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STATE OF MICHIGAN  
EMPLOYMENT RELATIONS COMMISSION  
ACT 312 ARBITRATION

In the Matter of

POLICE OFFICERS LABOR  
COUNCIL,

Union,

Case No. L96 A-6013

and

CITY OF FREMONT,

Employer.

**AWARD OF THE ACT 312  
ARBITRATION PANEL**

Panel Members:

Allen J. Kovinsky, Impartial Chairperson

Chris Yonker, City Manager  
City of Fremont, Employer Designee

Fred LaMaire, Staff Representative  
Police Officers Labor Council, Union Designee

Employer, City of Fremont

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STATE OF MICHIGAN  
EMPLOYMENT RELATIONS COMMISSION  
DETROIT OFFICE

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## **I. INTRODUCTION**

This Act 312 arbitration case involves the City of Fremont and the Police Officers Labor Council on behalf of the police officers (patrolmen and sergeants) employed by the City of Fremont. A pre-hearing conference was conducted on March 10, 1997, in the City of Fremont. A hearing took place on July 28, 1997 in the City of Fremont. An executive meeting of the Panel took place on January 12, 1998, in the City of Lansing at the Michigan Employment Relations Commission offices.

The City of Fremont and the Police Officers Labor Council are parties to a Collective Bargaining Agreement effective July 1, 1993, and expiring on June 30, 1996. In accordance with the provisions of Act 312, the Collective Bargaining Agreement was extended during the course of negotiations and the Act 312 proceedings. The parties seek settlement of outstanding issues to complete a new Collective Bargaining Agreement.

The parties have stipulated that each issue to be decided by the Panel is an economic issue. Section 8 of the Act (MCLA 423.238) directs the Panel to "adopt the last offer of settlement" ("last best offer" or "LBO"), which in the opinion of the Act 312 Panel more nearly complies with the applicable factors prescribed in Section 9. Section 9 provides:

*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 interest 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 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 unexcused 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.*

Each of the factors set forth in Section 9 has been considered, whether directly referred to in this opinion or not, in the award rendered upon each issue if the factors or evidence in support of the factors was presented by the parties. It should be noted that there has been no issue raised with respect to the lawful authority of the Employer, nor would there seem to be any issue with respect to the lawful authority of the Employer, with respect to the issues determined by the Panel. In addition, there have been no comparables submitted with regard to private employers and, accordingly, that portion of Section 9 is not pertinent. However, there have been comparables submitted on an internal basis with regard to other employees and management

employees of the Employer which have been considered, as well as the comparables submitted by the Employer and the Union for each of their proposed comparable communities which have, in fact, been approved as comparable communities by the Panel.

It should also be noted that with regard to the issue of the financial ability of the unit of government to meet the costs of the Collective Bargaining Agreement, the City has not raised an issue with respect to its ability to pay and, in fact, testimony has been received indicating that the City is not contesting the fact that it has the ability to pay reasonable increases in wages and/or benefits. The City has raised an issue with respect to the issue of financial responsibility, especially in light of the fact that the City's largest taxpayer, the Gerber Company, has received or will receive in the near future a substantial reduction in its state equalized value which may reduce the City revenues from that taxpayer by as much as \$400,000.

The parties have agreed upon a length of a new Collective Bargaining Agreement which shall commence on July 1, 1996 (retroactively) and terminate on June 30, 1999.

The parties have stipulated that they are waiving the six month statutory period for obtaining a determination based upon the various delays that were incurred with respect to setting a pre-hearing conference, a hearing, and a meeting of the Panel, as well as extension of time periods for filing briefs.

The parties also stipulated that they were submitting the matter to the Panel based upon their exhibits, last best offers, briefs and testimony. The Union submitted its exhibits in booklet form and the exhibits were marked Union *Exhibit 1A* through *Exhibit H*, as well as Union *Exhibit 2*. The City also submitted its exhibits in booklet form and those exhibits, along with amendments thereto, were marked as City *Exhibit 1A* through *Exhibit I*. The Union, at the outset of the hearing, withdrew its demands and exhibits with respect to the issues of court time and

vacations. Accordingly, those exhibits and the City's exhibits on those issues have not been considered by the Panel and the provisions in the Collective Bargaining Agreement shall continue with respect to those issues.

The parties have also stipulated that the provisions of the prior Collective Bargaining Agreement shall continue into the new Agreement and remain in full force and effect except as agreed to and modified by the parties or as may be modified by the decision of this Panel.

## **II. COMPARABLE COMMUNITIES**

The parties were not able to agree on comparable communities. The Union has submitted as its comparable communities the cities of Allegan, North Muskegon, Otsego, Rockford, Roosevelt Park, and Zeeland. The City has submitted as its proposed comparables the cities of Clare, Ithaca, Lake Odessa, Manistee, Portland and St. Louis.

In support of its proposed communities, the Union and its exhibits and testimony has supported its choices by indicating that there were no prior historical comparables between the City of Fremont and the Union. The Union then examined all of the municipalities in two layers of counties surrounding that of Newaygo where the City of Fremont is located. It then developed a list of all communities in those contiguous counties which maintained a population and state equalized valuation which was within fifty percent, more or less, of that of the City of Fremont. The Union then further narrowed its list of possible comparable communities by examining other criteria, including state equalized value per capita, income, housing, crime statistics, and department size. The six communities proposed by the Union have a population going from a low of 3,750 in Rockford to a high of 5,417 in Zeeland. The state equalized evaluation for those communities spans a low of 71,548,000 in Roosevelt Park to a high of

161,253,000 in Zeeland. The City of Fremont has a population of 3,875 and a state equalized valuation of 107,542,000 (according to the Union).

The Union testimony further indicates that in addition to population and S.E.V., geography is considered, in the opinion of the Union, to be an important factor. Thus, the Union confined its selections to communities considered to be in the western portion of the lower peninsula within a geographic proximity of fifty miles of the City of Fremont. It objected to certain of the comparable communities proposed by the City on the basis of the fact that they were within a 75-mile geographic radius and either their population or S.E.V. was greater than or less than fifty percent of that of the City of Fremont.

On cross-examination, the Union witness admitted that the cities of Clare, Ithaca and St. Louis, would have all been within the two county tier surrounding the City of Fremont that was initially utilized by the Union for purposes of determining comparable communities.

The City of Fremont's comparable communities range from a low in population of 3,009 in the City of Ithaca to a high of 6,734 in Manistee. The budgets of those departments range from a low of \$197,000 in the City of Ithaca to a high of \$701,000 in the City of Manistee. The number of full-time officers ranges from a low of three in the City of Lake Odessa to a high of fifteen in the City of Manistee. The average ratio of part-time to full-time officers in terms of a 2,080 hour full-time year ranges from a low of zero in the City of Manistee to a high of 2.71 in the City of Lake Odessa. All of the City of Fremont comparable communities were located within seventy-five miles from the City of Fremont but were located outside of metropolitan statistical areas, thus affording a discount of urban influence since the City of Fremont is considered to be located in a rural area. The City noted in its presentation that it felt that a job of a police officer in the City of Fremont was not comparable to that of a police officer within the

influence of a larger municipality similar to Grand Rapids and, therefore, the salaries should not be comparable.

On cross-examination, the City witness admitted that, with respect to the City of Allegan, the criteria utilized by the City with respect to excluding urban influence may not have been accurate based upon its location. The City also indicated that it did not feel that state equalized valuation was a factor which should be taken into consideration since most of those cities did not have a single major corporation upon which the City relied for taxes as was the case in the City of Fremont. The City did note that its state equalized valuation either had or was about to decrease, based upon a settlement of a tax dispute between itself and the Gerber Company which would result in a lowering of Gerber's state equalized valuation by some \$19 million.

The City had recently completed a classification and compensation study for all of its non-union employees. That study indicated that for its non-union employees, the City had a .99 ratio to the proposed comparables, which indicated to the City that its non-union employees were on average virtually equal to the communities used in the comparative study. In addition, comparisons were provided for the police department which fell in a ratio of 1.06 which statistically constituted a minor variation from the average of the comparable communities. The other union in the City made up of Department of Public Works employees also graded at .99 of the ratio.

Since the City of Fremont is located in a rural area, the Panel believes that communities for comparable purposes should also have a rural characteristic. In addition, the Panel believes that population, state equalized valuation, the size of the police department budget, the number of full-time versus part-time employees, and geographic location are all relevant factors. Based upon a review of those factors, the comparable communities offered by the City of Fremont are



determined to be comparable by the Panel with the exception of Manistee. The City of Manistee's population is approximately ninety percent more than the population of the City of Fremont. In addition, its police department budget is fifty percent more than the City of Fremont, and it employs twice as many full-time officers while apparently employing no part-time officers, as opposed to the City of Fremont which does, in fact, employ part-time officers.

Accordingly, the Panel accepts as comparable communities from the City of Fremont the cities of Clare, Ithaca, Lake Odessa, Portland and St. Louis and rejects the City of Manistee.

*Mr. Yonker concurs with the exception of the City of Manistee.  
Mr. LaMaire dissents with the exception of the City of Manistee.*

With respect to the comparable communities offered by the Union based upon the two criteria offered by the Union (state equalized valuation and population), the Panel finds that all of the Union comparables, with the exception of the City of Zeeland, fall within appropriate parameters of establishing a differential of no more than fifty percent less nor fifty percent more than that of the City of Fremont. However, with respect to the City of Zeeland while the population falls within the fifty percent parameter, the state equalized valuation falls slightly outside of the fifty percent parameter. In addition, even if the state equalized valuation of the City of Zeeland fell within the fifty percent parameter, there is too great a difference in dollars in terms of state equalized valuation to justify the inclusion of the City of Zeeland. The City of Fremont, according to the Union, has a state equalized valuation of \$107,542,000, while the City of Zeeland has a state equalized valuation of \$161,253,000. A differential of \$54 Million when dealing with relatively small communities and small state equalized evaluations is simply too great a disparity to be considered comparable.

Accordingly, the Panel accepts the proposed comparables of the Union with the exception of the City of Zeeland.

*Mr. LaMaire concurs with the exception of the City of Zeeland.  
Mr. Yonkers dissents with the exception of the City of Zeeland.*

### **III. UNION ISSUES**

#### **A. Optical Insurance.**

The last best offer of the City of Fremont is to maintain the status quo which would result in the continuation of a 15% discount on optical expenses through the City's health care provider (Priority Health). In addition, the 15% discount is also offered by a local optical company (Kent Optical).

The last best offer of the Police Officers Labor Council requests that the employer provide an optical reimbursement plan for employees and dependents with a maximum of \$300 per year per employee (or family) to be provided by the Employer.

The Union in support of its proposal alleges that four of its comparables have some form of optical insurance coverage. It notes that Allegan has coverage for eye examinations and basic lens and frames, similar to the Blue Cross/Blue Shield V-80 program. It also notes that North Muskegon and Rockford have a combined dental/optical coverage which provides for a \$900 reimbursement in the case of North Muskegon and a \$500 reimbursement in the case of Rockford. Roosevelt Park has optical insurance providing for reimbursement up to 80% of the first \$1,000 in combined dental/optical expenses. The Union also alleges that four of the City's comparables have some type of optical coverage, those being Clare, Ithaca, Lake Odessa, and Portland. Clare has a V-80 program; Ithaca has a combined dental/optical of \$500; Lake Odessa reimburses up to \$100 for optical; Portland reimburses \$140 per year for optical.

The City, in support of its position, notes that while the City of Clare has the V-80 Blue Cross/Blue Shield optical program and the cities of Ithaca, Lake Odessa and Portland reimburse, respectively, \$225 per year, \$100 per year and \$140 per year, the cost of implementing a program would be excessive. The cost to the bargaining unit would be in the sum of \$5,400 over the life of the contract which is computed by multiplying six employees times \$300 times three years. The City further notes that, if the plan were to be implemented for all of the City

employees, it would lead to a cost of \$27,000 and that this would normally be the case since the City of Fremont tries to keep all benefits equal and uniform among all of its employees.

In order to reach a reasonable conclusion, it must be noted by the Panel that the City of Fremont does provide dental coverage in a yearly paid maximum of \$1,000. Therefore, while it does not provide a dollar-for-dollar reimbursement for optical coverage, its dental coverage is equal to that of the City of Roosevelt Park and greater than that of the cities of North Muskegon and Rockford among the Union's proposed comparables and may well exceed that of Allegan as well. Among the City comparables, the \$1,000 coverage of dental expenses may or may not be greater than some of the City comparables since it is difficult to make a comparison based upon the exhibits furnished by the City. However, based upon the City of Ithaca and the City of St. Louis, the City of Fremont's dental coverage exceeds the combined coverage of dental and optical in St. Louis and Ithaca. It may well also exceed the combined coverage in Lake Odessa and Portland, although that would be debatable.

It is the view of the Panel that, based upon the comparables, there is insufficient evidence to justify the implementation of a new program. The City of Fremont's dental program when combined with the discounts negotiated by the City with optical providers certainly compares favorable in virtually every instance with the comparable communities proposed by both the City and the Union. Accordingly, it is the decision of the Panel that the City's last best offer more nearly complies with the statutory criteria and the City's last best offer is hereby accepted by the Panel.

*Mr. Yonker concurs.  
Mr. LaMaire dissents.*

**B. Longevity.**

The Union requests a change in the current longevity provision. The Union's last best offer requests that employees receive two percent of their salary after five years of service and an additional one percent (a total of three percent) after ten years of service.

The City's last best offer is to maintain the status quo whereby employees receive two percent of salary after five years of service and the same two percent every year thereafter.

The Union exhibits indicate that the City of Allegan grants \$250 after five years and \$400 after ten years; the City of North Muskegon grants \$100 after five years and \$200 after ten years; the City of Otsego grants \$312 after five years and \$728 after ten years; the City of Rockford does not grant longevity payments; the City of Roosevelt Park grants \$689 after five years and \$1,378 after ten years. The Union notes that the City of Fremont currently grants \$608 after five years with the same two percent being applicable to the wages each and every year thereafter. The Union's proposal based upon current and proposed Union wages would increase the City of Fremont's liability to \$639 after five years and \$1,278 after ten years. It should also be noted that the City of Allegan increases its payment after fifteen years to \$500; the City of North Muskegon increases its payments to \$300, \$400 and \$500 after 15, 20 and 25 years, respectively; the City of Otsego maintains its payment of \$728 from and after ten years; the City of Roosevelt Park increases its payments to \$1,750 after fifteen years and each year thereafter.

While the Union exhibits were based on a higher figure, in actuality based upon the Union's last best offer of three percent after ten years of service rather than increasing the City's liability to \$1,278, the additional increase would only amount to approximately \$320 over and above the \$639 if the Union proposal on wages were to be accepted. Thus, an employee with ten years of service would receive approximately \$959 in longevity pay as opposed to the current pay of \$608 which would increase under both the Union and the City wage proposals.

The Union also notes that Clare and Portland have longevity programs which surpass the City of Fremont's. Clare gives its officers three percent after five years, four percent after ten years, and six percent after twenty years. Portland receives 2.5% after ten years and 3.5% after twenty years.

In further support of its position, the Union notes that even if the Union's proposal were to be granted, when overall compensation is taken into account, the bargaining unit members are significantly under paid and that would be true even if the Union wage increases were to be granted. According to the Union, there is no basis for the denial of its last best offer based upon the fact that the police officers in the City of Fremont are under paid and, further, the City has not alleged an inability to pay.

In contrast to the Union position, the City of Fremont argues that when overall compensation is taken into account, the City of Fremont is dominantly higher than the comparable communities proposed by the City. Overall compensation according to *Amended Appendix B* of the City, indicates that the City of Fremont pays its officers an average of \$31,261 in salary as compared to its proposed comparable communities which pay from a low of \$26,208, in the case of Lake Odessa, to a high of \$32,380, in the case of Portland. The cities of Clare, Ithaca, and St. Louis all pay less in wages than does the City of Fremont. In terms of longevity comparisons, the City of Fremont pays two percent after five years and every year thereafter while the City of Clare pays nothing until ten years when it pays one percent and then pays three percent after twenty years. The City of Ithaca only pays \$200 per year after five years and every year thereafter. The City of Lake Odessa pays nothing; the City of Portland pays two percent after five years, increasing to 2.5% after ten years and 3.5% after twenty years; the City of St. Louis does not pay any longevity pay.

The City argues that the Union comparables only indicate that half of their cities pay more than the City of Fremont after ten years of service while half of their cities pay less than the City of Fremont after ten years of service. It further notes that the average of all six of the Union comparables for longevity is less than that which is currently paid in the City of Fremont.

It is clear to the Panel that, in the case of the Union comparable cities, Otsego and Roosevelt Park pay more than does the City of Fremont. The City of Zeeland also paid more, however, that City is not determined to be a comparable. With respect to the City comparables, at some point in time, the cities of Clare and Portland do pay or will pay more than does the City of Fremont. Thus, out of the ten comparable communities, four either currently pay more or will pay more at some point in the future based upon years of service while six pay less. In the case of those which pay less, three pay nothing and the remaining three pay various amounts from \$125 after five years of service to \$500 after fifteen or more years of service. Clearly, there is no significant established pattern with regard to the payment of longevity pay among comparable communities. The Union request is certainly a modest one based upon a one percent increase which would cost the City between three and four hundred dollars per year, per officer with ten or more years of service. It would appear from the testimony, although it is not completely clear on the record, that, in addition to the chief, at most only two officers would benefit from this proposal during the life of the contract. On that basis, the cost would be relatively insignificant to the City. Moreover, there is nothing unusual about a bargaining unit either receiving longevity pay or having steps at five or ten year incremental levels which increase the longevity payments. Based upon these factors and the considerations granted to both parties with respect to wages, it is the determination of the Panel that the last best offer of the Union should be implemented. Accordingly, the Union's last best offer of the payment of two percent longevity

after five years of service and three percent after ten years of service is hereby awarded and shall be implemented retroactive to July 1, 1996, in the current Collective Bargaining Agreement.

*Mr. Yonker dissents.  
Mr. LaMaire concurs.*

C. Wages – Patrolmen.

The Union in its last best offer seeks a four percent across-the-board wage increase in each of the three years of the Collective Bargaining Agreement, commencing on July 1, 1996, and carrying over to July 1, 1997, and July 1, 1998.

The City in its last best offer has proposed a three percent wage increase across-the-board in each of the three years of the Collective Bargaining Agreement, commencing on July 1, 1996, and carrying over to July 1, 1997, and July 1, 1998.

The parties are to be commended based upon their good faith effort to resolve their differences and the good faith that they have shown with respect to their last best offers. There is only a differential of one percent between the offer of the City and the offer of the Union in each of the three contractual years for patrolmen wages. Based upon the number of patrolmen and the current salaries, those differentials only amount to approximately \$2,000 per year. Nevertheless, there is justification with respect to each of the last best offers and support for each of the last best offers. The City in support of its contentions notes that its wages for patrolmen are higher than all of its comparable cities with the exception of the City of Portland. While acknowledging that the Union comparables indicate that the City of Fremont is less than each of the Union comparable cities, nevertheless, the City of Fremont notes that of the Union comparable cities the overwhelming majority are within less than fifteen miles of a major city. The City of Fremont notes that it is probable that those cities are influenced in part, at least with respect to their rates of pay, by their proximity to a major city. However, the City of Fremont is thirty miles from the City of Muskegon and forty-five miles from Grand Rapids and, therefore, the

influence of a major city does not impact the City of Fremont's salaries as is the case with the cities offered by the Union as comparable communities. The City of Fremont notes that, if its offer of three percent were to be accepted for 1996, the salary of the full-time officer would increase to \$31,337, which would result in a salary that is above average and would be above all of the comparable communities offered by the City with the exception of Portland. The City also notes in support of its position that it granted a 2.75% increase to its non-union employees on January 1, 1997, after having granted a similar increase to its Department of Public Works union employees effective July 1, 1996. Those same employees will receive a 2.875% increase on July 1, 1997, and a 3% increase on July 1, 1998.

The City also notes that the cost-of-living increases over the past five years have ranged from a low of approximately 2.4% to 3%. The cost-of-living for 1996 was at 3% and through May of 1997 averaged 2.2%.

The City prepared an additional study for municipalities with a population in excess of \$1,000 for 1996-1997 in the west central portion of Michigan and notes that its police salary was higher than the average of all twenty-one cities in west central Michigan. If three percent were to be added to the July 1, 1996, salary, resulting in a maximum salary for a patrolman of \$32,307, it would be \$682 above the average of all twenty-one west central Michigan communities.

The City also notes that there will be a decrease in its fiscal 1997-1998 *ad valorem* taxes of approximately 4.2% based upon reducing the Gerber facility state equalized valuation by \$19,107,000. The decrease in valuation would result in a 48.6% decrease in taxable value on real property in the City of Fremont and a decrease of \$444,000 in tax revenues with a resulting



decrease of \$112,000 in lost revenues to the City of Fremont or the equivalent of a 1.1 mill reduction in taxable revenue. The City currently levies 15 mills in city taxes.

The Union in support of its contention indicates that among its comparables, the Fremont police officers are last in wages and over \$3,000 below the average. They would still remain approximately \$3,000 below average in 1996 if the Union proposal were to be accepted with relatively insignificant changes in the average that Fremont police officers are below the comparable communities in 1997 and 1998.

The Union objects to the City's use of the west central Michigan community statistics utilized by the City based upon the fact that most of those cities are not among the comparables utilized by either the City or the Union and some of the information contained in that exhibit was either incorrect or outdated. In addition, some of the cities are more than 50 or 75 miles from the City of Fremont.

The Union believes that the City of Fremont is unique based upon the fact that it has a major international company (Gerber) within the city limits. The City is a growing community with positive prospects for continued economic prosperity. Moreover, the comparable cities utilized by the City of Fremont do not have resources available to those cities which the City of Fremont does have. The Union does not believe that the tax dispute between the Gerber Company and the City should have a negative impact on the wages proposed by the Union. The Union also notes that the average increase in consumer price index if considered over a longer period of time than five years, dating back to 1990, would average approximately 3.4% which is higher than the percentage increase being offered by the City. Pursuant to the Union exhibits, the average base wage for a patrolman on July 1, 1996, in the Union comparable cities was \$35,156. This is being compared to the City of Fremont whose wage was \$30,424 without an

increase on July 1, 1996. On July 1, 1997, the average salary for Union comparables would be \$36,679 as opposed to the City of Fremont which would either be \$30,424 plus an additional 6% compounded if the City figures were to be accepted, or \$30,424 plus 8% compounded if the Union's last best offer were to be accepted. Finally, with respect to July 1, 1998, there is insufficient data upon which to base a comparison since only the City of Allegan among the comparables proposed by the Union has a negotiated rate for that fiscal year. However, the Union notes that even if its proposals for four percent in each of the three years were to be accepted, the City of Fremont would still be substantially below the wages paid to patrolmen in the City of Allegan.

The Union has submitted an economic compensation comparison of a ten year patrol officer for 1996 which would indicate that the City of Fremont has overall compensation of approximately \$31,858 for a patrolman without any wage increase, as opposed to overall compensation ranging from a low of \$34,715 to a high of \$36,203 among the Union comparable cities.

According to the City's *Appendix D* as amended, patrolmen would in the first year of the contract earn between \$30,320 and \$31,261 if the City proposal were to be accepted (at a lower figure of 2.75% as opposed to the City's last best offer of 3%) and, in the second and third years, the rates would run from \$31,796 to \$32,198 in the second year and \$33,164 for all of the patrolmen in the third year. Of course, these amounts would be slightly elevated based upon increasing the first year by one-quarter of one percent, based upon the City's last best offer, which would amount to about \$75 and carrying over that amount and compounding it into the second and third years. Based upon the exhibits and testimony presented by the respective parties, the Panel believes that, in the first and second years of the contract, the City's wage

offers more nearly meet the statutory criteria. The Panel is especially impressed with the fact that the City has already negotiated comparable wage increases with its Union, Department of Public Works' employees, and management employees in 1996 and its Union employees, as well, in 1997. The Panel also believes that it is relevant that the cost of living in 1996 was relatively modest and certainly not greater than the percentage increase being offered by the City. It would also appear, based upon the consumer price index increases for the first ten months of 1997, that the same will be true for the calendar year of 1997. The Panel does note that the City wages are below those of the comparable cities provided by the Union but, on the other hand, the City wages are greater than the comparable cities proposed by the City with the exception of one comparable city (Portland). Accordingly, for the years commencing on July 1, 1996 and July 1, 1997, the City's last best offer of a three percent increase on July 1 of each of those years is hereby accepted and awarded by the Panel. The wage increases are retroactive to July 1, 1996 and July 1, 1997.

*Mr. Yonker concurs.  
Mr. LaMaire dissents.*

However, with respect to the fiscal and contractual year commencing on July 1, 1998, the Panel believes that the Union's last best offer more nearly complies with the statutory criteria. There is no assurance that the cost of living will continue to be at three percent or below. In addition, while the City has been granted its proposed wage increases in 1996 and 1997 using both external and internal comparables, the Panel cannot be unmindful of the fact that the Union external comparables far exceed the wages currently being paid City of Fremont employees. Moreover, a mere one percent differential between the offer of the City and the offer of the Union will not severely impact in a negative manner the City's budget. At best, the one percent differential in 1998 would amount to approximately \$2,400. It will also act to bring the City of

Fremont police officers in closer proximity to those officers employed in the comparable communities proposed by the Union. In addition, the Panel does not know what, if any, increases would be proposed by the City for its non-union employees. Accordingly, based upon the relatively insignificant impact upon the City finances, the Union comparables, the uncertainty of increases in the consumer price index, as well as other factors, it is the position of the Panel that the Union's last best offer of a wage increase of four percent effective July 1, 1998, more nearly meets the statutory criteria and, accordingly, is hereby accepted by the Panel and awarded to the Union.

*Mr. Yonker dissents.  
Mr. LaMaire concurs.*

D. Wages – Sergeants.

The Union has in its last best offer proposed a rank differential between a top-paid patrolman and a top-paid sergeant of six percent on July 1, 1996, and seven percent on July 1, 1997 and July 1, 1998.

The City has proposed a rank differential of five and one-half percent on July 1, 1996 and six percent on July 1, 1997 and July 1, 1998.

Once again, the parties are to be congratulated upon their good faith effort to attempt to reduce the differences between the parties and arrive at a reasonable result. In the first year of the contract, the parties are only one half of a percent apart, while in the second and third years the parties are one percent apart. Again, the differential between the parties is relatively minor and would amount to a difference over the life of the contract, based upon the starting rate of a new sergeant, of no more than \$800. It should be noted prior to discussion of the appropriate rate of rank differential for a sergeant that the parties have previously agreed upon a rank differential for a detective sergeant of 10.25% for 1996 and 10.5% for 1997 and 1998 and, accordingly, the rank of detective sergeant and the applicable rank differentials for that position are no longer an issue before the Panel. The City notes that the current rank differential between

a top-paid sergeant is five percent. The City believes that based upon the Union's request of a six percent differential, it has attempted to meet the Union half way by offering five and one-half percent. The same rationale is applicable to 1997 and 1998 where the Union seeks a seven percent differential and the City offered to split the difference by offering six percent. The City has relied upon the same arguments in support of its position for the rank differential for a sergeant which were offered in support of its position for salary increases for patrolmen. A sergeant currently earns \$31,945 per year while a top-rank patrolman earns \$30,424 per year. Based upon the City's proposal, with the exception of a City proposal of 2.75% in the first year versus its current last best offer of 3%, a sergeant would have his salary increased to \$32,824, \$33,808, and \$34, 823 in the three years of the contract, plus an additional one-quarter of one percent in the first year, which would amount to approximately \$80, which would be carried over and compounded into the second and third years of the contract. Accordingly, the first year would be approximately \$33,904 and the second and third years would rise by approximately \$85 per year over and above the amounts set forth in the City's amended *Appendix D*. If, on the other hand, the Union proposal were to be accepted, the sergeant would receive approximately an additional \$160 in the first year over and above the City's offer and approximately \$340 in the second year and approximately \$350 more in the third year. Obviously, we are not dealing with astronomical figures.

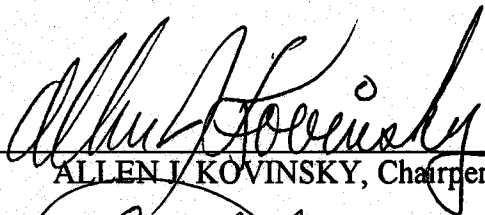
In support of its position, in addition to the arguments advanced on behalf of the patrolmen, the Union notes that the sergeant wages in the Fremont Police Department are the lowest among all Union comparables and, in addition, his overall compensation is lower than all of the Union comparables. The Union argues that the wage differential for the sergeant is currently six percent and, accordingly, the City's offer of five and one-half percent for 1996 is

nothing less than regressive bargaining, while the Union proposals for 1997 and 1998 merely maintain the sergeant's position among the comparables. The Union position with regard to whether or not the City offer is regressive in the first year is somewhat unclear. The sergeant currently receives exactly five percent more than a full-paid patrolman. Therefore, the City offer of five and one-half percent, rather than being regressive, actually adds an additional half percent to the sergeant's rank differential. Apparently, the Union position of regression is based on an external comparable differential as opposed to an internal departmental comparison.

The Panel believes that the same rationale is applicable with respect to the rank of sergeant as was determined to be applicable with respect to the salaries of the patrolmen. That is to say that the City's offer in the first and second years of the contract more nearly meets the statutory criteria while the Union's offer more nearly meets the statutory criteria in the third year of the contract. Accordingly, based upon the rationale set forth with respect to the patrolmen wages, the Panel accepts and awards the City's offer of a rank differential of five and one-half percent on July 1, 1996, and six percent on July 1, 1997. The Panel also awards and accepts the Union offer of a rank differential of seven percent effective July 1, 1998.

***Mr. Yonker concurs with respect to 1996 and 1997 and dissents with respect to 1998.***  
***Mr. LaMaire dissents with respect to 1996 and 1997 and concurs with respect to 1998.***

Dated: January 12, 1998

  
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ALLEN J. KOVINSKY, Chairperson

  
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CHRIS YONKER, City Panel Delegate

  
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FRED LAMAIRE, Union Panel Delegate