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STATE OF MICHIGAN
COMPULSORY ARBITRATION

IN THE MATTER OF:

CITY OF ROMULUS,

Public Employer,

Case No. D04 C-0487

-and-

POLICE OFFICERS LABOR COUNCIL,

Labor Organization.

ACT 312 ARBITRATION OPINION AND AWARD

APPEARANCES:

Steven H. Schwartz, Esq.
(For Public Employer -- City of Romulus)

Thomas R. Zulch, Esq.
(For Labor Organization -- Police Officers Labor Council)

PANEL DELEGATES:

Steven H. Schwartz, Esq.
(For Public Employer -- City of Romulus)

Lloyd Whetstone
(For Labor Organization -- Police Officers Labor Council)

PANEL CHAIRPERSON: Karen Bush Schneider, Esq.

DATES OF HEARING: February 21, March 29, April 27, 2006, and June 9, 2006
(By Stipulation/Closure of Record)

INTRODUCTION

The Labor Organization, Police Officers Labor Council (hereinafter referred to as "POLC"), filed a Petition for Act 312 Arbitration with the Employment Relations Commission, Department of Labor and Economic Growth, on or about September 23, 2005. The petition covered a bargaining unit described as police sergeants and lieutenants employed by the Public Employer, City of Romulus (hereinafter referred to as the "City").

Pursuant to 1969 PA 312, an Arbitration Panel consisting of Karen Bush Schneider, Esq., Panel Chairperson, Steven H. Schwartz, Esq., delegate for the City, and Lloyd Whetstone, delegate for POLC, was constituted to conduct the hearing in this matter. Hearings were held on February 21, March 29, and April 27, 2006, at the offices of the City located at 11111 Wayne Road, Romulus, Michigan. Additionally, the parties submitted various stipulations on or about June 9, 2006, whereupon the evidentiary record was formally closed by the Panel Chairperson.

Following the conclusion of the evidentiary hearing, Last Best Offers were submitted by the parties on or about June 16, 2006. Post Hearing Briefs were exchanged on or about July 24, 2006. The Arbitration Panel convened on September 6, 2006, to deliberate on the outstanding issues in the case.

After due deliberation on the disputed issues, the Panel issues this Award.

THE FINAL OFFERS OF THE PARTIES

POLC'S LAST BEST OFFERS OF SETTLEMENT

As its last best offers of settlement the POLC proposed the following:

1. **WAGE DIFFERENTIAL** – Article XLV, Section 1 (Economic Issue)

Increase the wage differential to 17% over patrol with the following language in Section 1:

As of July 1, 2004, non-probationary sergeants shall maintain at a rate of seventeen percent (17%) over the highest compensated member of the patrol officers bargaining unit. This would include all monetary sums including bonuses, premiums, incentives and other compensation but excluding normal overtime. Probationary employees will be compensated at seven percent (7%) over the highest compensated member of the patrol officers bargaining unit.

Above changes in wages to be fully retroactive to July 1, 2004.

2. **PENSION BENEFITS** – Article XXXI (Economic Issue)

The POLC is proposing the following modifications in the current pension system:

- A. Final average compensation: FAC-3
- B. Post-retirement escalator: E-2 (2.5% non-compounded benefit)
- C. Employer be ordered to fund the Command Officers' retirement fund at or above the 50% level including the above-mentioned riders.

3. **SIGNING BONUS** (New Article) (Economic Issue)

The POLC is proposing language be added to the current collective bargaining agreement to provide its bargaining unit members with any and all bonuses, premiums, incentives, etc., received by the patrolmen's union during the life of the

contract. This shall include the \$1,450.00 signing bonus received by the patrolmen's union in their July 1, 2002 – June 30, 2006 collective bargaining agreement.

4. **PRESCRIPTION CO-PAY** – Article XXVII (City Economic Issue)

The POLC proposes to amend Section 1, #1 with the following language:

That prescription drug coverage shall be a \$10.00 co-pay for generic drugs and a \$20.00 co-pay for brand name drugs. Employees shall be reimbursed up to \$5.00 for generic drugs and up to \$10.00 for brand name drugs, if they submit receipts from the pharmacy. Employees are responsible for paying the first half of the co-payment (\$5.00 for generic drugs and \$10.00 for brand name drugs) and the City shall reimburse the remainder of the co-payment. Submission of receipts to the Finance Department and reimbursement shall be done on a quarterly basis.

5. **EMPLOYEE CO-PAY ON HEALTH INSURANCE** – Article XXVII (City Economic Issue)

The POLC proposes to maintain the status quo regarding co-pays, other than prescription, on health insurance which is one hundred percent (100%) Employer paid health care.

The POLC will accept the \$150/\$300 deductibles unilaterally imposed without negotiations by the City. This change would be effective upon the issuance of the 312 award.

6. **LONG TERM DISABILITY INSURANCE** – Article XXVII (City Economic Issue)

The POLC proposes long term disability insurance remain status quo with the current language in the collective bargaining agreement.

7. **SENIORITY** – Article VIII (City Economic Issue)

The POLC proposes to amend Section 3 by adding the following:

D. Two years absence due to non-duty illness or injury.

8. **WORKERS COMPENSATION** – Article XXVIII
(City Economic Issue)

Based upon the record presented, the POLC cannot determine what the City wished to change regarding workers compensation. Therefore, the POLC believes the issue has been dropped. However, if the POLC has misinterpreted what was presented, the POLC's position would be the language remain status quo as in the current collective bargaining agreement.

9. **RECALL PAY FOR TRAINING AND MEETINGS** – Article XIX
(City Economic Issue)

The POLC proposes the current recall language remain status quo per the current collective bargaining agreement.

10. **VACATION APPROVAL PROCEDURE** – Article XXV
(City Economic Issue)

The POLC proposes the current vacation selection procedure remain status quo per the current collective bargaining agreement.

11. **HOLIDAY SELECTION PROCEDURE** – Article XXIV
(City Economic Issue)

The POLC proposes the holiday selection procedure remain status quo per the current collective bargaining agreement.

12. **PROMOTIONS** – Article XLVII

The POLC proposes the language remain status quo without the rule of three added to the current collective bargaining agreement language.

CITY OF ROMULUS' LAST BEST OFFER

The City submitted the following last best offer.

[Note: Proposed new or amended language is indicated by underlining. Asterisks indicate that language from the expired collective bargaining agreement has been deleted].

A. POLC Issues.

1. Pension Benefits – E-2 Rider: Status quo.

ARTICLE XXXI PENSION BENEFITS

Section 1. All present members of the bargaining unit will be provided with a one (1) time option on whether they desire to remain in the City's pension plan or transfer to the MERS pension plan. Each employee must make this election in writing and said election must be provided to the City no later than December 1, 1995. The process of transfer will not begin until all elections are received or an individual fails to respond by December 1. Any individual who fails to respond will remain in the City pension plan.

- A. For those members of the bargaining unit with outstanding loans with the City's pension plan who do not have sufficient funds in their employee account to cover and repay the entire loan, these loans must be repaid to the City pension plan no later than December 1, 1995 should these members desire to transfer to the MERS system. Should they fail to repay these loans by that date, they will remain in the City pension plan (this specifically refers to the amount of the loan not covered by the employees account. The employee may continue to pay on the loan that remains in his own account).

Section 2. In the future any newly promoted member of this bargaining unit will remain either in the City pension plan or in MERS predicated upon their election when they were a member of the patrol unit.

Section 3. That the level of benefits and employee/employer contributions will be as follows:

- A. Effective June 30, 1997, employees shall receive those retirement benefits provided in the MERS B-4

with 25 and out, with prior service. Employee contributions will be five percent (5%) of gross instead of base. The city shall contribute the balance of the necessary amount to fund the plan.

- B. Effective January 1, 2004, the retirement multiplier shall increase from 2.5% to 3.0%.
- C. All funds in the current City plan, designated by the CITY CONTRIBUTION, will be used to fund the MERS plan. Those funds designated in the current plan as the EMPLOYEE CONTRIBUTION, will remain the employees. The employee may obtain his/her contribution less any outstanding loans and leave the City plan completely. Members will have until June 30, 1997 to elect to take their contribution; thereafter, the funds must be left in the plan until retirement.

Section 4. The parties agree that in negotiations there will be a moratorium on either side attempting to negotiate any changes in pension benefits, plans or contributions through January 1, 1999 predicated on the above resolution of the pension issue other than those required by MERS or by State law.

Section 5. For those employees who have elected to remain with the City's pension plan, the regulations established by the City's pension committee shall apply, except as modified below.

- A. Any vested employee shall receive the City's contribution if the employee terminates his/her employment or is discharged for cause prior to reaching normal retirement age.
- B. All employees shall be required to pay five (5%) percent of their wages as stated in Article XLV to the pension system; an employee may make an additional voluntary four (4%) percent contribution to the pension system. The City agrees to contribute thirteen and one half (13.5) percent of the employee's wages as spelled out in Article XLV.
- C. Normal retirement shall be after twenty (20) years of service with the City without regard to age.

Section 6. All members of the bargaining unit who take a retirement shall have full paid medical insurance benefits (including optical and dental) equal to the medical insurance the employee was receiving at the time of their retirement application. The medical insurance as provided by the City to a normal retiree shall be for the employee, dependents and spouse.

Section 7. Upon application, to the Personnel Department, current employees who are members of the bargaining unit as of July 1, 1990, shall be credited with up to five (5) years of prior service credit in another police department, in order to be eligible for normal retirement.

- A. For purposes of both the City and MERS pension plans, the following employees have been granted prior service credit as indicated.

EMPLOYEE NAME	PRIOR SERVICE	ADJUSTED HIRE DATE
Danny L. Snyder	5 yrs.	11/16/76
John M. Myers	5 yrs.	5/21/76
David A. Early	3 yrs.	5/19/78
Ronald E. Huggins	5 yrs.	6/15/76
Joseph A. Wedesky	5 yrs.	5/19/76
Gordon J. Malaniak	2 yrs.	5/19/79
James Rafalski	4 yrs. 5 mo.	12/19/76
Robert C. Brown	5 yrs.	9/6/76
Eric Painter	2.5 yrs.	10/5/79
Emmett Barnes	5 yrs.	1/31/78

2. Wages and retroactivity: Article XLV, Section 1, shall read as

follows:

Section 1. * * * Effective July 1, 2004, non-probationary Sergeants shall * * * receive a base wage of fourteen percent (14%) above the maximum pay for a patrol officer. Probationary Sergeants shall * * * receive a base wage of seven percent (7%) above the maximum pay for a patrol officer for the first six months after promotion.

3. Duration: **Resolved.**

4. Signing Bonus received by patrol officers in lieu of pay raise:

Article XLIV, Miscellaneous Items, amend Section 12 as follows:

Section 12. * * * Effective with the next full pay period after the issuance of the 2006 Act 312 award, bargaining unit members on the payroll as of the date of that award shall receive a one-time signing bonus of \$400, less applicable taxes and deductions. This Section shall sunset on June 30, 2008.

5. MERS rider FAC 3: Status quo.

ARTICLE XXXI
PENSION BENEFITS

Section 1. All present members of the bargaining unit will be provided with a one (1) time option on whether they desire to remain in the City's pension plan or transfer to the MERS pension plan. Each employee must make this election in writing and said election must be provided to the City no later than December 1, 1995. The process of transfer will not begin until all elections are received or an individual fails to respond by December 1. Any individual who fails to respond will remain in the City pension plan.

- A. For those members of the bargaining unit with outstanding loans with the City's pension plan who do not have sufficient funds in their employee account to cover and repay the entire loan, these loans must be repaid to the City pension plan no later than December 1, 1995 should these members desire to transfer to the MERS system. Should they fail to repay these loans by that date, they will remain in the City pension plan (this specifically refers to the amount of the loan not covered by the employees account. The employee may continue to pay on the loan that remains in his own account).

Section 2. In the future any newly promoted member of this bargaining unit will remain either in the City pension plan or in MERS predicated upon their election when they were a member of the patrol unit.

Section 3. That the level of benefits and employee/employer contributions will be as follows:

- A. Effective June 30, 1997, employees shall receive those retirement benefits provided in the MERS B-4 with 25 and out, with prior service. Employee contributions will be five percent (5%) of gross instead of base. The city shall contribute the balance of the necessary amount to fund the plan.
- B. Effective January 1, 2004, the retirement multiplier shall increase from 2.5% to 3.0%.
- C. All funds in the current City plan, designated by the CITY CONTRIBUTION, will be used to fund the MERS plan. Those funds designated in the current plan as the EMPLOYEE CONTRIBUTION, will remain the employees. The employee may obtain his/her

contribution less any outstanding loans and leave the City plan completely. Members will have until June 30, 1997 to elect to take their contribution; thereafter, the funds must be left in the plan until retirement.

Section 4. The parties agree that in negotiations there will be a moratorium on either side attempting to negotiate any changes in pension benefits, plans or contributions through January 1, 1999 predicated on the above resolution of the pension issue other than those required by MERS or by State law.

Section 5. For those employees who have elected to remain with the City's pension plan, the regulations established by the City's pension committee shall apply, except as modified below.

- A. Any vested employee shall receive the City's contribution if the employee terminates his/her employment or is discharged for cause prior to reaching normal retirement age.
- B. All employee shall be required pay five (5%) percent of their wages as stated in Article XLV to the pension system; an employee may make an additional voluntary four (4%) percent contribution to the pension system. The City agrees to contribute thirteen and one half (13.5) percent of the employee's wages as spelled out in Article XLV.
- C. Normal retirement shall be after twenty (20) years of service with the City without regard to age.

Section 6. All members of the bargaining unit who take a retirement shall have full paid medical insurance benefits (including optical and dental) equal to the medical insurance the employee was receiving at the time of their retirement application. The medical insurance as provided by the City to a normal retiree shall be for the employee, dependents and spouse.

Section 7. Upon application, to the Personnel Department, current employees who are members of the bargaining unit as of July 1, 1990, shall be credited with up to five (5) years of prior service credit in another police department, in order to be eligible for normal retirement.

- A. For purpose of both the City and MERS pension plans, the following employees have been granted prior service credit as indicated.

EMPLOYEE NAME	PRIOR SERVICE	ADJUSTED HIRE DATE
Danny L. Snyder	5 yrs.	11/16/76
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James Rafalski	4 yrs. 5 mo.	12/19/76
Robert C. Brown	5 yrs.	9/6/76
Eric Painter	2.5 yrs.	10/5/79
Emmett Barnes	5 yrs.	1/31/78

B. City Issues.

1. Prescription drug copayment: Amend Article XXVII by adding the following as new Section 4.

Section 4. Effective six (6) weeks after the issuance of the 2006 Act 312 arbitration award or as soon thereafter as practicable, the prescription drug coverage in Section 1 of this Article shall be changed to a \$10.00 co-pay for generic drugs and a \$20.00 co-pay for brand name drugs. Employees shall be reimbursed up to \$5.00 for generic drugs and up to \$10.00 for brand name drugs) and the City shall reimburse the remainder of the co-payment. Submission of receipts to the Finance Department and reimbursement shall be done on a quarterly basis.

2. Employee copay on health care premium: Amend Article XXVII by adding the following as new Sections 5, 6 and 7.

Section 5. Co-pay on Master Medical shall be One Hundred Dollars [sic] (\$150.00) for a single employee, and Three Hundred (\$300.00) for a married employee. Effective two (2) months after the 2006 Act 312 arbitration award is issued, employees who select the Traditional Blue Shield option shall pay the difference between the premium for that plan and the premium for the next most expensive option. Payment shall be made by payroll deduction.

Section 6. Effective two (2) months after the 2006 Act 312 arbitration award is issued, employees who select the Traditional Blue Shield option shall pay the difference between the premium for that plan and the premium for the next most expensive option. Payment shall be made by payroll deduction.

Employees receiving health care benefits from the City pay a six percent (6%) premium co-pay by payroll deduction.

This Section shall become effective when the patrol officers' bargaining unit pays six percent (6%) of their health care premiums.

Section 7. The City shall provide a Section 125 plan pertaining to the payroll deductions described in this Article.

3. Long-term disability – non-duty disability (economic): 85% benefit

based on the hourly wage at the time of injury/illness: Amend Article XXVIII as follows:

Section 1. After thirty (30) calendar days of illness or injury, a qualified employee shall receive benefits equal to eighty five (85%) of his or her hourly rate of pay at the time of the illness or injury for the first twenty-four (24) months without a maximum and then sixty-seven percent (67%) thereafter up to a maximum of Three Thousand Dollars (\$3,000) per month. After ten (10) consecutive work days of sick leave use, an employee may elect to use his/her sick leave in their reserve sick leave bank to qualify for this benefit.

4. Seniority – Seniority ends after two years' absence due to

illness/injury: Amend Article VIII, Section 3 as follows:

An employee shall forfeit seniority rights only for the following reasons:

- A. Resignation
- B. Dismissal and not reinstated
- C. Retirement
- D. The employee is unable to return from a medical leave of absence after twenty-four (24) months.

5. Workers' Compensation – Clarify Article XXVIII, Section 5 and

Article XXXIX: Replace the existing language as follows:

Article XXVIII, Section 5 -- Duty Disability Retirement

1. Employees who are receiving Worker's Compensation Benefits as provided for in Article XXIX shall receive benefits as herein provided. Effective for injuries and illnesses arising after the issuance of the 2006 Act 312 arbitration award, employees who the City determines are totally and permanently disabled as a result of a duty connected injury and are unable to perform any work for the Police Department shall receive the following long terms benefits * * *

A. When combined with workers' compensation or MERS duty disability pension, the retiree shall receive full pay and contractual fringe benefits for one (1) year from the date of the injury or illness. When combined with * * * workers' compensation or MERS duty disability pension, the * * * retiree shall receive * * * eighty-five (85%) * * * of the retiree's wages as of the date of his/her disabling injury or illness. * * * The supplemental benefit is then reduced to eighty percent (80%). The supplemental benefit will stop upon the retiree reaching age sixty-five (65).

* * *

B. Retirees who earn wages in other employment in excess of one hundred percent (100%) of their annual wage rate at the time they receive a duty disability retirement shall have their supplemental pay reduced dollar for dollar effective March 1st each year on a prorated monthly/annual basis. Employees who receive a disability retirement from MERS shall submit their tax returns to the City March 1 each year.

* * *

C. If the * * * retiree redeems his/her workers compensation benefit for a lump sum payment, then all benefits shall stop.

D. Retirees * * * receiving * * * MERS duty disability pension payments shall not receive any benefits as provided for under the terms of this agreement except for the medical benefits outlined above.

* * *

- E. Retirees who are in receipt of * * * MERS duty disability pension shall * * * receive hospitalization/medical insurance benefits in the same manner and under the same conditions as an employee who receives a regular retirement.

Article XXIX, Section B – Worker’s Compensation/On the Job Injuries

Effective * * * for injuries and illnesses arising after the issuance of the 2006 Act 312 arbitration award, in the event an employee is injured in the performance of * * * his/her duties, whether on or off duty and * * * is covered by applicable Worker’s Compensation Laws, the employee will be paid the difference between the Worker’s Compensation benefits and full pay and contractual fringe benefits for a period not to exceed one (1) year. The employee will continue to receive contractual fringe benefits and be paid the difference between workers’ compensation benefits and 85% of full pay for the next year. The City reserves the right to require an employee to work a light-duty assignment when medically fit.

This Section only applies to employees who are not eligible for a duty disability retirement and are expected to return to work.

6. Housekeeping: Replace “Chief” and “Chief of Police” throughout the contract with “Director”: **Resolved.**

7. Article XIX: 2 hour minimum rate of pay for training/attendance at meetings: Add the following as a new Section 2:

Effective after the issuance of the 2006 arbitration award, a minimum of two (2) hours shall be paid for any recall to duty to attend previously scheduled meetings and/or training at the pay rate of one and one-half times the normal rate of pay.

8. Article XXXI, Section 7: Remove this section (5 years credited service): **Resolved.**

9. Article XXV, Section 8 – Vacation approval procedure: Amend this Section to read as follows:

If no employee has requested vacation time as provided for above, an employee may request * * * the use of less than forty (40) hours of annual leave, provided said request is made in writing at least five (5) working days in advance of the day or days requested. * * * The Director and/or Chief shall approve single vacation days, unless the request leaves the shift without an on-duty command officer or impairs a specific work function or an emergency.

10. Article XXIV, Section 2 – Holiday procedure: Amend this Section to read as follows:

Holiday Pay: Employees shall receive eight (8) hours of pay at their regular straight-time hourly rate for each holiday or day celebrated as such on days they are not scheduled for work. Single holidays may not be used on opposite command officers weekly pass days.

11. Article XXXV – Criteria for job assignments: **Withdrawn by City.**

12. Article XXXVI, Section 3 – Shift Assignments: Remove this section:

Withdrawn by City.

13. Article XLIV, Section 11 – Reorganization: Remove this section.

Resolved.

14. Article XLVI, Sections 2-5 – Investigative Services Bureau:

Remove these sections: **Resolved.**

15. Article XLVII, Promotions, Section 3 – Written tests (remove “Michigan Municipal League”): **Resolved.**

16. Article XLVII (sic) – Promotions – Rule of Three (non economic):

Amend Section 10 as follows:

The Director and/or Chief will choose from the top three (3) qualifying candidates. In the case where there are only two (2) people who qualify for the position, the Director and/or Chief will choose from those two (2) qualifying candidates.

Additional promotions shall be made from the top three remaining qualifying candidates. In the case where there are only two (2) remaining people who qualify for the position, the Director and/or Chief will choose from those two (2) qualifying candidates.

STATUTORY AUTHORITY

Public Act No. 312 of 1969, MCL 423.231, *et. seq.*, provides for compulsory arbitration of labor disputes involving police officers. Section 8 of the Act states, in relation to economic issues, that:

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 described in Section 9. The findings, opinions and orders as to all other issues shall be based upon the applicable factors prescribed in Section 9. MCL 423.238.

Section 9 of the Act contains eight factors upon which the Arbitration Panel must base its opinion and orders. The factors are as follows:

- a. The lawful authority of the employer.
- b. Stipulations of the parties.
- c. The interests and welfare of the public and financial ability of the unit of government to meet those costs.
- d. Comparison of 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

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 sector or in private employment. MCL 423.329.

Section 10 of the Act provides that the decision of the Arbitration Panel must be supported by “competent, material and substantial evidence on the whole record.” MCL 423.240. This has been acknowledged by the Michigan Supreme Court in *City of Detroit v Detroit Police Officers Ass’n*, 408 Mich 410 (1980).

There, Justice Williams commented on the importance of the various factors, stating:

The Legislature has neither expressly or [sic] implicitly evinced any intention in Act 312 that each factor of Section 9 be accorded equal weight. Instead, the Legislature has made their treatment, where applicable, mandatory on the panel through the use of the word “shall” in Sections 8 and 9. In effect, then, the Section 9 factors provide a compulsory checklist to ensure that the arbitrators render an award only after taking into consideration those factors deemed relevant by the Legislature and codified in Section 9. Since the Section 9 factors are not intrinsically weighted, they cannot of themselves provide the arbitrators with an answer. It is the panel which must make the difficult decision of determining which particular factors are more important in resolving a contested issue under the singular facts of a case, although, of course, all “applicable” factors must be considered. *Id.*, at 484.

The Arbitration Panel applied all of the Section 9 factors in considering each of the disputed issues herein, even if not specifically discussed.

STIPULATIONS OF THE PARTIES

The parties stipulated during the pre-hearing conference in this matter, and again at the commencement of the evidentiary hearing, to a waiver of the statutory time limits. (See Volume 1, p. 26-27.) The parties also stipulated that all tentative agreements reached by the parties prior to the commencement of the hearing or that might be reached throughout the proceedings would be carried forward in the successor agreement. (See Volume I, page 22-23, and City Exhibit 1, Tab 7.) Additionally, the POLC and the City agreed as to the duration of the successor agreement (see City Exhibit 1, Tab 7 and City's Last Best Offer, p. 1).

Finally, the parties stipulated to the admission of City Exhibits 68 and 69 and the supplemental testimony of Frank Audia, as contained in correspondence dated June 9, 2006, from the Panel Chairperson to the parties advocates. See attached hereto and incorporated herein as Attachment "A," correspondence dated June 9, 2006, from Karen Bush Schneider, Panel Chairperson to Thomas R. Zulch, Esq., attorney for POLC, and Steven H. Schwartz, Esq., attorney for the City.

EXTERNAL COMPARABILITY

The City proposed the following communities as external comparables in this proceeding: Allen Park, Brownstown Township, Ecorse, Flat Rock, Gibraltar, Grosse Ile, Lincoln Park, Melvindale, River Rouge, Riverview, Rockwood, South Gate, Taylor, Trenton, Woodhaven, and Wyandotte. The POLC proposed the following communities as "primary comparables:" Allen Park, Brownstown Township, Garden City, Lincoln Park, Northville Township, Southgate, Trenton, Van Buren Township,

Wayne, and Wyandotte. It also asserted the following communities as "secondary comparables:" Canton Township, Huron Township, Taylor, and Westland.

After due consideration of the proofs submitted by the parties on the issue of external comparability, the Panel Chairperson issued the following oral ruling at Volume I, pp. 16-17:

I have had an opportunity to take a look at the comparables that both parties are proposing. And let me make, first, a statement that in terms of the award that was issued by a panel in a prior Act 312 arbitration, while, you know, those awards are of interest and are considered by the panel, there is no requirement that a panel adopt a list of comparables merely because a panel in the past has done so.

So I have looked at the external comparables that both parties are proposing with a fresh eye, and I have concentrated mainly on the factors of population and taxable value, which both parties have seen to analyze in their exhibits.

And let me first state, with regard to the Union's comparables, the comparables that I am eliminating from the Union's list are Garden City, and that's largely because of their taxable value; Westland, on the basis of their population and taxable value; Northville Township, based on their taxable value; Van Buren Township, based on population; Wayne, based upon taxable value; Canton Township, Huron Township and Westland, all of which were described as more or less secondary comparables, based upon population and taxable value.

With regard to the City's proposed externals, I am eliminating Riverview, based upon taxable value; Ecorse, for the same reason, and then I'm also eliminating Flat Rock, Gibraltar, Grosse Ile, Melvindale, River Rouge, Rockwood and Woodhaven based upon population and/or taxable value.

I also considered the issue of mutual aid pacts, but once again, that is not a compelling factor, nor does it bind the Arbitration Panel in any way.

That leaves the comparables that the Panel will consider and that the parties should utilize in putting together their proofs to be Allen Park, Brownstown Township, Lincoln Park, Southgate, Trenton, Taylor and Wyandotte.

Let me give you those again: Allen Park, Brownstown Township, Lincoln Park, Southgate, Trenton, Taylor and Wyandotte.

And ironically, you may notice that those were the ones that you had in common to begin with. I am persuaded that, looking at the factors of population, geographic proximity and taxable value, those in fact have, by natural selection – are the ones that should be considered by the Panel.

So I believe that that resolves at least that preliminary issue of external comparability and should guide the parties in the preparation of their exhibits on the case in chief.

THE CITY'S ECONOMIC CONDITION/ABILITY TO PAY

The City asserts that it is significantly hampered in its ability to increase revenue and meet the POLC's economic demands.

The City has had a structural deficit, that is, its normal operating expenses have exceeded its recurring revenue, for several years. It has balanced its budget during those years by drawing upon its fund balance. At its current pace, it is anticipated that its fund balance will be completely expended by the 2007-2008 fiscal year.

Despite the City's attempt at expenditure reductions, it continues to experience a structural deficit. To this end, it has eliminated positions, curtailed expenditures for capital outlays, and sold property. Nonetheless, its ability to increase revenue continues to be limited.

The City obtains revenues from three main sources, state revenue sharing, property taxes, and miscellaneous sources. The City has no control over the revenue sharing sums it receives. Those sums have diminished significantly over the last few years. That is largely because the state legislature, in order to balance the state's budget, has reduced the amount of revenue sharing it returns to municipalities. During the term of the expired contract, state shared revenues to the City declined by more than half a million dollars per year. Revenues derived from the courts also declined.

The City has little ability to increase its property tax revenue due to the Headlee Amendment, Proposal A, the establishment of TIFA districts, and the lack of residential development opportunities. The existence of Detroit Metro Airport within the City is a deterrent to residential development.

The City is described as a blue collar community, with residents of modest means. The per capita income of its residents is next to the lowest of the downriver comparables. Its poverty level is high and it has fewer people working in white collar jobs than most of the external comparables.

The City is also hamstrung by its difficulty in increasing revenue from other sources. It points out that its interest income has dropped dramatically in the last few years as interest rates have declined. It is unable to increase user fees or building permit fees beyond the actual cost of providing the service. Nor can it reassess vacant commercial or industrial property back to market level. The City receives no property tax from its main "resident," the Detroit Metropolitan Airport. Nonetheless, it is obligated

to absorb the costs which flow from maintenance of the airport within its community, such as due to traffic-related issues.

The POLC asserts that the City has not shown an immediate inability to pay, and therefore the Section 9 factor should not be accorded controlling weight by the Arbitration Panel. While that POLC acknowledges that the City, like most Michigan communities, is experiencing a restriction on the availability of funds, it asserts that the City should not be able to “buy the labor of its Sergeants and Lieutenants for less than the market price determined by the external comparables.”

The Arbitration Panel has carefully considered the “financial ability” argument advanced by the City in this matter. The Panel acknowledges the City’s efforts to remain fiscally responsible in light of shrinking revenues and an inability to easily increase revenues. It acknowledges the City’s efforts not only to respond to, but anticipate, further declines in revenue. Nonetheless, the Panel must balance the City’s cautious economic practices with the equities advanced by its labor force, the modest cost of the parties’ proposals, and a present ability to pay. Thus, while the Arbitration Panel will be mindful of the economic constraints on the City due to its development status and static revenues, the Arbitration Panel finds that the City’s current economic condition is not such a significant factor under MCL 423.239(c) as to outweigh or, in other words, to “trump” the other Section 9 factors. It will be considered as one of those factors, not necessarily entitled to any greater weight than any of the others.

DISCUSSION OF DISPUTED ISSUES

POLC Issue #1 -- Wage Differential.

The POLC seeks an increase in the wage differential between sergeants and the highest compensated member of the patrol officers' bargaining unit. Under the expired collective bargaining agreement the rank differential was 14% above the top pay for a police officer. Probationary sergeants received a pay differential in the amount of 7% above the maximum pay of a police officer for the first six months after their promotion. The POLC seeks to increase the non-probationary sergeants' pay differential from 14% to 17% over the highest compensated member of the patrol officers' bargaining unit, including all monetary sums such as bonuses, premiums, incentives and other compensation, but excluding normal overtime. The POLC's proposal would have the resulting effect of increasing the compensation of the lieutenants also (not the salary differential between sergeants and lieutenants). Its Last Best Offer is fully retroactive to July 1, 2004.

In support of its Last Best Offer, the POLC asserts that an increase in the differential will better maintain the bargaining unit member's position amongst the external comparables. (Union Exhibit 2, Tab 4.) The Union observes that the current 14% differential is below the average of the differentials received by command officers employed by the external comparables. (*Id.*) An increase in the differential from 14% to 17% would still rank the bargaining unit members in only fourth position among the seven comparables.

The POLC maintains that it is inequitable for the City to attempt to keep pace with the external comparables merely through the award of percentage wage

increases to the patrol unit, which in turn dictates the percentage wage increases received by the command officers. The wage differential was last increased in 1999 from 13% to 14%. (City Exhibit 1, p. 31.)

The City opposes the POLC's Last Best Offer and proposes to maintain the current 14% differential between a non-probationary sergeant's base rate and the maximum pay for a patrol officer. The City argues that the command officers have already received base wage increases for 2003, 2004, and 2005. The differential between sergeants and the top paid patrol officer was increased in the last collective bargaining agreement from 12% to 14%, effective July 1, 1999.

The City also points out that the Union's proposal would increase not only the percentage differential, but the basis on which that percentage is applied, by including the highest paid patrol officer's bonuses, premiums, incentives, and other compensation, excluding overtime. According to the City, such an increase would result in the command officers receiving effective raises of 5% as of July 1, 2003, 2.5% as of July 1, 2004, and 3% as of July 1, 2005. The City estimates that adoption of the POLC's Last Best Offer would cost the City an additional \$15,000 per year, in excess of the raises already paid to the bargaining unit members. No other City employees received a 5% increase in any given year over the proposed term of the successor agreement. (City Exhibit 45.)

Looking at external comparables, the City asserts that its offer would place command officers in a competitive position with the comparative communities. According to the City, applying the 14% differential to the base wages results in the sergeants employed by the City being ranked third in base wages as of July 1, 2004,

and third as of July 1, 2005. Likewise, the City's proposal would rank the base wage of lieutenants at fifth among the external comparables as of July 1, 2004, and fourth as of July 1, 2005. (City Exhibits 39-42, 46-47.)

The City observes that several of the external comparables, to wit, Wyandotte and Lincoln Park have negotiated wage freezes in fiscal years 2005 to 2007. A third community, Taylor, is experiencing a "financial crisis." (City Exhibit 39, 40.)

Nor is the POLC's Last Best Offer justified on the basis that City department heads received significant increases in their compensation. The City asserts that the department heads and non-union employees received a salary freeze over the 2003-2004 and 2004-2005 fiscal years. A subsequent increase sought to position the department heads and other non-union employees at 90% of the average market rate for similarly-situated employees. The City observes that these employees' compensation is still significantly below the average. (City Exhibit 68-70.) By contrast, the command officers did not receive a two year wage freeze. Their wage rates are not far below market. Nor is the City experiencing high attrition in its command officer ranks.

Lastly, the City requests that the Panel keep in mind its significant budgetary concerns, as outlined in its inability to pay argument.

The Arbitration Panel has carefully considered the Last Best Offers of the parties in conjunction with the Section 9 factors on the issue of salary differential. It has determined that those factors weigh in favor of adoption of the POLC's Last Best Offer.

It cannot be disputed that these are anything other than trying times for municipalities in the state of Michigan. Revenue sharing is down, and there are

increasing restrictions on the ability of communities to raise revenue through an increase in taxes and fees.

Unlike some of the other comparable communities, the City is attempting to address its financial problems before they reach crisis proportion. And while a proposal with a \$15,000 per year price tag would not seem to put much of a dent in a multi-million dollar budget, it is nonetheless indicative of the City's attempt to spend what dollars it has in the most prudent way possible. Thus, the question becomes whether this increase is warranted by comparing such factors as the compensation received by the command officers employed by the external comparables, their percentage salary differential, the percentage increases received by the internal comparables, attrition, increased job responsibilities, and labor market factors.

In terms of external comparability, the municipalities cited offer a rank differential between the top paid patrol officer and the top paid sergeant in 2004 of anywhere from 10.17% to 21.77%, resulting in an average of 15.16%. Even under the POLC's proposal of a 17% rank differential, there would still be three comparable communities which offered a higher differential to their command officers. (Union Exhibit 2, Tab 4.) By contrast, maintaining the current 14% rank differential results in Romulus remaining below the average percentage differential of 15.16% and ranking fifth when included in a comparison of the seven identified external comparables.

Of course, merely looking at the rank salary differential percentage in a vacuum does not paint the entire picture. One must look at a wage comparison between the Romulus sergeants and the sergeants employed by the external comparable communities. Union Exhibit No. 2, Tab 4, includes a base wage

comparison of the sergeants from fiscal year 2002 forward. Whereas, in 2002, the sergeants employed by Romulus ranked third amongst the comparables, they drop to sixth place in 2004, under the Employer's proposal. Likewise, they remain below their historical rank in 2005.

It is also significant to note, in comparing the percentage increases received by the external comparables, that the Romulus sergeants have lagged behind the external comparables over the life of the expired agreement. For example, in 2002, the Romulus sergeants received no percentage increase, compared to an average 2.57% increase amongst the comparables. (*Id.*) (The Panel notes that the command officers did receive a signing bonus that year.) Likewise, in 2003, the Romulus sergeants received a 2% increase compared to the 3.36% average increase received by the comparables. Under the City's 2004 proposal, the Romulus officers would receive a 2.5% increase compared to a 4.93% average increase received by the comparables. Although the POLC's proposal to increase the rank salary differential would result in an estimated 7.89% increase in 2004, that percent would balance the lower percentage increases received in 2002 and 2003. Further, the percentage increase in 2005 approximates the average percentage increase received by the command officers employed by the external comparables. (Compare 3.00% to 2.80%.) (*Id.*) Accordingly, the POLC's proposal is supported by the foregoing comparison of rank differential percentages, wage comparisons, and a percentage increase comparison amongst the external communities.

With regard to the internal comparables, the Arbitration Panel notes that the POLC's proposal contemplates a one time increase to the rank differential, rather

than a pattern of disparate percentage increases when compared to other internal bargaining units. Further, the increase in rank salary differential can be justified on the basis that staff reductions have resulted in an increase of responsibility and scheduling demands on the command officers. Some examples include, *infra*, the City's proposals to limit the scheduling of vacation and holidays due to tight staffing, as well as its proposal to cut overtime in connection with call-backs for training and meetings. These encroachments on the command officers' time off are certainly indicative of the City's increased demands for their individual service.

While attrition has not been a significant factor with the command officers to date, such a pattern could not be guaranteed to continue in the future of constricted compensation packages, coupled with increased job responsibilities, continues. The City is the first to acknowledge that the unique composition of the Romulus community places heavy demands on its police personnel.

For all of those reasons, the Arbitration Panel awards the position of the POLC on the issue of rank salary differential. This includes the effective date of July 1, 2004, and the corresponding retroactivity.

POLC Issue #2 – Pension Benefits.

The POLC proposed in its Last Best Offer that the following modifications be made to the parties' pension plan:

- A. Enhance final average compensation to FAC-3.
- B. Adopt an E-2 rider which would act as a 2.5% post retirement benefit escalator.

C. Order the City to fund the command officers' retirement fund at or above the 50% level, including the above-described enhancements.

The City proposed to maintain the status quo.

In the Brief that the POLC submitted following the submission of its Last Best Offer, the POLC acknowledges that the first two proposals it makes in connection with the pension plan may not be awarded by the Arbitration Panel. That is because the pension plan is now less than fifty percent funded. Under MERS rules, enhancements may not be made to it unless the funding level is brought up to more than fifty percent. The POLC withdrew its Last Best Offers for an FAC-3 and an E-2 post-retirement escalator. Accordingly, the Panel need not rule on those two proposals, acknowledges that they are withdrawn, and that the status quo will be maintained.

As for the issue raised by the POLC regarding the mandatory funding of the command officers retirement fund, the Panel acknowledges that the pension fund is currently below fifty percent funding, and that while this condition exists, the POLC will be unable to negotiate pension enhancements. The POLC requests that the Panel compel the City to bring the pension funding up to at least the 50% level. It asserts that the underfunding is due largely to the fact that the City offered, unilaterally, an early retirement incentive with enhanced benefits, as a means of reducing staff. The POLC also asserts that the remaining bargaining unit members should not be made to suffer because the City may not have realized the full financial impact of its early retirement incentive.

In response, the City argues that the POLC's proposal regarding funding is not a mandatory subject of bargaining and, therefore, not subject to this Panel's

jurisdiction. See, for example, *Local 1277, Metropolitan Council No. 23, AFSCME v Centerline*, 414 Mich 642; 658-661 (1982). How the City manages its funds and its budget, the City argues, is within its management purview. It is not a term or condition of employment which would make it negotiable and arbitrable under PERA and Act 312.

Further, the City argues that it would have to contribute 1.21 million dollars in a lump sum to the command officers' retirement fund in order to bring it up to fifty percent funding. Given its current budgetary constraints and limited operations, such a contribution would have a serious negative effect its ability to provide to municipal services.

The Panel has carefully considered the POLC's proposal, its rationale, and the City's response in light of the Section 9 factors. While the Panel is not unmindful of, nor unsympathetic to, the POLC's argument that the City could effectively thwart the POLC's ability to negotiate pension enhancements by continuing to maintain the command officers' retirement fund at an under-funded level, the Panel does not believe it has authority under the Public Employment Relations Act or Act 312 to order the City to maintain a certain funding level of its pension. Such authority would seem to rest uniquely with MERS, or through an action for mandamus brought in the courts of this state by parties with standing to do so. For that reason, the Panel declines to award the proposal of the POLC and awards the proposal of the City to maintain the status quo.

POLC Issue #3 – Signing Bonus.

In its Last Best Offer, the POLC proposed that language be added to the successor agreement to provide that the command officers would receive any and all bonuses, premiums, incentives, and other compensation received by the patrol officers during the life of the successor agreement. This includes the \$1,450 signing bonus received by the patrol officers in conjunction with their settlement of the July 1, 2002-June 30, 2006 collective bargaining agreement.

In support of its proposal, the POLC points out that the City can easily circumvent its obligation to enhance a command officer's wages through a wage differential by merely paying wage increases to the patrol officers in the form of signing bonuses or other incentives, and leaving their wages unchanged. Indeed, in the last patrol officer contract, the patrol officers accepted a one year wage freeze in 2002, in exchange for a \$1,450 signing bonus.

The POLC observes that the differential between the patrol officers' compensation and the command officers' compensation is not maintained by the differential where the patrol officers unit receives cash enhancements not directly applied to their wage rates. To address this potential disparity, the POLC proposes adopting language which requires the City to provide the command officers with identical bonuses, premiums, incentives, or other payoffs that the patrol officers receive. That would maintain the integrity and intent behind the salary differential provision. The POLC also proposes that this language be adopted and applied retroactively to include the \$1,450 signing bonus received by the patrol officers in conjunction with their 2002-2006 collective bargaining agreement.

The City addresses the POLC's signing bonus proposal by proposing that the command officers receive a one-time signing bonus of \$400, less withholding, the next full pay period following the issuance of this Award. If adopted, the provision which would contain this Last Best Offer would sunset effective June 30, 2008.

In support of its Last Best Offer, the City points out that the command officers received a \$1,000 signing bonus in July of 2000. Thus, it has already received \$1,000 of the \$1,450 signing bonus received by the patrol officers on July 1, 2002. Its proposed signing bonus of \$400 would thus maintain "parity" between the two law enforcement bargaining units and resolve any monetary disparity between them.

As for internal comparability, the City points out that signing bonuses have not been received by the Teamsters, AFSCME, or fire bargaining units. (City Exhibit 43.) Nor, have any of the external comparable communities awarded a signing bonus. (City Exhibit 44.) For the Panel to award the POLC's proposal would result in the command officers receiving an additional \$1,050 in compensation beyond that received by any internal or external comparable. In lieu of the "me too" clause proposed by the POLC, the City proposes that the Panel accept its signing bonus of \$400 as an equitable correction of the monetary relationship between the two units.

After careful consideration of the parties' Last Best Offers in conjunction with the Section 9 factors, the Panel adopts the Last Best Offer of the City on the issue of signing bonus. The offer of a one-time signing bonus of \$400 adequately corrects any disparity between what was received by the command officers in 2000, and what was received by the patrol officers in 2002. None of the other represented bargaining

units have received such a signing bonus, and there is no evidence that any external comparable has offered signing bonuses to its patrol or command officers.

Nor is there any evidence that would support the adoption of a “me too” clause in the successor collective bargaining agreement. In the long run, the Panel believes that a “me too” clause would negatively impact negotiations between the police units and the City, cause the City to be much more circumspect in its negotiations with the patrol unit, since it would be “bargaining for two,” and eliminate the functional difference between the patrol and command officers units. While conceptually it might be appealing to the command officers, in reality the Panel believes it will do nothing other than hurt the bargaining autonomy of both units.

For the foregoing reasons, the Panel awards the Last Best Offer of the City on the issue of signing bonus.

City Issue #1 – Prescription Drug Copay

The parties submitted matching Last Best Offers on this issue. Accordingly, the Panel adopts the following amendment to Article XVII by adding the as a new Section 4:

Section 4. Effective six (6) weeks after the issuance of the 2006 Act 312 arbitration award or as soon thereafter a practicable, the prescription drug coverage in Section 1 of this Article shall be changed to a \$10.00 co-pay for generic drugs and a \$20.00 co-pay for brand name drugs. Employees shall be reimbursed up to \$5.00 for generic drugs and up to \$10.00 for brand name drugs) and the City shall reimburse the remainder of the co-payment. Submission of receipts to the Finance Department and reimbursement shall be done on a quarterly basis.

City Issue #2 – Employee Copay on Health Insurance

The City proposes that the command officers pay six percent (6%) of the health insurance premium at such time as, and only if, the patrol officers agree in collective bargaining to premium share. The City further proposes that bargaining unit members who elect to maintain traditional Blue Cross coverage, instead of one of the other managed health care options, pay the difference between traditional Blue and the next most expensive health insurance option. The City also proposes that the copayment on master medical be \$150/\$300 for single and married employees, respectively.

In support of its proposals, the City observes that its health insurance costs have increased dramatically over the life of the expired collective bargaining agreement. For example, single person coverage increased by 79.5%, while family coverage increased by 99.0%. (City Exhibit 50.) Blue Cross and HAP insurance rates increased an additional 12% as of July 12, 2006, for all plans offered to the bargaining unit members. (Tr. III, pp. 245-246.)

The City's proposal on premium sharing is contingent upon such a provision being negotiated into the patrol officers' collective bargaining agreement. Currently, the firefighters pay 6% of their health insurance premium for any plan which they select. Although other City employees, including the patrol officers, do not currently contribute toward their health insurance premium, all of their collective bargaining agreements expired on July 1, 2006, and are under negotiation. (Tr. III, pp. 245-250; City Exhibit 27, 48.)

The City asserts that the external comparables favor its position on premium sharing and increasing the deductibles. The City notes that Brownstown Township officers currently pay 3% of their health insurance premium. Allen Park command officers who elect traditional Blue insurance must pay the difference between that policy and the other options. So, too, do the Lincoln Park officers hired after July 1, 1995. (City Exhibit 49.) Wyandotte officers pay a health premium differential in the amount of 50%, depending on the plan they choose, while future command officers in Wyandotte will have to pay the entire difference. Conversely, Romulus is unique in that it pays its command officers 50% of the savings if they elect Blue Care Network HMO or HAP HMO. (City Exhibit 49.)

The POLC proposes to maintain the status quo regarding premium payment, to wit, that health insurance premiums are paid entirely by the Employer. The POLC will accept, however, an increase in the insurance deductibles to \$150/\$300, effective upon the issuance of the Act 312 Award by this Panel. The POLC notes that the City unilaterally increased the insurance deductibles without negotiating with the POLC. The POLC has filed a grievance, which is pending grievance arbitration and will settle the issue of retroactivity.

With regard to the City's proposal of premium sharing, the POLC asserts that its acceptance of a prescription drug copay and an increase in the deductibles in one contract is a more than reasonable gesture on the part of the bargaining unit members to assist the City in controlling health care costs. The POLC describes the addition of a 6% premium sharing, on top of the concessions it has made on prescription drug copays and deductibles, to be "excessive."

The POLC points out that none of the internal bargaining units, with the exception of the fire department, currently has premium sharing in their collective bargaining agreements. The POLC de-emphasizes the significance of the firefighters premium sharing since the department is newly-established and this is their first collective bargaining agreement.

The POLC also resists the notion that the City's proposal is tied to the outcome of negotiations with another bargaining unit, namely, the patrol officers' unit. It objects to establishing a mechanism for the patrol union to control the health benefits of the command union. For example, the patrol unit could negotiate benefit enhancements in other areas, but concede on the issue of premium sharing, thus improving their own lot while passing their concession to the command unit.

The Arbitration Panel has carefully considered the proposals and arguments of the parties regarding the issue of premium sharing and the increase in the deductible in conjunction with the Section 9 factors. The Panel first notes that there is no disagreement on the issue of an increase in the deductible and that, therefore, that increase is awarded. It is expressly noted that this award shall have no bearing on the pending grievance filed by the POLC on the issue of a unilateral increase in deductions (retroactivity).

As to the issue of premium sharing, the Panel awards the proposal of the POLC to maintain the status quo regarding full payment of the premium by the City. The Panel's decision is influenced by a number of factors. First, the POLC has attempted to address the City's health care cost concerns by agreeing to prescription

drug copays and an increase in the deductibles. To add yet a 6% premium sharing provision in the same collective bargaining agreement seems unreasonable.

Second, none of the other internal comparables, with the exception of the newly-created firefighters unit, are required to premium share. Whether current collective bargaining will result in such premium sharing or not is purely speculation at this time and is not speculation that this Panel wishes to engage in.

Third, the Panel does not believe that the external comparables support acceptance of the City's premium sharing proposal. None of the external comparables requires health insurance premium sharing in the amount of 6% from its employees. Only Brownstown Township requires a premium sharing, in the lesser amount of 3%, on its managed health care plans. Only a few expect the officers to pay an insurance differential based upon the plan which they choose. Thus, the Panel concludes that the external comparables do not support the proposal of the City on this issue. Therefore, the Panel adopts the proposal of POLC on this issue.

City Issue #3 – Long-Term Disability – Non-Duty Disability (85% benefit based on the hourly wage at the time of injury/illness)

The City proposes to fix the percentage of long-term disability insurance at the base rate in effect at the commencement of a non-duty disability. Currently, an officer who sustains a non-work related injury or disability receives LTD after 30 days of absence based upon a percentage of the officer's hourly rate of pay. Whenever the officer's classification receives an increase or an adjustment to wages, the officer on leave receives an automatic increase in the amount of disability benefits paid.

In support of its proposal, the City argues that there is simply no justification for providing an officer who is on a long-term disability leave that is not duty-

related pay increases when he/she is not actively working. The City theorizes that providing pay increases only encourages the disabled officer to remain off work.

The City observes that an officer who is injured on the job receives 85% of the employee's then annual wage only after being off work for one year. In essence, the officer who is injured on the job receives no increase, regardless of the length of leave and, in fact, the percentage of base pay paid to the officer actually drops after three years. (City Exhibit 4, p. 19.)

The City also relies on external comparability in support of its proposal. Currently, Allen Park, Lincoln Park, Southgate, Taylor, and Trenton offer no long-term disability benefit. The only two communities that offer LTD to their employees, at no cost to the employee, are Brownstown Township and Wyandotte. In the case of those two communities, they offer only 60% and 50% of salary, respectively. (City Exhibit 52.)

The POLC proposes to maintain the status quo with regard to long-term disability insurance. The POLC points out the payment for long-term disabilities are currently capped at a \$3,000 maximum. Therefore, an additional takeaway is not warranted, especially in the case of officers who are most vulnerable.

After careful consideration of the Section 9 factors, the Arbitration Panel awards the proposal of POLC on this issue. Neither consideration of internal or external comparability weighs in favor of contract modification. Any cost savings to the City would be purely speculative. Significantly, the LTD plan currently includes a maximum for LTD benefits. Therefore, the Arbitration Panel adopts the Last Best Offer of the POLC on the issue of long-term disability.

City Issue #4 – Seniority – Seniority Ends After Two Years Absence Due to Illness/Injury

The City proposes that seniority end two years after an officer has been on a medical leave, whether due to a duty-related or a non-duty-related injury or illness. Under the expired collective bargaining agreement, an officer's seniority continues indefinitely. The POLC's Last Best Offer concurs that seniority should end two years after an officer has been on a medical leave of absence for non-work-related injuries or illness. Therefore, the open issue involves only whether seniority should also end after an officer has been on a medical leave of absence for two years for a work-related injury.

In support of its proposal, the City points out that currently there is no provision on when seniority ends if an officer is on an extended medical leave of absence. There have been employees in the police department who have stayed out on medical leave for over four years. Their leave status prevents the department from filling their position and results in the use of overtime to meet staffing needs. (Tr. III, pp. 259-261.) Since the City's department is relatively small, the current continuation of seniority imposes a hardship on the City. The City theorizes that if an employee is not medically able to work after a two year period of time, it is unlikely the officer will ever return to work.

The City also argues that there is no justification for making a distinction regarding the continuation of seniority for an officer who suffers a work-related injury versus an officer who suffers a non-work-related injury or disability. In the case of the work-related disability, the City provides the officer and his/her spouse with fully paid

health insurance for the rest of their lives. Further, the officer is paid a percentage of base pay ranging from 80% to 85%. (City Exhibit 4, p. 19.)

The POLC opposes a seniority forfeiture for officers who are injured in the line of duty. It argues that officers who have suffered work-related injuries have sacrificed their own health and ability to work to protect the residents and administration of the City. These officers deserve a longer period of time to recover and, ultimately, return to work. The POLC maintains that its compromise on this issue is reasonable in light of those considerations.

The Arbitration Panel has carefully considered the parties' proposals in light of the Section 9 factors and awards the City's Last Best Offer on this issue. The City asserts, with the acknowledgement of the POLC, that the current seniority system prevents the City from filling an officer's position, resulting in short staffing and increased overtime costs. Those concerns are not addressed merely by taking into consideration the underlying reason for the officer's disability. Regardless of whether an officer is absent for two years due to a work-related versus a non-work-related illness or disability, the fact remains that they are absent from work and that such absence imposes a hardship on the department and all of the officers in it. The Panel agrees with the City that a two year period of time should be sufficient to determine whether an officer will ultimately return to active duty or not. If he/she has not, it would appear reasonable to conclude that the disability is permanent and to allow the City to fill the position.

**City Issue #5 – Workers’ Compensation – Clarify Article XXVIII,
Section 5 and Article XXIX**

In its Last Best Offer, the City proposes to clarify the benefit level by segregating the clauses into discreet sections for employees who are expected to return to work versus those who are not expected to return to work. The City maintains that this clarification is necessary to avoid misunderstandings in the future. It does not involve a reduction in benefits.

The City’s Last Best Offer would add a new section to the workers’ compensation clause that would only apply to new injuries and illnesses which occur after the issuance of the Act 312 Award. The clause would expressly state that it only applies to cases where the officer is expected to return to work and is not eligible for a duty disability retirement. During the first year of duty-related disability, the officer would receive full pay and benefits through a combination of worker’s disability compensation benefits and salary differential from the City. If the disability extends into a second year, the command officer would then continue to receive full contractual fringe benefits and 85% of full pay based on a combination of worker’s disability compensation benefits and pay differential from the City.

Under the City’s Last Best Offer, the duty disability clause would expressly state that it applies to duty disability retirement. In year one, the officer would receive full contractual fringe benefits and pay, once again based upon a combination of worker’s disability compensation benefits and disability retirement. In years two and three, the retiree would receive 85% of his/her final base wage through a combination of worker’s compensation and disability retirement. After year three, the supplemental pay would bring the retiree up to 80% of full pay until the retiree reaches age 65. The City’s

Last Best Offer also expressly deals with situations where command officers obtain outside employment after receiving a disability retirement from the City. It clarifies that disability retirees would receive the same health insurance as if they had taken a normal retirement.

The POLC proposes to maintain the status quo. It finds the Last Best Offer of the City on the issue of worker's compensation to be confusing and cites the failure of the City to provide any testimony or exhibits to support its changes as dictating rejection of the City's Last Best Offer. In its Post Hearing Brief, the POLC asks a number of questions about how the City's proposal could be interpreted in different ways. It describes the proposal as containing "a clear contradiction," and as "unwarranted and unclear."

The Panel finds the worker's compensation proposal, since it deals with clarification of language, rather than a change in economic benefits, is non-economic in nature. Since it is a non-economic issue, the Panel has the authority to modify the proposals, keeping in mind the intent behind the offers, the concerns which were raised with the current and proposed language and the goals of the parties. With those considerations in mind, the Panel adopts the following:

Article XXVIII, Section 5 -- Duty Disability Retirement

1. Employees who are receiving Worker's Compensation Benefits as provided for in Article XXIX shall receive benefits as herein provided. Effective for injuries and illnesses arising after the issuance of the 2006 Act 312 arbitration award, employees who the City determines are totally and permanently disabled as a result of a duty connected injury and are unable to perform any work for the Police Department shall receive the following long terms benefits * *

A. When combined with workers' compensation or MERS duty disability pension, the retiree shall receive full pay and contractual fringe benefits for one (1) year from the date of the injury or illness. When combined with * * * workers' compensation or MERS duty disability pension, the * * * retiree shall receive * * * eighty five (85%) * * * of the retiree's wages as of the date of his/her disabling injury or illness. * * * The supplemental benefit is then reduced to eighty percent (80%). The supplemental benefit will stop upon the retiree reaching age sixty-five (65).

* * *

B. Retirees who earn wages in other employment in excess of one hundred percent (100%) of their annual wage rate at the time they receive a duty disability retirement shall have their supplemental pay reduced dollar for dollar effective March 1st each year on a prorated monthly/annual basis. Employees who receive a disability retirement from MERS shall submit their tax returns to the City March 1 each year.

* * *

C. If the * * * retiree redeems his/her workers compensation benefit for a lump sum payment, then all benefits shall stop.

D. Retirees * * * receiving * * * MERS duty disability pension payments shall not receive any benefits as provided for under the terms of this agreement except for the medical benefits outlined above.

* * *

E. Retirees who are in receipt of * * * MERS duty disability pension shall * * * receive hospitalization/medical insurance benefits in the same manner and under the same conditions as an employee who receives a regular retirement.

Article XXIX, Section B – Worker's Compensation/On the Job Injuries

Effective * * * for injuries and illnesses arising after the issuance of the 2006 Act 312 arbitration award, in the event an employee is injured in the performance of * * * his/her duties, whether on or off duty and * * * is covered by applicable Worker's Compensation Laws, the employee will be paid the difference between the Worker's Compensation benefits and full pay and contractual fringe benefits for a period not to exceed one (1)

year. The employee will continue to receive contractual fringe benefits and be paid the difference between workers' compensation benefits and 85% of full pay for the next year. The City reserves the right to require an employee to work a light-duty assignment when medically fit.

This Section only applies to employees who are not eligible for a duty disability retirement and are expected to return to work.

City Issue #7 – Two Hour Minimum Rate of Pay for Training/Attendance at Meetings

The City proposes that command officers be paid a minimum of two hours of overtime to attend training and staff meetings that are scheduled outside of their work schedule. Currently, compensation has been paid in accordance with the recall to duty provision which guarantees a minimum of four hours of overtime pay when an officer is recalled to duty.

The City urges that there should be a distinction made between call backs due to emergencies or unplanned absences as opposed to call backs due to scheduled staff meetings or training that are planned in advance. The City observed that the typical staff meeting or training session lasts less than two hours and estimates that its proposal would save approximately \$500 to \$600 for each scheduled meeting. It acknowledges that its proposal, while a modest financial savings, is really intended to permit an increased number of meetings within the department's budget. The City argues that, ultimately, its proposal will not impact the command officer's take home pay. The provision would allow the City to schedule meetings and training sessions at which all command officers would be in attendance and thus encourage a sharing of information and ideas.

With regard to the external comparables, the City points out that none of the comparable communities mandate four hours of overtime for training. Taylor and

Trenton pay overtime for the time an office actually spends attending training. Wyandotte compensates the officers in compensatory time off only. The other communities have no express language requiring a minimum payment for training. (City Exhibit 53.)

Wyandotte officers are paid overtime for staff meetings only for the actual hours they work. Brownstown Township pays a minimum of two hours for call-back for staff meetings, while Lincoln Park command officers attend quarterly meetings without compensation. (City Exhibit 59.) The City asserts that its current requirement of paying four hours of overtime is not in keeping with the practice of the external comparables.

The POLC proposes to retain the current recall to duty language and its application to a recall to duty for training and staff meeting purposes. The POLC points out that its bargaining unit members work non-family friendly hours and days on a regular basis. Officers are required to give up holidays and family time to serve the City and its residents. The City's proposal would permit the City to further disrupt the bargaining unit members' lives by reducing the four hour minimum of overtime to two hours. The current four hour minimum discourages the City from disrupting the personal lives of the officers, except in the face of a pressing need. The Director currently has the ability to meet with the command officers by meeting with them individually on all three shifts.

After review of the parties' Last Best Offers and the rationale in support of the offers, the Panel adopts the Last Best Offer of the City on the issue of call-back pay for training and meetings. While the Panel is cognizant of the POLC's concerns regarding disruption to the private lives of the command officers, the Panel notes that

call back pay with a minimum of four hours of overtime would still be available for call backs due to emergencies and unexpected absences. Those types of unexpected call-backs would seem to be the most disruptive intrusion on an officer's personal time. To the extent that the two hour minimum applies to scheduled meetings and training sessions, the command officers could plan ahead and minimize any disruption which naturally occurs in the face of a call back to duty.

Most compellingly, the external comparables overwhelmingly support the Last Best Offer of the City. None of them currently guarantees four hours of overtime for training or staff meetings. Some communities pay overtime only for the actual time spent attending the training or meetings or offer compensatory time off. At least one of the comparables appears to provide no compensation whatsoever for quarterly staff meetings.

City Issue #9 – Vacation Approval Procedure

The City proposes to amend the vacation approval procedure to give the Director the authority to deny requests for single vacation days, if the time off would leave the shift without a command officer. Currently, the Director is required to grant vacation requests taken in single day increments, except in an emergency.

The City asserts that the modification is necessary since the current collective bargaining agreement language was negotiated when the department had more command officers on its staff. At that time, each shift was assigned one lieutenant and two sergeants. Now the shifts are staffed with only one lieutenant and one sergeant. Command officers are scheduled to work five days per week. The two days off each week are chosen by rank. All but one of the lieutenants select weekends off. If

a sergeant selects either Saturday or Sunday as a single vacation day, a command officer must be brought in on overtime or else the shift would be left without a command officer. (City Exhibit 37, 38; Tr. III, pp. 269-274.) Given the amount of vacation that most command officers receive, it is theoretically possible that each sergeant on each shift could demand every Saturday and Sunday off, causing overtime on each shift 52 times per year. (City Exhibit 4, pp. 17-18; City Exhibit 8; Tr. III, pp. 271-272.) The City's proposal would give the Director the discretion to deny single vacation days if the request would leave a shift without a command officer. The Director testified that he is not insensitive to the personal needs of his command officers and would certainly grant time off for important family events, such as weddings, birthdays, and the like.

The POLC proposes to maintain the current vacation selection language and opposes the City's Last Best Offer. The POLC asserts that any scheduling difficulties and consequent payment of overtime are of the City's making, since staff reductions were the result of the City's early retirement incentive. Theoretically, the City realized large savings through its staff reductions, a part of which can go towards meeting any overtime expense incurred by use of its scaled down staff.

The Arbitration Panel carefully considered the Last Best Offers of the parties in conjunction with the Section 9 criteria. Both the City and POLC advance compelling arguments for their Last Best Offers. The Panel views there to be a compromise position which would permit the Director some discretion in scheduling, while at the same protecting the command officers' right to take single vacation days throughout the year. Since the vacation approval procedure is non-economic, the Panel

has drafted and adopts the following modifications to Article XXI, Section 8 – Vacation approval procedure:

If no employee has requested vacation time as provided for above, an employee may request * * * the use of less than forty (40) hours of annual leave, provided said request is made in writing at least five (5) working days in advance of the day or days requested * * *. The Director and/or Chief shall approve single vacation days, unless the request leaves the shift without an on-duty command officer or impairs a specific work function or an emergency. However, a Sergeant may take up to four (4) single vacation days per year, even if the Lieutenant assigned to the same shift has selected that day(s) as a weekly pass day(s).

City Issue #10 – Holiday Selection Procedure

As with the vacation selection procedure, the City proposes to vest the Director with more discretion in scheduling time off on holidays. Under the current agreement, command officers may take a holiday, regardless of whether the other command officer assigned to the shift will also be off duty. The City proposes that the Director be authorized to deny holiday requests which coincide with another command officer's weekly pass day.

In support of its proposal, the City points out that command officers receive 14 holidays per year, whether or not they work on the day of the recognized holiday. Additionally, command officers who work on the holiday are paid time and a half for that holiday. Those officers may take any other day off during the year as their designated holiday. The City's proposal with regard to single vacation days is consistent with its position, as previously described, regarding the scheduling of vacation. It would prevent a sergeant from declaring a holiday on the same day the lieutenant schedules the day off.

The City points out that its proposal would not prevent an employee from taking his/her vacation in weekly increments. Nor would the proposal reduce or prevent employees from receiving 14 days off as holidays. It simply gives the Director the flexibility to staff the department.

The POLC opposes the City's proposal regarding the scheduling of holidays. The POLC notes that the City's problem regarding staffing is largely due to its own making and is the result of its offering of an early retirement incentive and failure to replace retiring officers. The POLC asserts that its bargaining unit members should not have to pay the price for a problem of the City's own creation. Bargaining unit members should continue to be able to take holidays at the time they choose. They should also continue to have the opportunity to earn the overtime which the City must pay when it schedules an officer on his/her day off.

The Panel has carefully considered the Last Best Offers of the City and of the POLC on this non-economic issue. Once again, as with the vacation approval procedure, it recognizes the needs of both parties to have some type of reasonable/flexible scheduling procedure. To this end, the Panel believes that the following language, which prohibits the use of single holidays on weekly pass days of the other command officer assigned to the shift, will provide the department with maximum coverage, while allowing the officers continued flexibility in the scheduling of single holidays:

Holiday Pay: Employees shall receive eight (8) hours of pay at their regular straight-time hourly rate for each holiday or day celebrated as such on days they are not scheduled for work. Single holidays may not be used on weekly pass days of the other command officer assigned to that shift.

City Issue #16 – Promotions – Rule of Three

The City, in its Last Best Offer, proposes a modification to the promotion procedure from sergeant to lieutenant, which would give the chief of police the right to promote any one of the top three candidates who compete for the promotion. Currently, the collective bargaining agreement requires that the command officer receiving the highest numerical score in the promotion process be given the promotion to lieutenant.

Under the current promotion procedure, scores are determined by consideration of written examinations (60%), oral interview (20%), seniority (10%), and education (10%). The oral interview is conducted by police executives from other agencies, not from personnel or elected officials of the City. While this minimizes the possibility of bias, it also deprives the City, through its Director and lieutenants, of any input into the process. The City asserts that personal knowledge of the candidates should be an essential factor in the process and could be incorporated into the process if the Director had the discretion to pick from the three highest candidates, rather than having to promote the candidate who received the highest score.

The POLC opposes the City's proposed modification, asserting that the individual who earns the highest score should receive the promotion. That eliminates the possibility of individual bias or favoritism resulting in an individual being passed over for a promotion. If the City feels that, in all cases, it has not been promoting the best person, its remedy should be to adjust its testing procedures, not to give the Director the discretion to ignore the highest scoring candidate in favor of another. Lastly, while the POLC acknowledges that a so-called "rule of three" is a procedure which is used in

many police departments, it unfairly allows the Director's personal opinion to influence and "trump" established testing procedures.

Having considered the parties' Last Best Offers and arguments in conjunction with the Section 9 criteria, the Panel has determined to make an award which modifies the Last Best Offer of the City on this non-economic issue. In an attempt to minimize the opportunity for bias, but provide the Director with some discretion and "local" input into the process, the Panel adopts the following rule of two amendment to Article XLVIII.

The Director and/or Chief will choose from the top two (2) qualifying candidates. In the case where there is only one (1) candidate who qualifies for the position, the Director and/or Chief will award the promotion to that candidate.

Additional promotions shall be made from the top two remaining qualifying candidates. In the case where there is only one (1) remaining candidate who qualifies for the position, the Director and/or Chief will award the position to that candidate.

AWARD

STIPULATION #1:

All tentative agreements of the parties and all other terms of the 2000-2004 collective bargaining agreement not addressed in this Award shall be carried forward in the 2004-2008 agreement.

Dated:

11/20/06

11-6-06

11-14-06

Karen Bush Schneider

Karen Bush Schneider, Panel Chairperson

Lloyd A. Whetstone

Lloyd Whetstone, POLC Delegate

Steven Schwartz

Steven Schwartz, City Delegate

STIPULATION #2:

The duration of the collective bargaining agreement which is the subject of this Award shall be four (4) years, effective July 1, 2004 through June 30, 2008.

Dated:

11/20/06

Karen Bush Schneider
Karen Bush Schneider, Panel Chairperson

11-6-06

Lloyd A. Whetstone
Lloyd Whetstone, POLC Delegate

11-14-06

Steven Schwartz
Steven Schwartz, City Delegate

UNION ISSUE – WAGE DIFFERENTIAL

Increase the wage differential to 17% over patrol with the following language in Section 1:

As of July 1, 2004, non-probationary sergeants shall maintain at a rate of seventeen percent (17%) over the highest compensated member of the patrol officers bargaining unit. This would include all monetary sums including bonuses, premiums, incentives and other compensation but excluding normal overtime. Probationary employees will be compensated at seven percent (7%) over the highest compensated member of the patrol officers bargaining unit.

Above changes in wages to be fully retroactive to July 1, 2004.

Accepted:

Lloyd A. Whetstone

Karen Bush Schneider

Rejected:

Steven Schwartz

UNION ISSUE – PENSION BENEFITS

No change/maintain current contract language.

Accepted:

Lloyd A. Whitelaw

[Signature]

Garen Bush Schmidt

Rejected:

UNION ISSUE – SIGNING BONUS

XLIV, Miscellaneous Items, amend Section 12 as follows:

Section 12. * * * Effective with the next full pay period after the issuance of the 2006 Act 312 award, bargaining unit members on the payroll as of the date of that award shall receive a one-time signing bonus of \$400, less applicable taxes and deductions. This Section shall sunset on June 30, 2008.

Accepted:

[Signature]

Garen Bush Schmidt

Rejected:

Lloyd A. Whitelaw

CITY ISSUE – PRESCRIPTION DRUG CO-PAYMENT

Amend Article XXVII by adding the following as new Section 4:

Section 4. Effective six (6) weeks after the issuance of the 2006 Act 312 arbitration award or as soon thereafter as practicable, the prescription drug coverage in Section 1 of this Article shall be changed to a \$10.00 co-pay for generic

Accepted
with edits:
Steve H.
Schwartz

drugs and a \$20.00 co-pay for brand name drugs. Employees shall be reimbursed up to \$5.00 for generic drugs and up to \$10.00 for brand name drugs) and the City shall reimburse the remainder of the co-payment. Submission of receipts to the Finance Department and reimbursement shall be done on a quarterly basis.

if they submit receipts from the pharmacy. Employees are responsible for paying the first half of the co-payment (\$5.00 for generic drugs and \$10.00 for brand name drugs) & MS

CITY ISSUE – CO-PAY ON HEALTH INSURANCE PREMIUM

No change/maintain current contract language.

Accepted:

Lloyd G. Whitelove

Maren Bush Schmidt

Rejected:

Steve H. Schwartz

CITY ISSUE – LONG-TERM DISABILITY INSURANCE

No change/maintain current contract language.

Accepted:

Lloyd G. Whitelove

Maren Bush Schmidt

Rejected:

Steve H. Schwartz

CITY ISSUE – LOSS OF SENIORITY

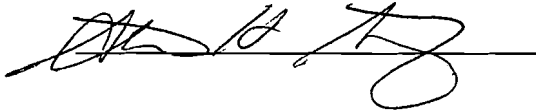
Amend Article VIII, Section 3 as follows:

An employee shall forfeit seniority rights only for the following reasons:

- A. Resignation
- B. Dismissal and not reinstated
- C. Retirement

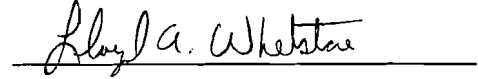
D. The employee is unable to return from a medical leave of absence after twenty-four (24) months.

Accepted:



Karen Bush denmedz

Rejected:



CITY ISSUE – WORKERS COMPENSATION

Clarify Article XXVIII, Section 5 and Article XXXIX: Replace the existing language as follows:

Article XXVIII, Section 5 -- Duty Disability Retirement

1. Employees who are receiving Worker's Compensation Benefits as provided for in Article XXIX shall receive benefits as herein provided. Effective for injuries and illnesses arising after the issuance of the 2006 Act 312 arbitration award, employees who the City determines are totally and permanently disabled as a result of a duty connected injury and are unable to perform any work for the Police Department shall receive the following long terms benefits * * *:
 - A. When combined with workers' compensation or MERS duty disability pension, the retiree shall receive full pay and contractual fringe benefits for one (1) year from the date of the injury of illness. When combined with * * * workers' compensation or MERS duty disability pension, the * * * retiree shall receive * * * eighty five (85%) * * * of the retiree's wages as of the date of his/her disabling injury or illness. * * * The supplemental benefit is then reduced to eighty percent (80%). The supplemental benefit will stop upon the retiree reaching age sixty-five (65).

* * *

B. Retirees who earn wages in other employment in excess of one hundred percent (100%) of their annual wage rate at the time they receive a duty disability retirement shall have their supplemental pay reduced dollar for dollar effective March 1st each year on a prorated monthly/annual basis. Employees who receive a disability retirement from MERS shall submit their tax returns to the City March 1 each year.

C. If the *** retiree redeems his/her workers compensation benefit for a lump sum payment, then all benefits shall stop.

D. Retirees *** receiving *** MERS duty disability pension payments shall not receive any benefits as provided for under the terms of this agreement except for the medical benefits outlined above.

E. Retirees who are in receipt of *** MERS duty disability pension shall *** receive hospitalization/medical insurance benefits in the same manner and under the same conditions as an employee who receives a regular retirement.

Article XXIX, Section B – Worker’s Compensation/On the Job Injuries

Effective *** for injuries and illnesses arising after the issuance of the 2006 Act 312 arbitration award, in the event an employee is injured in the performance of *** his/her duties, whether on or off duty and *** is covered by applicable Worker’s Compensation Laws, the employee will be paid the difference between the Worker’s Compensation benefits and full pay and contractual fringe benefits for a period not to exceed one (1) year. The employee will continue to receive contractual fringe benefits and be paid the difference between workers’ compensation benefits and 85% of full pay for the next year. The City reserves the right to require an employee to work a light-duty assignment when medically fit.

This Section only applies to employees who are not eligible for a duty disability retirement and are expected to return to work.

Accepted:

Garen Bush Kennadin

Rejected:

Lloyd G. Whitstone

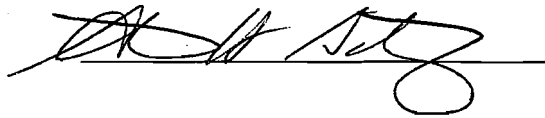
Allen H. Petty
see APPENDUM for Duty
DISABILITY RETIREMENT + WORKERS'
COMPENSATION

CITY ISSUE – CALL-BACK PAY FOR MEETINGS AND TRAINING

Article XIX: 2 hour minimum rate of pay for training/attendance at meetings: Add the following as a new Section 2:

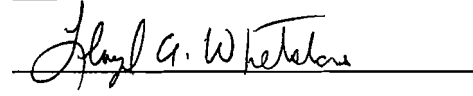
Effective after the issuance of the 2006 arbitration award, a minimum of two (2) hours shall be paid for any recall to duty to attend previously scheduled meetings and/or training at the pay rate of one and one-half times the normal rate of pay.

Accepted:



Karen Pouch Schmidt

Rejected:

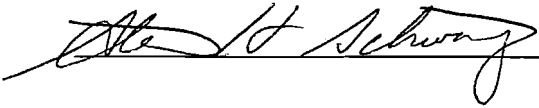


CITY ISSUE – VACATION APPROVAL PROCEDURE

Amend Article XXV, Section 8 as follows:

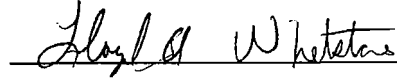
If no employee has requested vacation time as provided for above, an employee may request * * * the use of less than forty (40) hours of annual leave, provided said request is made in writing at least five (5) working days in advance of the day or days requested. * * * The Director and/or Chief shall approve single vacation days, unless the request leaves the shift without an on-duty command officer or impairs a specific work function or an emergency. However, a Sergeant may take up to four (4) single vacation days per year, even if the Lieutenant assigned to the same shift has selected that day(s) as a weekly pass day(s).

Accepted:



Karen Bush Schmidt

Rejected:

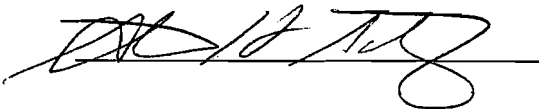


CITY ISSUE – HOLIDAY SELECTION PROCEDURE

Amend Article XXIV, Section 2 as follows:

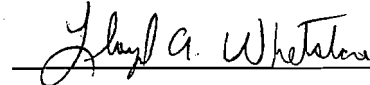
Holiday Pay: Employees shall receive eight (8) hours of pay at their regular straight-time hourly rate for each holiday or day celebrated as such on days they are not scheduled for work. Single holidays may not be used on weekly pass days of the other command officer assigned to that shift.

Accepted:



Karen Bush Schmidt

Rejected:



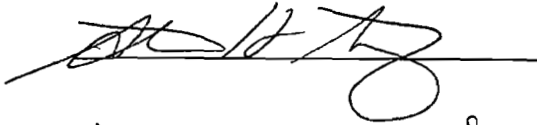
CITY ISSUE – PROMOTION

Amend Article XLVII, Section 10 as follows:

The Director and/or Chief will choose from the top two (2) qualifying candidates. In the case where there is only one (1) candidate who qualifies for the position, the Director and/or Chief will award the promotion to that candidate.

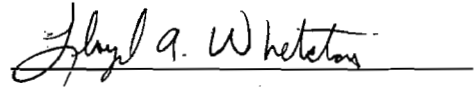
Additional promotions shall be made from the top two (2) remaining qualifying candidates. In the case where there is only one (1) remaining candidate who qualifies for the position, the Director and/or Chief will award the position to that candidate.

Accepted:



Karen Ruth Johnson

Rejected:



ADDENDUM

5. Workers' Compensation - Clarify Article XXVIII, Section 5 and Article

XXXIX: Replace the existing language as follows:

Article XXVIII, Section 5 - Duty Disability Retirement

- I. Employees who are receiving Worker's Compensation Benefits as provided for in Article XXIX shall receive benefits as therein provided. Effective for injuries and illnesses arising after the issuance of the 2006 Act 312 arbitration award, employees who the City determines are totally and permanently disabled as a result of a duty connected injury and are unable to perform any work for the Police Department shall receive the following long term benefits * * * :
 - A. When combined with workers' compensation or MERS duty disability pension, the retiree shall receive full pay and contractual fringe benefits for the first * * * year from the date of the injury or illness. After the first (1st) anniversary of the injury or illness, when combined with * * * workers' compensation or MERS duty disability pension, the * * * retiree shall receive * * * eighty five percent (85%) * * * of the retiree's wages as of the date of his/her disabling injury or illness for the next two (2) years from the date of the injury or illness. * * * The supplemental benefit is then reduced to eighty percent (80%) on the fourth (4th) anniversary of the injury or illness. The supplemental benefit will stop upon the retiree reaching age sixty-five (65).

* * *
 - B. Retirees who earn wages in other employment in excess of one hundred percent (100%) of their annual wage rate at the time they receive a duty disability retirement shall have their supplemental pay reduced dollar for dollar effective March 1st each year on a prorated monthly/annual basis. Employees who receive a disability retirement from MERS shall submit their tax returns to the City March 1 each year.

* * *
 - C. If the * * * retiree redeems his/her workers compensation benefit for a lump sum payment, then all supplemental payments described in sub-section A and all contractual fringe benefits, except hospitalization/medical benefits, shall stop.
 - D. Retirees * * * receiving * * * MERS duty disability pension payments shall not receive any benefits as provided for under the terms of this agreement except for the medical benefits outlined * * * described in Sections A and E.

- E. Retirees who are in receipt of *** MERS duty disability pension shall *** receive hospitalization/medical insurance benefits in the same manner and under the same conditions as an employee who receives a regular retirement.

Article XXIX, Section B – Worker’s Compensation/On the Job Injuries

Effective *** for injuries and illnesses arising after the issuance of the 2006 Act 312 arbitration award, in the event an employee is injured in the performance of *** his/her duties, whether on or off duty and *** is covered by applicable Worker’s Compensation Laws, the employee will be paid the difference between Worker’s Compensation benefits and full pay and contractual fringe benefits for a period not to exceed one (1) year. The employee will continue to receive contractual fringe benefits and be paid the difference between workers’ compensation benefits and 85% of full pay for the next year. The City reserves the right to require an employee to work a light-duty assignment when medically fit.

This Section only applies to employees who are not eligible for a duty disability retirement and are expected to return to work.

9. Article XXV, Section 8 - Vacation approval procedure: Amend this

Section to read as follows:

If no employee has requested vacation time as provided for above, an employee may request *** the use of less than forty (40) hours of annual leave, provided said request is made in writing at least five (5) working days in advance of the day or days requested. *** The Director and/or Chief shall approve single vacation days, unless the request leaves the shift without an on-duty command officer or impairs a specific work function or an emergency. However, a Sergeant may take up to four (4) single vacation days per year, even if the Lieutenant assigned to the same shift has selected that day(s) as a weekly pass day(s).

10. Article XXIV, Section 2 – Holiday procedure: Amend this Section to read

as follows:

Holiday Pay: Employees shall receive eight (8) hours of pay at their regular straight-time hourly rate for each holiday or day celebrated as such on days they are not scheduled for work. Single holidays may not be used on

weekly pass days of the other command officer assigned to that shift.

Accepted:

[Signature]

Dated: 11/14/06

Karen Pauly Schmidt

Dated: 12/6/06

Dated: _____

Rejected:

[Signature]

Dated: 11-10-06

Dated: _____

Dated: _____

Remotes/Command005/CommandAc312/Bo-2