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INTERIM ACT 312 AWARD OF THE ARBITRATION PANEL

Michigan Employment Relations Commission

Case No. D01 B-0202

In the Matter of the Act 312 Arbitration between

City of Detroit

- and -

Detroit Police Lieutenants and Sergeants Association

DATE OF MEDIATION: August 23, 2001

DATE OF ACT 312 PETITION: August 23, 2001

DATE OF IMPARTIAL ARBITRATOR APPOINTMENT: May 16, 2002

ARBITRATION PANEL:

Richard N. Block, Chair and Impartial Arbitrator

Mr. Brian S. Ahearn, Lacey & Jones, City of Detroit Delegate

Mr. John A. Lyons, John A. Lyons and Associates, Detroit Police Lieutenants and
Sergeants Association Delegate

APPEARANCES:

For City of Detroit

Mr. Kenneth S. Wilson, Abbott, Nicholson, Quilter, Esshaki &
Youngblood

Mr. Dallas G. Moon, Lacey & Jones

For Detroit Police Lieutenants and Sergeants Association

Mr. J. Douglas Korney, Korney & Heldt

BACKGROUND

The most recent master agreement between the City of Detroit (hereinafter the City or Employer) and the Detroit Police Lieutenants and Sergeants Association (hereinafter the Association or Union) expired on June 30, 2001. (Assoc. Ex. 23) On August 23, 2001, following negotiations and mediation, the Association filed a petition for Act 312 arbitration. The City filed an answer on August 31, 2001.

On May 16, 2002, the Michigan Employment Relations Commission (MERC) appointed Richard N. Block as Impartial Arbitrator and Chair of the arbitration panel. At a pre-hearing conference held on July 9, 2002, the City selected Brian S. Ahearn as the Employer Delegate, and the Association selected John A. Lyons as the Union Delegate.

There were a total of sixteen (16) hearings held, with the final hearing concluding on April 1, 2003. After the hearings concluded, the parties exchanged last offers of settlement on economic issues and submitted same to the arbitration panel.

On April 2, 2003, in a letter to Impartial Arbitrator Block, the parties jointly requested that the panel issue an interim decision in this proceeding on the following issues:

- Association Issue 13: Health Insurance
- City Issues 12-15, 18-20: Health Insurance
- Association Issue 19: Wages
- Association Issue 20: Duration
- City Issue 35: Wages

The parties have requested that the health insurance issues be decided in an interim award because there is an open enrollment period scheduled to begin in late April, 2003. A favorable award to one of the parties could cause Association members to change their hospitalization coverage, and as such, a decision sufficiently in advance of

the open enrollment period is necessary to give members all information necessary to make such a decision, in the event that certain proposals are awarded. As to an interim award on the parties' wage demands, the City has expressed that the Mayor of the City of Detroit is giving his budget address to City Council on April 14, 2003, and would request an immediate wage decision in order that he may give as detailed a presentation to the City Council as possible. Labor costs are a significant factor in developing the City's budget for the next fiscal year. Moreover, by agreement of the parties, as referenced in the same letter dated April 2, 2003, the following issues have been deferred to the outcome of the DPOA Act 312 proceeding (Case No. D01 0568):

- Association Issue 2: Outside Employment
- City Issue 23: Employer Contribution Rate
- City Issue 24: Assumed Rate of Return, Other Assumptions and Methodologies
- City Issue 26: Police and Fire Pension Board

Deferral of these issues facilitate an immediate decision on wages only.

APPLICABLE STATUTORY CRITERIA

Pursuant to MCLA 423.238, Section 8 of Act 312, the arbitration panel must adopt the last offer of settlement as to each economic issue which more nearly complies with the applicable factors described in Section 9; however, the panel need not afford equal weight to all factors. *The City of Detroit v DPOA*, 408 Mich 410, 482 (1980).

Section 9 of the Act, MCLA 423.239, provides as follows:

Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations for 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) Stipulation of the parties.
- (c) The interests and welfare of the public and the financial ability of the unit of government to meet these costs.
- (d) Comparison of the wages, hours, and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees performing similar services and with other employees:
 - (i) Public employment in comparable communities.
 - (ii) In private employment in comparable communities.
- (e) The average consumer prices for goods 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 all applicable factors must be considered, the arbitration panel must determine which particular factors are more important in resolving a contested issue under the singular facts of the individual case. *Id.*, at 484.

The panel has carefully considered all of the evidence in this matter, including the voluminous exhibits and transcripts, and the arguments and positions of the parties, and renders this interim award on the economic issues of wages (and, by extension, duration of the agreement) and hospitalization after full consideration of all of the criteria contained in Section 9 of Act 312. However, due to the request of the parties to have an interim decision issued on these two issues prior to April 14, 2003, the full rationale for the awards contained herein shall be contained in the final Act 312 award.

ECONOMIC ISSUES

WAGES

Union Issue No. 19:

City Issue No. 35:

The Union proposes the following wage increases over the five-year life of the contract:

Effective July 1, 2001 – 3% increase
Effective July 1, 2002 – 3% increase
Effective July 1, 2003 – 5% increase
Effective July 1, 2004 – 5% increase
Effective July 1, 2005 – 3% increase

The City proposed that wage increases over the years of the contract be as follows:

Effective July 1, 2001 – 0% increase
Effective July 1, 2002 – 0% increase
Effective July 1, 2003 – 3% increase
Effective July 1, 2004 – 2% increase
Effective July 1, 2005 – 2% increase

AWARD

The City's last offer on wages for 2001, 2002 and 2003 is accepted and its offer on wages for 2004 and 2005 is rejected. The Union's offer on wages for 2001, 2002 and 2003 is rejected and the Union's offer on wages for 2004 and 2005 is accepted.

Accordingly, the wage award is as follows:

Effective July 1, 2001 – 0% increase
Effective July 1, 2002 – 0% increase
Effective July 1, 2003 – 3% increase
Effective July 1, 2004 – 5% increase
Effective July 1, 2005 – 3% increase

HOSPITALIZATION

Union Issue No. 13

The Union proposes that Section A of Article 44 be amended to provide hospitalization and medical insurance based on the Blue Cross/Blue Shield Comprehensive Master Medical (CMM) plan and all applicable riders describing benefit levels and prescription drug group benefit levels.

The Union further proposes that Article 44 B be amended to require the City to pay to the optical plan or program selected by the Association an amount per employee equal to the premium cost for the Blue Cross/Blue Shield VSP Optical Plan, which includes:

1. Rider Blue Vision Group Benefits Certificate No. 3730
2. Rider BVC, Blue Vision Co-Pay Requirement
3. Rider BVFL, Blue Vision Frequency Limits
4. Rider BV-SGC, Blue Vision Scratch Guard Coating

The Union proposes that coverage shall be provided to all employees and their dependents, and duty disability retirees and their dependents, except that newly hired employees must complete 1,040 straight time hours of work before becoming eligible to receive optical care benefits.

Finally, the Union proposes that Section D of Article 44 be amended as follows:

Effective July 1, 2003, the City will pay to the Blue Cross Traditional Plus (Option 2) Dental Plan selected by the Association an amount per employee equal to the premium cost for the Blue Cross/Blue Shield program which provides Class I benefits on a 25% co-pay basis and Class II and III benefits on a 50% co-pay basis, with Class I, II and III benefits not to exceed \$1,000 per person per year and also orthodontic coverage on

a 50% co-pay basis with a \$1,000 lifetime maximum. Coverage shall be provided to all employees and their dependents and duty disability retirees and their dependents, except that newly-hired employees must complete 1,040 straight time hours of work before becoming eligible to receive dental care benefits.

The City rejects the Union's last position on Hospitalization, Optical and Dental Plans and as its last offer of settlement proposes that Article 44 be amended as indicated in City Issues 12-15 and 18-20.

AWARD

The Union's offer to have Section A of Article 44 amended to secure hospitalization and medical based on the Blue Cross/Blue Shield CMM plan is accepted. The Union's offer to have Section B of Article 44 amended on optical is accepted. The Union's offer to amend Section D of Article 44 on dental is also accepted.

HOSPITALIZATION, MEDICAL, DENTAL AND OPTICAL CARE

City Issue No. 12

The City proposes that Section A of Article 44 be modified effective with coverage beginning July 1, 2002, to provide that prescription drug coverage co-pays shall be \$5 for generic, \$10 for formulary, and \$20 for brand name prescription drugs. Further, that all plans shall have a mail order prescription drug coverage program with a \$10 co-pay, generic, for a 90-day supply; \$20 co-pay, formulary; and \$40 co-pay, brand. Therein, the City proposes that all co-pays may be coordinated with a flexible spending plan which the City may offer during the term of the labor agreement, dependent on the capabilities of the City's payroll system. The Union offers that the status quo be maintained.

AWARD

The City's last offer of settlement on drug coverage co-pay amounts is rejected.

HOSPITALIZATION, MEDICAL, DENTAL AND OPTICAL CARE

City Issue No. 13

In its last offer of settlement, the City proposes to amend Section C of Article 44 as follows:

For employees who retire with a deferred vested retirement on or after July 1, 2003, the City's contribution towards its share of the premium cost shall be limited to four percent (4%) for each year of service or pro rata portion thereof. The premium sharing formula applicable to retirees shall continue to apply to such deferred vested retirees with respect to all future changes in the premium rates charges for the coverage selected.

The Union requests that the current practice and contract language be maintained.

AWARD

The City's last offer to modify Section C of Article 44 to regarding deferred vested retirees is granted.

HOSPITALIZATION, MEDICAL, DENTAL AND OPTICAL CARE

City Issue No. 14

The City proposes that Section A of Article 44 be modified to provide as follows:

The City shall be entitled to implement a self-insured prescription drug program to replace other prescription drug providers, provided such program does not cause a material change in health care benefits.

The Union's last offer is that the current practice and contract language be maintained.

AWARD

The Union's last offer of settlement is accepted and the City's is rejected.

HOSPITALIZATION, MEDICAL, DENTAL AND OPTICAL CARE

City Issue No. 15

The City proposes to modify Section A of Article 44 to provide as follows:

The City will pay for coverage for Dependents of those who are members of the Association as of July 1, 2003 only. Members entering the Bargaining Unit after July 1, 2003 shall pay for any and all coverage for sponsored dependents.

The Union requests that the current practice and contract language be maintained.

AWARD

The City's last offer of settlement that Article 44 A on sponsored dependents be amended is granted.

HOSPITALIZATION, MEDICAL, DENTAL AND OPTICAL CARE

City Issue No. 18

In its last offer, the City requests that Section B of Article 44 be modified to provide as follows:

The City will pay to the optical plan or program selected by the LSA an amount per employee equal to the monthly amount the City pays to Heritage Optical for the current level of benefits being provided to the City employees.

The Union is opposed to this demand and proposes that the Optical Plan as set forth in Union Issue 13, Article 44, Section B be granted.

AWARD

The Union's offer on the optical plan is accepted and the City's is rejected.

HOSPITALIZATION, MEDICAL, DENTAL AND OPTICAL CARE

City Issue No. 19

The City proposes that a new provision be added to Article 44 which provides that:

Bargaining unit members will be entitled to participate in any new wellness incentive plan the City may implement.

The Union offers that the status quo be maintained.

AWARD

The City's offer regarding a wellness incentive plan is accepted.

HOSPITALIZATION, MEDICAL, DENTAL AND OPTICAL CARE

City Issue No. 20

The City requests that language be added to Article 44 to provide that coverage will be terminated for any employee who receives a paycheck with less than eight hours of pay in any month. The language contained in this provision will also apply to employees serving suspensions.

The Union requests that the status quo be maintained

AWARD

The City's last best offer to terminate coverage for any employee who receives a paycheck with less than eight hours of pay in any month is rejected.


PENSIONS

City Issue Nos. 23, 24 and 26

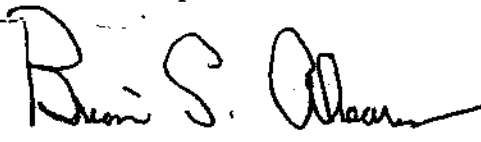
The parties have agreed that City Pension Issues 23 - Employer Contribution Rate, - City Issue No. 24 - Assumed Rate of Return, - Other Assumptions and Methodologies, - and City Issue No. 26 - Police and Fire Pension Board, will be deferred to the outcome of the DPOA Act 312 proceeding, Case No. D01 0568, and agree to be bound therein. The same three City Pension issues are before the panel in that Act 312 proceeding.

Finally, as noted herein, the rationale and reasoning for the awards contained herein will be explained more fully in the final decision in these proceedings.


Dated: April 10, 2003


Richard N. Block
Chair and Impartial Arbitrator

Dated: April 10, 2003


Brian S. Ahearn
Employer Delegate*

Dated: April 10, 2003


John A. Lyons
Union Delegate**

*Concurs on all last offers of settlement granted to the City and dissents on all last offers of settlement granted to the Union.

**Concurs on all last offers of settlement granted to the Union and dissents on all last offers of settlement granted to the City.