Adjustment, if any, 2012 – Art. 20

The Employer's proposed premium contribution of \$45 for each employee who elects single coverage under the group health plan and \$90 for each employee who elects family coverage under the group health plan effective January 1, 2013.

G. Health – HAS/HRA Adjustments, if any, 2012 – Art 20

The Employer's proposed premium contribution of \$4,000.00 Family annual contribution or \$333.33 per month and \$2,000.00 Single annual

contribution or \$166.67 per month effective January 1, 2013. The Employer is required to provide a period of open enrollment with proper notice of one week and a selection period of two weeks for employees in this bargaining unit to change health plans prior to implementation of insurance of premium or annual contribution rates.

H. Residency – Should or Shouldn't Current Employees Be Subject to the City's Recently Adopted Residency Requirement – New

Effective the date of this award all new employees in this bargaining unit hired by the City of Ely shall be required to live within a 20 minute response time to their work assignment. Any current employee who lives outside of the 20 minute response time shall be grand fathered until such time as they obtain a new residence. The 20 minute response time shall be determined based on normal seasonal weather patterns and exclude extreme weather conditions.

This award is final and binding and the undersigned retains jurisdiction over the case for the limited purpose of overseeing the intended implementation of this award,

Issued and ordered on this 19 day of November,  
2012 from Duluth, Minnesota.

---

Anthony R. Orman, Labor Arbitrator