

2159

MICHIGAN DEPARTMENT OF LABOR
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION

IN THE MATTER OF THE ACT 312 ARBITRATION
BETWEEN:

CITY OF PONTIAC,

MERC Act 312 No. D04 J-1391

-and-

MICHIGAN ASSOCIATION OF POLICE/PONTIAC
POLICE/FIRE DISPATCHERS ASSOCIATION,

BEFORE:

Arbitrator Karen Bush Schneider

PANEL DELEGATES:

CITY OF PONTIAC:

Larry Marshall

**MICHIGAN ASSOCIATION OF POLICE/
PONTIAC POLICE/FIRE DISPATCHERS
ASSOCIATION:**

Ronald Palmquist

APPEARANCES:

**FOR THE UNION, MICHIGAN ASSOCIATION
OF POLICE/PONTIAC POLICE/FIRE
DISPATCHERS ASSOCIATION:**

Fred Timpner
Executive Director
27704 Franklin Road
Southfield, MI 48034

**FOR THE PUBLIC EMPLOYER,
CITY OF PONTIAC:**

Dennis B. DuBay, Esq.
Keller, Thoma, Schwarze,
Schwarze, DuBay & Katz, PC
440 East Congress, 5th Floor
Detroit, MI 48226

INTRODUCTION

Petitioner, Michigan Association of Police/Pontiac Police/Fire Dispatchers Association (hereinafter referred to as the "Union") filed a Petition for Act 312 Arbitration with the Michigan Employment Relations Commission, on or about May 16, 2005. The Petition covered a bargaining unit described as all emergency dispatchers employed by the City of Pontiac (hereinafter referred to as the "City"), excluding the supervisors, office and clerical employees and all other employees. An Arbitration Panel consisting of Karen Bush Schneider, Esq., Panel Chairperson, Ronald Palmquist, Delegate of the Union, and Larry Marshall, Delegate for the City, was constituted to conduct the arbitration hearing in this matter. Hearings were held on August 23, November 2, 3, 16 and 17, 2005, January 18, May 25 and July 12, 2006, in the offices of the City Hall, City of Pontiac, Michigan and at the offices of the Panel Chairperson.

Following the conclusion of the evidentiary hearing, Last Best Offers were submitted by the parties on or about July 27, 2006. The Arbitration Panel convened on October 17, 2006, to consider the Last Best Offers of the parties.

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

THE FINAL OFFERS OF THE PARTIES

The Final Offer of the Petitioner, Michigan Association of Police/Pontiac Police/Fire Dispatchers Association:

UNION'S LAST BEST OFFER

ARTICLE II – SUBCONTRACTING

Section 3. Subcontracting

Union Last Best Offer.

Status Quo. No change to current language.

ARTICLE V – CONDITIONS OF WORK

Section 3. Overtime

Union Last Best Offer.

Status Quo. No change to current language.

Section 3. Overtime – Subsection A

Union Last Best Offer.

Status Quo. No change to current language.

Section 3. Overtime – Subsection E

Union Last Best Offer.

Status Quo. No change to current language.

Section 3. Overtime – Subsection F

Union Last Best Offer.

Status Quo. No change to current language.

Section 4. Call Back Time

Union Last Best Offer.

Status Quo. No change to current language.

ARTICLE VIII – FRINGE BENEFITS

Section 1. Vacation Leave as Terminal Pay – Subsection E

Union Last Best Offer.

Status Quo. No change to current language.

Section 6. Health Insurance – Subsection A

Union Last Best Offer.

Maintain current contract language, however add Community Blue Option 1 with a \$10 generic and \$20 brand deductible prescription drug rider. Employees who choose to take the traditional Blue Cross/Blue Shield Insurance would pay the difference in premiums between the Traditional Plan and the Community Blue Option 1 plan through payroll deduction.

Section 6. Health Insurance – Subsection B

Union Last Best Offer.

Effective July 1, 2005, individuals who take Blue Cross/Blue Shield traditional coverage shall pay \$250 deductible; families shall pay \$400 deductible. Individuals retiring after July 1, 2005 and who take Blue Cross/Blue Shield traditional coverage shall also be affected by this provision.

Section 6. Health Insurance – Subsection I

Union Last Best Offer.

Status Quo. Employer to pay for employee's health care.

Section 10. Retirement Benefit – Subsection E

Union Last Best Offer.

Pension Contributions: Effective thirty (30) days after the arbitrator's award, employees shall contribute 1% of their base pay towards retiree health care (VEBA).

ARTICLE IX – WAGES AND BENEFITS

Section 3. Longevity

Union Last Best Offer.

Status Quo. No change to current language.

Section 1. Wages – July 1, 2004

Union Last Best Offer.

July 1, 2004 \$1,000 signing bonus (not rolled into wages)

Section 1. Wages – July 1, 2005

Union Last Best Offer.

July 1, 2005 2% across the board

Section 1. Wages – July 1, 2006

Union Last Best Offer.

July 1, 2006 2.5% across the board

ARTICLE VIII – FRINGE BENEFITS

Section 9. Retirement Benefits – Subsection D

Union Last Best Offer.

Status Quo. No change in current contract language.

Section 9. Retirement Benefits – Subsection C

Union Last Best Offer.

Status Quo. No change in current contract language.

Section 1. Vacation Leave – Subsection A

Union Last Best Offer:

Section 1. Vacation Leave

A. Earning Vacation Leave

1. All regular employees covered by this Agreement shall earn vacation leave in the following manner:
 - a. Those employees with less than four (4) years service shall earn vacation leave at the rate of eleven (11) days per year, one (1) day vacation for every twenty-three and six-tenths (23.6) days worked.
 - b. Those employees with more than six (6) years service but less than seven (7) years service shall earn vacation leave at the rate of sixteen (16) days per year, one (1) day vacation for every sixteen and three-tenths (16.3) days worked.
 - c. Those employees with more than six (6) years service but less than seven (7) years service shall earn vacation leave at the rate of eighteen (18) days per year, one (1) day for every fourteen and four-tenths (14.4) days worked.
 - d. Those employees with more than seven (7) years service but less than ten (10) years service shall earn vacation leave at the rate of twenty-one (21) days per year, one (1) day vacation for every twelve and four-tenths (12.4) days worked.
 - e. Those employees with more than ten (10) years service but less than twelve (12) years service shall earn vacation leave at the rate of twenty-three (23) days per year, one (1) day vacation for every eleven and three-tenths (11.3) days worked.
 - f. Those employees with more than twelve (12) years service but less than fourteen (14) years service shall earn vacation leave at the rate of twenty-three (23) days per year, one (1) day vacation for every eleven and three-tenths (11.3) days worked.
 - g. Those employees with more than fourteen (14) years service but less than sixteen (16) years service shall earn vacation leave at the rate of twenty-four (24) days per year, one (1)

day vacation for every ten and eight-tenths (10.8) days worked.

- h. Those employees with more than sixteen (16) years service but less than eighteen (18) years service shall earn vacation leave at the rate of twenty-five (25) days per year, one (1) day vacation for every ten and four-tenths (10.4) days worked.
- i. Those employees with more than eighteen (18) years service shall earn vacation leave at the rate of twenty-six (26) days per year, one (1) day vacation for every ten (10) days worked.

ARTICLE V – CONDITIONS OF WORK

Section 3. Overtime

Union Last Best Offer.

Effective upon the date of the Arbitrator's award:

Overtime is authorized time worked in excess of eight (8) hours per day and forty (40) hours per week beginning with the ending time of the employee's shift except in cases where a routine and regular previously assigned shift change occurs and time in excess of forty (40) hours. Employees who have completed eight (8) regular hours during a scheduled work day shall be paid at the rate of time and one-half for all time worked in excess of eight (8) regular hours on such day. Employees who have completed forty (40) regular hours during their scheduled work week shall be paid at the rate of time and one-half for all time worked on Saturday or the sixth (6th) day of the scheduled work week. **The Employer cannot change an employee's hours of work to avoid payment of overtime unless voluntarily agreed to by the employee.**

ARTICLE V – CONDITIONS OF WORK

Section 3. Overtime – Subsection D

Union Last Best Offer.

Effective upon the date of the Arbitrator's award:

- D. An employee may at the employee's option receive overtime payment in compensatory time off instead of cash; however, all compensatory time accrued must be used in the same calendar year it is earned or it will be paid in cash at the end of that calendar year, **provided that one hundred (100) hours, non-cumulative, may be carried forward into the following year.**

CITY OF PONTIAC'S FINAL OFFERS OF SETTLEMENT

1. Article II – Recognition, Section 3. Subcontracting

City Final Offer of Settlement:

Section 3. Subcontracting

The rights of contracting or subcontracting are vested in the City; however they shall not be used for the purpose of or intention of undermining the Association or to discriminate against any of its members.

Effective Date: Effective date of the Award.

2. Article V – Conditions of Work, Section 3. Overtime, first paragraph

City Final Offer of Settlement:

Article V – Conditions of Work, Section 3. Overtime, first paragraph shall be revised to provide as follows:

Overtime is authorized time worked in excess of forty (40) hours during a scheduled workweek.

Effective Date: Effective date of the Award.

3. Article V – Conditions of Work, Section 3. Overtime, Subsection A

City's Final Offer of Settlement:

Article V – Conditions of Work, Section 3. Overtime subsection A shall be eliminated from the contract.

Effective Date: Effective date of the Award.

4. Article V – Conditions of Work, Section 3. Overtime (compensatory time)

City Final Offer of Settlement:

Article V – Conditions of Work, Section 3. Overtime shall be revised by adding the following new sub-section E:

E. Effective January 1, 2007, no compensatory time off may be accrued.

Effective Date: Effective date of the Award or January 1, 1007, whichever is later.

5. Article V – Conditions of Work, Section 3. Overtime, (probationary employees

City Final Offer of Settlement:

Article V – Conditions of Work, Section 3. Overtime shall be revised by adding the following new subsection:

F. At the Supervisor's option, a probationary employee may be utilized to cover any emergency vacancy in a regular shift prior to filling the shift from the call in list.

Effective Date: Effective date of the Award.

6. Article V – Conditions of Work, Section 4. Call Back Time shall be revised to provide as follows:

Section 4. Call Back Time

Employees called back outside of their regular hours shall be paid overtime rates for the total time worked with a minimum of two (2) hours at time and one-half for each call back. Overtime rates shall be discontinued at the beginning of a regular work day. Where possible, call back time shall be evenly distributed among the employees of the department.

Effective Date: Effective date of the Award.

7. Article VIII – Fringe Benefits, Section 1. Vacation Leave, Subsection E. Vacation Leave as Terminal Pay

City Final Offer of Settlement:

Article VIII – Fringe Benefits, Section 1. Vacation Leave, Subsection E. Vacation Leave as Terminal Pay shall be revised to provide as follows:

E. Vacation Leave as Terminal Pay

Upon leaving service, an employee will receive pay for all unused vacation leave up to a maximum of one (1) year annual leave.

Effective Date: Effective date of the Award.

8. Article VIII Fringe Benefits, Section 6 Health Insurance, Subsection A

City Final Offer of Settlement:

Article VIII Fringe Benefits, Section 6 Health Insurance, Subsection A shall be revised to provide as follows:

- A. The city shall provide all bargaining unit employees with full paid Blue Cross/Blue Shield Community Blue PPO Plan 2 with a ten (10) dollar deductible preferred prescription rider for generic drugs and a twenty (20) dollar deductible preferred prescription rider for brand name drugs, or the equivalent of the same. Individuals retiring after the effective date of this Section shall also be covered by this health insurance plan and pay the above-referenced prescription co-pays. The City reserves the right to require, where available, the use of mail order prescriptions.
1. The City shall also offer the following health insurance options which, subject to the provisions of this Subsection, may be selected by an employee:
- a. Blue Cross/Blue Shield Traditional, \$10/\$20 prescription co-pay
 - b. Blue Cross/Blue Shield PPO, \$10/\$20 prescription co-pay
 - c. Blue Care Network, \$10/\$20 prescription co-pay
 - d. Health Alliance Plan – HMO, \$10/\$20 prescription co-pay
 - e. Health Alliance Plan – PPO, \$10/\$20 prescription co-pay

An employee who elects one of the optional health insurance coverages set forth in a-e shall pay the difference in the annual premium rates between the option selected and the rate for BC/BS

Community Blue Option 2. The employee must sign the appropriate authorization and shall make such payment through payroll deductions.

2. This Section VIII, Subsection A shall be implemented as soon as practicable after the date of the Award.

Effective Date: Date of the Award.

9. Article VIII Fringe Benefits, Section 6. Health Insurance, Subsection B

The City withdraws this separate issue inasmuch as it is covered in City Issue #8 and covered in the City's final offer of settlement on that issue.

10. Article VII Fringe Benefits, Section 6. Health Insurance

City Final Offer of Settlement:

Article VIII Fringe Benefits, Section 6. Health Insurance shall be revised by adding the following new subsection I:

- I. Effective July 1, 2006, bargaining unit employees hired after July 1, 2006, will be responsible for paying twenty (20%) percent of any costs for health care premiums.

Effective Date: July 1, 2006

11. Article VIII Fringe Benefits, Section 9. Retirement Benefit

City Final Offer of Settlement:

Article VIII Fringe Benefits, Section 9. Retirement Benefit shall be revised by adding the following new subsection E.

- E. Retiree Health Insurance contribution beginning July 1, 2006, employees shall contribute 2.5% of base pay and overtime towards retiree health care costs (VEBA).

Effective Date: July 1, 2006

12. Article IX – Wages and Benefits, Section 3. Longevity

City Final Offer of Settlement

Effective July 1, 2006, Article IX Wages and Benefits, Section 3. Longevity shall be eliminated for all bargaining unit members.

Effective Date: July 1, 2006.

UNION ISSUES

1. Article IX – Wages and Benefits, Section 1. Wages (July 1, 2004)

City Final Offer of Settlement:

Effective July 1, 2004, Article IX – Wages and Benefits, Section 1. Wages and the PPFDA Pay Plan (contract p. 50) shall reflect a 0% increase and that the current wage rates shall be maintained.

Effective Date: July 1, 2004

2. Article V – Conditions of Work, Section 3. Overtime, first paragraph

City Final Offer of Settlement:

Article V – Conditions of Work, Section 3. Overtime, first paragraph shall be revised as follows:

Overtime is authorized time worked in excess of forty (40) hours during a scheduled workweek.

Effective Date: Effective date of the Award.

3. Article IX – Wages and Benefits, Section 1 Wages (July 1, 2006)

City Final Offer of Settlement:

Effective July 1, 2006, article IX – Wages and Benefits, Section 1. Wages and the PPFDA Pay Plan (contract p. 50) shall reflect a 0% increase and that the current wage rate shall be maintained.

Effective Date: July 1, 2006

4. Article VIII – Fringe Benefits, Section 9. Retirement Benefit (Age and service requirements)

City Final Offer of Settlement:

The age and service requirements for retirement set forth in Article VIII – Fringe Benefits, Section 9. Retirement Benefit shall be maintained unchanged and the current contract language shall be retained.

Effective Date: July 1, 2004

5. Article VIII – Fringe Benefits, Section 9. Retirement Benefit (pension multiplier)

City Final Offer of Settlement:

The pension multiplier set forth in Article VIII – Fringe Benefits, Section 9 Retirement Benefit shall be maintained unchanged and the current collective bargaining language shall be retained.

Effective Date: July 1, 2004

6. Article VIII – Fringe Benefits, Section 1. Vacation Leave, Subsection A Earning Vacation Leave

City Final Offer of Settlement:

Article VIII – Fringe Benefits, Section 1. Vacation Leave, Subsection A. Earning Vacation Leave shall be maintained unchanged and the current contract language shall be retained.

Effective Date: July 1, 2004

7. Article V – Conditions of Work, Section 3. Overtime

City Final Offer of Settlement:

Article V – Conditions of Work Section 3. Overtime shall be revised by adding the following provision at the end of the first paragraph:

While the City shall continue to have the right to schedule work to ensure the most efficient and economical operation, the city agrees that it will not change an employees' scheduled hours of work in a workweek for the sole purpose of avoiding the payment of overtime.

Effective Date: Date of the Award.

8. Article V – Conditions of Work, Section 3. Overtime

City Final Offer of Settlement:

Article V – Conditions of Work, Section 3. Overtime, Subsection D shall be maintained unchanged and the current contract language shall be retained.

Effective Date: July 1, 2004

STATUTORY AUTHORITY

Public Act No. 312 of 1969, MCL 423.231, *et. seq.*, provides for compulsory arbitration of labor disputes involving municipal police and fire fighters.

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. (Emphasis added.)

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

- a. The lawful authority of the employer.
- b. The 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 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 Assoc.*, 408 Mich 410 (1980). There, Justice Williams commented on the importance of the various factors, stating:

The Legislature has neither expressly nor 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, where applicable, in considering each of the disputed issues herein, even if not specifically discussed.

External Comparability

Pursuant to an Interim Opinion and Award on the issue of comparability, issued October 3, 2005, the Arbitration Panel will consider the following communities as external comparables under Section 9(d) of Act 312 of the Public Acts of 1969:

- Dearborn Heights
- Redford Township
- St. Clair Shores
- Bloomfield Township
- Canton Township
- Clinton Township
- Royal Oak
- Shelby Township
- Southfield
- Waterford Township
- Westland

The parties were directed to utilize the above-identified communities as external comparables in the preparation of Exhibits and the submission of testimony and data in this matter.

Background Information Regarding the City of Pontiac and the Police/Fire Dispatchers Bargaining Unit

The City of Pontiac is a municipality located in Oakland County, Michigan. As of 2000, the City had a population of approximately 67,500 residents. The City comprises a geographic area of 20.21 square miles. The per capita income of its residents is approximately \$16,000, which causes it to be ranked last in comparison with its external comparables. It also ranks last with regard to state taxable value and state taxable value per capita. Despite the City's modest per capita income and state

taxable value, it nonetheless imposes the second highest millage rate among the comparable communities, while additionally levying an income tax on those who work in the City.

The City provides a broad range of municipal services including, but not limited to, police and fire protection, public works, and administrative services. Currently, City employees are organized in eight separate bargaining units, including the Pontiac Police Officers Association, the Pontiac Police Supervisors Association, the Supervisory and Administrative Employees Association, a Teamster's unit, an AFSCME unit, the Pontiac Professional Management Association, the Pontiac Firefighters Union, and the Pontiac Police and Fire Dispatchers Association. The City also has a number of employees who are unrepresented. Additionally, the City is responsible for funding the District Court, whose employees are represented by TPOAM. Currently, none of the City's bargaining units have collective bargaining agreements.

The City's police and fire dispatchers perform typical dispatching services, such as fielding police and fire calls, and verifying warrants through the Law Enforcement Intelligence Network. Dispatch functions are operated on a 24 hour basis, through three 8-hour shifts, which are staffed by three dispatchers each.

In an attempt to balance its budget, the City has, in recent years, eliminated approximately 250 positions through attrition and layoffs. Despite recent layoffs of City personnel in other bargaining units, the police and fire dispatchers bargaining unit has only experienced layoffs of the probationary employees. No seniority members of the unit have been laid off.

The Financial Ability of the City

The City is currently experiencing dire financial difficulties. Its General Fund balance has gone from having a surplus of almost \$8 million in 2000 to having a deficit of more than \$30 million in 2006. The General Fund is the operating fund for the City and is the source of funding for the basic services of the City, including police, fire, and dispatch services.

A great deal of testimony at the hearing focused on how the City landed in its financial predicament. Declining revenue sharing, a depressed tax base, imposition of GASB 34 Standards, identification of irregularities in the City's financial records dating back to 1995, possible theft and incorrect accounting procedures all contributed to the City's recent financial woes. The Union asserts that the City finds itself in dire financial circumstances largely due to financial mismanagement, raiding the general fund to address deficits relating to other funds, and material misstatements/weaknesses in the financial statements of the City which should have placed the City on timely notice of its budget deficit.

While some amount of blame allocation and finger-pointing is to be expected in a matter as serious as this, exactly how the City got to its budget deficit is not as helpful to the Arbitration Panel as how it will eliminate it. In other words, to what extent, if at all, can and should the City seek monetary relief from the members of this bargaining unit to address its budget crisis.

The City is constrained by law to eliminate its budget deficit. To this end, it has submitted a deficit elimination plan(s) which propose, among other things, the renegotiation of a debt the City owes to General Motors as a result of an unfavorable

tax ruling, the sale of \$18 million of fiscal stabilization bonds, budget expenditure reductions, the elimination of City services, and the subcontracting of various City services to Oakland County.

The City has made progress in its efforts to reduce and, ultimately, eliminate its deficit. The City has entered into an agreement with General Motors concerning the City's obligation in connection with the unfavorable tax ruling. Further, the City issued bonds in the amount of \$22,558,700 (City Exhibit 184). The City's first payment, scheduled for the 2006-07 fiscal year, is only an interest payment amounting to \$1.2 million (VII:13). Thereafter, the City will be required to make an annual repayment of \$2,150,000 per year for the remaining 14 years of the bond life. Even though the City's bonds eliminated its current deficit, the City incurred an additional \$6 million deficit in its 2005-06 fiscal year. Thus, even after refinancing the General Motors obligation, using the entire budget stabilization fund and selling over \$22 million in bonds, the City is expected to end the 2005-06 fiscal year with an additional general fund deficit of approximately \$6 million. (City Exhibit 184). The City will be required to formulate yet another deficit elimination plan. As a result, the City will have a \$2.15 million annual repayment obligation, as well as will be required to address future deficits to its General Fund. Accordingly, although the City has acted to address its recent fund deficits, its ability to avoid deficits in the future continues to be grim.

The City asserts that it has done all it can do to increase revenues. The City's primary source of revenue is derived from its property taxes, income tax, and state shared revenue. (II:53). Municipalities in this state are restricted in their ability to raise revenues through property taxes by reason of Proposal A. (*Id.*) Under Proposal A,

the City may only increase property taxes by 5% or the rate of inflation, whichever is lower. (II:54). Recently, the rate of inflation has fluctuated between 1% and 4%. (*Id*). Further, the Headlee Amendment to the Michigan Constitution 1963 places further restrictions on the City's ability to generate revenue through taxes. Under Headlee, the City is limited to a 5%, or rate of inflation, increase in its overall tax rate after all of the Proposal A calculations are done. If the City's overall tax rate increases by more than 5% or the rate of inflation, the City is required to reduce its millage so that the overall tax burden on the City, as a whole, does not increase by more than the Consumer Price Index or 5%, whichever is less.

Due to Proposal A and Headlee, the City's taxable value has declined from 85% of its assessed value in 2001 to 70% of its assessed value in 2006. (City Exhibit 108). Further, the City has been unable to impose its full millage rate. (*Id*).

A factor which also affects the City's tax revenue is its dependence on General Motors. As General Motors reduced its own operations, the City realized a corresponding negative impact on its tax base. As of June 30, 2004, General Motors represented approximately 33% of the City's taxable value. As General Motors continues to downsize, it may be anticipated that its contribution to the City's tax base will also decline.

The City has already imposed an income tax of 1% for residents and .5% for nonresidents who work in the City. Revenue generated from this income tax has also declined from 2000 to 2004. The City has realized small gains in revenue from licenses and permits, which consist primarily of new construction. (City Exhibits 105, 165).

Also impacting the City's revenue picture is the decline in state shared revenue. City Exhibit 105 depicted the decrease by almost \$5 million from 2001 to 2004 in state shared revenue. An additional reduction of \$250,000 occurred between 2004 and 2005. (City Exhibits 105, 165). The state's reduction of shared revenue has wreaked havoc on the City's budget. For example, state shared revenue decreased from over \$17 million to \$12.5 million in 2005. (City Exhibit 112). In 2002, the City budgeted \$18.3 million of state shared revenue but received only \$15.4. (*Id.*) Monies which could be transferred back to the General Fund from other funds could not make up for the loss of state shared revenue. (City Exhibit 105).

At the hearing, the Union asserted that the City's budget deficit is largely a result of the sloppy handling of City funds and finance management incompetence. To attempt to balance the budget on the backs of the employees who diligently perform duties on behalf of the residents of the community is not an appropriate solution to the City's financial woes.

The Union asserts that the budget, going forward, is now balanced and that the City has a plan for financial recovery. The Union argues that it is not appropriate for the Arbitration Panel to revoke benefits of longstanding, merely to bail the City out of temporary financial predicament.

At the hearing in this matter, the Union explored other alternatives for addressing the City's financial situation, which included the City's seeking to increase its millages by asking the voters to approve a Headlee override. In response, the City pointed out that the jurisdictions which have sought overrides in the past have largely been unsuccessful in obtaining voter approval. Similarly, Pontiac voters have failed to

approve two different ballot proposals for increases in improvements to the Pontiac School System. (II:196).

The reduction or elimination of tax abatements to entities seeking to locate in the City would not provide a meaningful solution to the City's continuing financial woes. Elimination of tax abatements would discourage businesses from locating within the City and have a further impact on reducing income tax revenue.

The Union explored whether the City had diverted General Fund monies to address deficits in funds with restricted monies. The City is not liable for the deficit of any TIFA, DDA or Economic Development Corporation. (II:137). There was no evidence that any General Fund monies had been diverted to such restricted funds. (VI:21).

The Union also suggested that the City had significant assets which it could, and should, sell in an effort to raise revenue and address its deficit. For example, it currently owns two cemeteries, a golf course, a number of parking lots, and the now-dormant Silverdome. Yet, the cemeteries, since they involve a perpetual expense, are viewed as liabilities, rather than assets for sale. (II:197-198). Deed restrictions on the City golf course require its continued maintenance as a golf course in the future. The sale of any unrestricted City parking lots would likely have to occur in connection with a development agreement to attract new business and would thus function as an incentive for the agreement, rather than the sale of a separate asset. Finally, the City has tried, and failed to date, to sell the Silverdome. Even if the City were successful in selling the Silverdome, its realization of revenue from the sale would be prospective and would not address the City's current financial situation. As for plans for future upscale

residential and commercial developments, tax revenue derived from such developments would be directed to established TIFAs

Lastly, in response to the Union's financial mismanagement claim, the City argues that it was improperly served by its former accounting firm, which failed to properly and timely apprise the City of the existence of its budget deficit. Although a forensic audit which was recently conducted regarding the City's finances established the existence of a budget deficit and recommended broad revisions to the City's policies and procedures, there was no evidence that it confirmed the existence of any wrongdoing by the City or that the City had created the deficit.

The Arbitration Panel has very carefully considered the City's ability to pay argument. It cannot be disputed that the City has experienced a substantial and serious deficit, which it is now taking steps to address in a responsible manner. The City continues to face significant financial challenges, including the development of means to enhance its revenue picture. It will face \$2.1 million in yearly debt repayments for the next 15 years. Where, as here, the public employer proves a current inability to pay, as opposed to a prospective unwillingness to pay, that factor is a compelling driving force for the Arbitration Panel's consideration in connection with the applicability of the other Section 9 factors.

City Issue No. 1: Article II – Recognition, Section 3 – Subcontracting (Economic)

The City proposes to eliminate the contractual prohibition against layoffs, demotions, or reductions in overtime occasioned by bargaining unit work being performed by an outside contractor on a regular basis.

The City's rationale for proposing this modification to Article II, Section 3, is to reduce expenditures. If the City were able to subcontract the dispatch service through Oakland County, it estimates that it would save approximately \$270,000 per year. (IV:116). Given the City's dire financial condition, it argues that such a substantial cost savings is warranted.

The City also relies on external comparability to support its position. No other external comparable has language similar to that in the Union's collective bargaining agreement. No other external comparable has contract language which limits the employer's ability to subcontract where such subcontracting results in layoffs, demotions, or loss of overtime by bargaining unit members. (City Exhibit 140).

The City also asserts that its proposal is warranted by internal comparability. Only one other City bargaining unit has contractual language which limits the City's ability to subcontract if doing so would result in layoffs, demotions, or a loss of overtime for bargaining unit members. (City Exhibit 141).

The City acknowledges its obligation to bargain over the effects of any decision to subcontract, should this Arbitration Panel decide to award the City's position on this issue. Bargaining unit member rights would be accorded additional protection through the Intergovernmental Transfer of Functions and Responsibilities Act, MCL 124.531, *et seq.* Lastly, the City, in its preliminary discussions with Oakland County, has sought assurance from the County that a minimum of 17 bargaining unit members would be guaranteed a transfer to active employment with Oakland County and that the remaining bargaining unit members would be eligible for retirement from their employment with the City.

In opposition to the City's proposal, the Union argues that should the Arbitration Panel award the City's position on this issue, it would result in the elimination of the bargaining unit and the Union as its representative. The Union would be unable to protect its bargaining unit members from loss of employment, pay, or benefits. Bargaining unit members would be at the mercy of the City and any entity that would assume the dispatching services on behalf of the City. In other words, elimination of the language under the City's proposal would permit the City to eliminate the bargaining unit and its labor representative. It would make the rest of the issues involved in this Act 312 proceeding meaningless.

The Union also points out that at least two other internal comparables, specifically the Teamsters bargaining unit and AFSCME 2002, have language which prohibits subcontracting by the City which would result in layoffs or displacement of permanent full-time bargaining unit members. These units, like Petitioner's, have placed a premium on preserving the integrity of the bargaining unit and the negotiated rights of its bargaining unit members.

The Arbitration Panel has carefully considered this issue in light of all of the applicable Section 9 factors and awards the position of the Union on this issue.

Elimination of the subject subcontracting language would clearly afford the City the right to eliminate the bargaining unit through subcontracting its dispatch services to Oakland County or some other agency. That is apparently the intent of the City, as revealed by its preliminary discussions with Oakland County.

Besides a seniority provision, there is no more sacred contract provision than a no subcontracting clause. Such a provision is usually a hard-fought inclusion in

a collective bargaining agreement, resulting from some other sacrifice on the part of the bargaining unit to secure that its bargaining unit work continues to be done by its members. At least three bargaining units in the City have been able to secure such a provision. At what cost, the Panel can only speculate. If the Panel were to eliminate the language, it would effectively condone the elimination of the bargaining unit and make all of the other disputed contract issues involved in this Act 312 proceeding moot. This Panel will not award a proposal which would so easily facilitate the elimination of this bargaining unit.

The City projected that subcontracting the dispatch service could save it approximately \$270,000. While such a figure is not insubstantial, it is speculative at best, and does not warrant the destruction of the bargaining unit in its entirety. This is especially true in light of the City's recent success in addressing a major portion of its budget deficit through the issuance of bonds and negotiations with GM.

As for external comparability, while no external comparable has language similar to that in the Petitioner's collective bargaining agreement, there is no reason to believe that any of the other external comparables is contemplating completely subcontracting any of its dispatch services. All of the other external comparables presumably made a decision that their communities are better served by having local dispatch deploy their police and fire services. It is likely that the interest and welfare of the public are better served through a more localized dispatch service.

In theory, the City could get rid of its entire budget deficit by getting rid of all of its services in their entirety. The absurdity of such a notion is palpable, but

provokes the realization that the elimination of City services is probably not the answer to the City's financial dilemma.

While the Section 9 factors certainly constrain this Panel to consider the financial ability of the unit of government, comparison of internal and external comparables, average consumer prices for goods and services, and the interest and welfare of the public, among other things, it also permits the Panel to consider "such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration, or otherwise between the parties, in the public service or in private employment." [Emphasis added.] Securing a non-subcontracting clause through collective bargaining, mediation, fact-finding, or arbitration so as to secure employment and the integrity of the bargaining unit has been a traditional goal of labor. Consideration of this factor, along with the factors of internal comparability, and the interest and welfare of the public, speculative cost savings, and the lack of evidence that other external comparables are considering subcontracting dispatch services, compels the Panel to adopt the position of the Union on this issue.

City Issue No. 2: Article V – Conditions of Work, Section 3 – Overtime (Economic)

The City proposes that overtime compensation be limited to actual time worked in excess of 40 hours during a scheduled workweek and that the requirement that it pay overtime for all hours worked in excess of eight in a single day be eliminated. The rationale for the City's proposal is, fundamentally, to reduce its overtime costs which it asserts have been extremely high. (V:8). Given the attrition in the dispatcher's

unit from 21 to 17 dispatchers, the City has seen an increase in overtime expenses since dispatchers, more often than in the past, will remain at work longer than eight hours in any given workday.

In examining the external comparables, the City pointed out that Dearborn Heights and Southfield no longer pay overtime for hours worked after eight hours in a shift. (City Exhibit 143). Likewise, comparing internal units, both the firefighters union and the Pontiac Professional Management Association have agreed that overtime will not be paid for work after an eight hour shift.

In addition to support from both internal and external comparables, the City also points out that it is "extremely rare" in the private sector for employees to be paid overtime for work in excess of eight hours on a given shift. Private sector employees are accustomed to only receiving overtime for hours worked in excess of 40 in a given workweek. Thus, considerations of wage practices in private employment support the City's proposal on this issue.

The Union opposes the City's proposal, arguing that the City may manipulate starting and quitting times, as well as leave days, to avoid the payment of overtime in the future. The Union points out that employees in this bargaining unit do not have the ability to schedule their own overtime. That is an employer prerogative. Any cost savings occasioned through the elimination of payment of overtime after eight hours in a day are purely speculative and not supported by evidence which analyzes potential cost savings in light of historical overtime patterns. The Union also asserts that most of the internal and external comparables provide for the payment of overtime after eight hours in a day.

In the final analysis, the Union asserts that the employer sets the schedule, controls the hours, and decides if there will be overtime worked. Since it has the ultimate control over the schedule, it is only fair that the bargaining unit members be compensated appropriately when they are asked to work overtime at the end of their shift.

The Arbitration Panel has carefully considered the arguments of the parties on this issue. For the reasons which follow, the Panel believes that the Section 9 factors support the position of the City on this issue.

It is undisputed that the City is experiencing serious financial problems and has little flexibility in raising revenues as a means of addressing its dire economic circumstances. Thus, it must look at ways of cutting costs in the future as a partial solution to its financial condition. One such way is through greater control of overtime.

By law, overtime is only required after an employee works 40 hours in a given workweek. Therefore, the lawful authority of the employer, to comply with the Fair Labor Standards Act and the Michigan Wages and Fringe Benefits Act, only requires payment of overtime after 40 hours in a workweek. The interest and welfare of the public and the financial ability of the unit of government to provide service dictate that the City trim its expenses as practicable. Trimming an expense which brings it in line with minimal legal requirements is consistent with this factor.

In terms of both internal and external comparables, there is support for the City's position both with regard to the overtime practices of some of the external communities, as well as the overtime practices in at least two of the City's internal bargaining units. While these comparisons may not be overwhelming, they do provide

the City with some internal and external comparability on an issue which is largely driven by the City's ability to pay. Further, the practice in the private sector is to pay overtime only after 40 hours in a given workweek.

Nor does this reduction in overtime seriously impact the overall compensation received by the Union's bargaining unit members. They will still receive overtime, appropriately and lawfully, for hours worked over 40 in a given workweek.

While none of the Section 9 factors is intended to be more important than any other, it cannot be doubted that when a municipality experiences the dire financial circumstances that the City has experienced, cost cutting must begin somewhere. Even small steps to gain control of expenditures, when added together, will add up to substantial savings in the long run. The key is to properly balance the financial needs of the City with the financial needs of the employees and how much can (or should) be asked of them.

City Issue No. 3: Article V – Conditions of Work, Section 2 – Overtime (A) (Economic)

Following the submission of Last Best Offers on this issue, the parties reached a tentative agreement. Accordingly, this issue is no longer in dispute and the Arbitration Panel has no jurisdiction to rule separately on this issue. It will be covered as part of the Arbitration Panel's disposition of Joint Issue No. 2 – Undisputed Contract Provisions and Tentative Agreements, *infra*.

City Issue No. 4: Article V – Conditions of Work, Section 3 – Overtime-Compensatory Time (Economic)

Currently, the collective bargaining agreement between the parties permits bargaining unit members to receive compensatory time off rather than time and a half

for overtime hours worked. The City wishes to eliminate compensatory time after January 1, 2007.

The rationale for the City's proposal is that the use of compensatory time results in the creation of staffing problems and, ultimately, the accrual of more overtime/compensatory time. (V:43, 153). A staff member who works overtime and elects to receive compensatory time off often creates another overtime situation when the City is required to schedule another employee to cover for the person who is utilizing compensatory time. Under the City's proposal, employees would receive time and a half for all hours worked over 40 in a workweek and compensatory time would be eliminated. (V:43-44).

The City also seeks to justify its proposal by reference to both internal and external comparability. Although most of the other internal bargaining units have the ability to accumulate and use compensatory time in a given calendar year, there are limitations on whether compensatory time may be carried forward from year to year and whether it should be capped. Currently, only members of AFSCME Local 2002 and the non-union employees do not receive any form of compensatory time. The City views compensatory time as a City-wide problem which must be addressed.

Virtually every external comparable places a cap on the earning of compensatory time. (City Exhibit 151.) By comparison, the Union's bargaining unit members may earn and use as much compensatory time off in a given year as they wish, with the only limitation that it be paid off at the end of the year if not used. (Joint Exhibit 8, p 21.) The City asserts that it makes sense to eliminate the compensatory time off, commencing with calendar year 2007, so that it may better control the

scheduling of employees and the necessity of overtime due to staffing shortages. Compensatory time off leads to a vicious circle of earning overtime, taking it as compensatory time off, and creating more overtime due to staffing shortages. Given the City's financial condition, it needs to reduce, not increase, overtime liability.

The Union opposes the City's proposal to eliminate compensatory time off. Currently, the employees have a choice of either receiving overtime compensation or compensatory time off at the rate of one and one-half hours for every hour of overtime worked. Assuming that the City is as financially strapped as it maintains it is, the Union argues that the City should be encouraging the use of compensatory time off versus the payment of overtime compensation.

The Union questions the validity of the City's argument that elimination of compensatory time off would result in a cost savings to the City. There was no evidence to support the claim that the City has experienced problems in scheduling when employees elect to take compensatory time off, in lieu of receiving overtime. The Union points out that compensatory time must be scheduled with the approval of the bargaining unit members' supervisor.

As for the external comparables, the Union stresses that every external community allows for the accumulation and utilization of compensatory time off in lieu of payment for overtime. All of the externals, except the City, allow their dispatchers to carry over a portion of compensatory time from year-to-year. Likewise, all of the internal comparables, except for non-union employees and AFSCME Local 2002, have the flexibility to choose compensatory time off in lieu of overtime compensation. (City Exhibit 152.)

The Arbitration Panel has considered the proposals of the parties in light of the Section 9 factors and awards the position of the Union on this issue.

Compensatory time is legal in the public sector. It is within the lawful authority of the City to provide it to the Union's bargaining unit members. It is a common benefit, particularly in police contracts. All of the external comparables provide compensatory time off. Further, all but two internal bargaining units support the Union's position.

The City has not provided the Arbitration Panel with compelling financial evidence which would show either the extent of the City's operational problems or the anticipated cost savings that would be realized through the City's proposal. Indeed one could argue, as did the Union, that by eliminating compensatory time off, the City would incur a greater cash outlay than it otherwise would in connection with the payment of overtime. While the City points out that the members of the public who work in the private sector do not enjoy compensatory time off, that is simply because it is not a lawful option for employees in the private sector. That is not a reason to eliminate it from the Union's bargaining unit.

In light of the foregoing, the Arbitration Panel awards the position of the Union on this issue.

City Issue No. 5: Article V -- Conditions of Work, Section 3--Overtime-- Probationary Employees (Economic).

Currently, the collective bargaining agreement prohibits the City from utilizing probationary dispatchers to fill in for overtime assignments. The City proposes to add a new subsection F to Article V which would, at the supervisor's option, permit the City to utilize a probationary employee to cover an emergency vacancy in a regular

shift prior to filling the shift from the call-in list. The City's proposal is intended to address situations where probationary dispatchers have been available to work, but the City has been forced by contract to call in a seniority bargaining unit member to fill a vacant assignment. Under those circumstances, the City has been forced to pay two seniority dispatchers, plus a probationary employee, as well as a third seniority dispatcher who is working overtime.

The City relies on external comparables to support its position. City Exhibit 154 demonstrated that three of the external comparables have no restrictions concerning the use of probationary employees to cover a regular employee's shift. (City Exhibit 154.) Three other external comparables allow probationary employees to be used under certain circumstances, including as a last resort in an emergency situation. (*Id.*) Thus, the City asserts that a majority of the external comparables have the flexibility to utilize probationary employees to cover vacant assignments. Further, the Union's bargaining unit is the only City unit which categorically prohibits the use of probationary personnel to cover overtime situations.

Adoption of this proposal would not negatively impact the delivery of dispatch services to the public. The City's proposal would not result in a situation where probationary employees would be left to operate dispatching equipment when they lack adequate training and experience to do so. Two regular seniority dispatchers would be working at all times with the probationary employee. (V:60-61.) The City would only utilize a probationary employee if the supervisor believed that he/she could perform the assignment. The Union's assertion that adoption of the City's proposal would result in the endangerment of the public, or police or fire personnel, is entirely speculative.

The Union opposes the City's proposal to use probationary employees to cover overtime assignments. The Union argues that to adopt the City's proposal would result in the department being exposed to potentially serious safety issues and would compromise the safety of the individuals who reside and work in the City.

The City's dispatchers are responsible for the dispatch of all police, fire, and emergency medical personnel. In addition, they dispatch ambulance, wrecker, and DPW equipment. They respond to all 911 calls, as well as general calls, from the public. They monitor and respond to calls from the officers on the road, run LEIN checks, and are linked to the Michigan State Police and the FBI. They handle life-threatening emergencies and their response could have tragic consequences.

The Union points out that the external comparables do not place probationary employees in dispatch. Nor do they use them to cover overtime and emergencies. (See City Exhibit 154.) Three of the external communities only allow the use of probationary employees to cover an assignment as a last resort. These restrictions on the use of probationary employees are a recognition by the external comparables that safety is compromised when inexperienced employees are assigned to address understaffing situations.

As for the internal comparables, the Union points out that the City is only permitted to use probationary employees after the City has first offered overtime to regular full-time employees. Cost savings to the City through the utilization of probationary employees is unknown.

After careful consideration of the proposals of the parties in light of the Section 9 factors, the Arbitration Panel awards the proposal of the Union on this issue.

No evidence was presented regarding the projected cost savings to the City if this proposal were accepted. Neither considerations of external nor internal comparability support the City's position. Further, the interest and welfare of the public would seem to support utilization of the most experienced dispatchers possible. Likewise, the safety of the City's own employees could also be adversely affected through the adoption of the City's proposal.

Based upon the foregoing, the Arbitration Panel adopts the proposal of the Union on this issue.

City Issue No. 6: Article V – Conditions of Work, Section 4 – Call Back Time (Economic)

The City proposes to reduce the minimum guarantee of three hours at time and one-half for each instance where an employee is called back to duty. The City proposes to reduce that minimum from three hours to two hours at time and one-half.

Once again, the City cites cost containment as a primary rationale for its proposal. Its proposal is intended to result in the payment of overtime for hours actually worked in excess of 40 in any work week. The City also relies on external comparability to support its position. City Exhibit 157 demonstrates that five of the external comparables guarantee a minimum of two hours at time and one-half in the event of call back. With regard to the internal comparables, two of the City's bargaining units do not have any minimum call back time, while a third bargaining unit only awards one hour minimum call back time if overtime has been scheduled.

Given the City's current financial situation, paying employees for time that they do not work is not warranted or a prudent expenditure of limited revenue. It is a gratuity which the City can ill afford. While the City intended to propose that the

minimum call back time be eliminated entirely, it views its last best offer as a reasonable compromise between that position and what the expired contract provided.

The Union opposes the City's proposal on the issue of minimum call back time. The Union argues that the external comparables support the Union's position. The Union asserts that the external comparables provide a call back minimum which ranges from two and one-half hours to four hours. None of the external comparables has a two hour call back minimum.

Likewise, the Union asserts that the internal comparables do not support the City's position. All bargaining units have at least a three and one-half hour call back minimum (City Exhibit 58.) Indeed, the PPOA and the PPSA each have a four and one-half hour call back minimum guarantee. If the City's proposal is accepted, the Union's bargaining unit would be the only group of City employees with a two hour guarantee.

Once again, there is a dearth of evidence on the cost savings to the City if its proposal is accepted. Cost savings, if any, in the Union's view would be negligible since the decision whether to call back an employee to work is solely a management decision. Since the City controls the decision, it ultimately, controls the cost.

The Union also points out that the City may control the gratuitous payment of overtime by merely keeping the called back employee at work for the minimum three and one-half hours. In other words, if the City is worried that an employee who was called back for only one hour of work must be paid for three and one-half hours, the City could keep the employee at work for the full three and one-half hour minimum in order to get its money's worth. Alternatively, the City could merely hold a scheduled employee over after his or her shift had ended and avoid the call back issue entirely.

The Arbitration Panel has carefully considered the proposals of the parties and the Section 9 factors and rules in favor of the Union on this issue. While it may be speculated that cutting the call back minimum from three and one-half hours to two would save the City money, there was no evidence provided as to what cost savings the City could reasonably anticipate if its proposal been in place in any of the affected years of the contract period.

It is a common practice amongst the external comparables to guarantee a minimum call back period if they are going to disrupt an employee's private life by calling them back to work after they have left work. Likewise, it is a benefit enjoyed by the City's internal units. Guaranteeing a minimum three and one-half hours payment when the City calls an employee back to work is reasonable under the circumstances. Ultimately, the City has control over the cost by determining whether to exercise its right to call back an employee in the first place. In summary, there was no evidence of any significant cost savings to the City if its proposal were adopted and the current contract language appears to be well within the parameters of the external and internal comparables. None of the other Section 9 factors support the City's proposal for a contract modification. Accordingly, the Panel adopts the last best offer of the Union on this issue.

City Exhibit No. 7: Article VIII – Fringe Benefits, Section 1 – Vacation Leave (Economic)

Currently, bargaining unit members receive payment for all unused vacation leave when terminating service with the City. The City proposes, in its last best offer, to cap payment for unused sick leave time up to a maximum of one year of annual leave.

The City views its proposed modification as a cost saving measure designed to reduce cash payments to employees at the time of separation from employment, as well as any corresponding impact such payment would have in calculating an employee's final salary average for retirement benefit purposes. (V:68-69)

An examination of the external communities reveals that many of them cap the maximum amount of unused vacation time for which an employee may be paid at the end of employment. (City Exhibit 160.) Further, all internal bargaining units have a cap on the maximum amount of vacation leave payable at termination of employment. Five of the eight units only allow one year of accumulation to be paid at the time of retirement. (City Exhibit 161.)

The Union opposes the City's proposal and requests that the Arbitration Panel maintain the status quo. At present, bargaining unit members may bank up to one year's accumulated vacation leave in addition to their current accumulation schedule.

Should the City's last best offer be awarded, the effect of its proposal would be to force employees to use all of their vacation time, potentially creating scheduling problems and overtime situations which the City complained about in connection with its proposals regarding overtime and compensatory time. Further, the City's proposal does not address what would happen in cases of current employees who have leave time over the maximum one year payout cap and whether they would actually lose their leave time.

Considering external comparability, the Union points out that all dispatch units, except three, have the same payoff of unused vacation at termination as the Union's dispatch unit. (City Exhibit 161.)

The Union points out that the Employer failed to present any concrete data which confirmed the actual or projected cost savings if the Arbitration Panel were to award the City's proposal.

The Arbitration Panel has carefully considered the last best offers of the parties on the issue of terminal pay for vacation leave in connection with the Section 9 factors. The Arbitration Panel awards the last best offer of the Union on this issue.

The City's proposal would result in the reduction of terminal pay from a maximum of two years of annual vacation leave to one year of annual vacation leave. This would result in a reduction of terminal pay from two month's salary to one month's salary. While the City might eventually reap some savings from the provision, those savings would not be realized until dispatchers left the City's employ. Thus, this proposal offers little, if any, immediate monetary relief to the City in the form of cost savings. From an ability to pay standpoint, there appears no justification for removing a benefit of longstanding which results in only periodic liability on the part of the City.

In reviewing the external comparables, it appears that many of them impose a cap on the maximum amount of unused vacation time which may be paid to an employee upon termination of service. These caps vary in their amount/length, but it does not appear that a payout of a maximum of two years of accrued vacation leave is unreasonable.

Similarly, while all internal bargaining units have a cap on the maximum amount of vacation leave payable upon termination of employment, the public safety bargaining units all permit a carryover/payment of unused vacation leave in an amount similar to Petitioner's bargaining unit. The internal comparables could be interpreted as favoring either parties' last best offer. Since the other public safety bargaining units have provisions similar to Petitioner's, the Arbitration Panel concludes that the internal comparables favor the last best offer of the Union.

Finally, in considering factor 9(h), the Panel observes that adoption of the City's proposal would actually exacerbate, rather than alleviate, the City's concern over labor costs. If employees are compelled to use their vacation leave under a "use it or lose it" policy, more employees will take their full amount of vacation leave, resulting in a stress on the City's scheduling of personnel. As previously discussed, this in turn may result in additional overtime and further monetary liability.

In consideration of the Section 9 factors, the Arbitration Panel awards the Union's last best offer on this issue.

City Issue No. 8: Article VIII: Fringe Benefits, Section 6, Health Insurance – Subsection A

In its last best offer, the City proposes to provide all bargaining unit members with fully paid Blue Cross/Blue Shield Community Blue PPO Plan II with a ten dollar (\$10) deductible preferred prescription rider for generic drugs and a twenty dollar (\$20) deductible preferred prescription rider for brand name drugs or the equivalent of same. Bargaining unit members retiring after the effective date of this section would also be covered by this health insurance plan and pay the referenced prescription co-pays. Additionally, the City would offer the following health insurance options:

- A. Blue Cross/Blue Shield Traditional, \$10/\$20 prescription co-pay.
- B. Blue Cross/Blue Shield PPO, \$10/\$20 prescription co-pay.
- C. Blue Care Network, \$10/\$20 prescription co-pay.
- D. Health Alliance Plan – HMO, \$10/\$20 prescription co-pay.
- E. Health Alliance Plan – PPO, \$10/\$20 prescription co-pay.

Any bargaining unit member who elects one of the optional health insurance coverages would be required to pay the difference in the annual premium rates between the option selected and the rate for Blue Cross/Blue Shield Community Blue Option II.

The City presented extensive testimony and exhibits regarding the dramatic increase in health insurance costs in recent years. Health costs have increased anywhere from 26 percent to 71 ½ percent from 2001 to 2006. (City Exhibit 169.) 2006 "rates" for Blue Cross/Blue Shield Traditional coverage are as follows: Single coverage \$453.23, two person coverage \$1,019.79, and full family coverage, \$1,223.73. It is estimated that rates for Blue Cross/Blue Shield PPO Plan II would be \$381 (single) \$858 double, and \$1,030 monthly, thereby providing the City with a substantial savings in the area of health care.

The City asserts that adoption of its last best offer is supported by the Section 9 factors under Act 312. The City's proposal would result in a dramatic cost savings when comparing PPO II "rates" to those of Blue Cross/Blue Shield Traditional. Given the City's current financial situation, such cost savings are a reasonable and necessary attempt to control expenditures in an area where costs have spiraled rapidly in recent years.

The adoption of PPO II Plan would ensure that bargaining unit members would continue to receive excellent health coverage, fully paid by the City. (City Exhibit 170.) The majority of services are covered at 90 percent or are fully covered. (*Id.*) The deductible applicable to employees for in-network services would be \$100 per bargaining unit member and \$200 for family. (*Id.*) Out-of-network deductibles are \$250 per bargaining unit member and \$500 per family. For out-of-network services, the PPO Plan II covers a variety of services at 70 percent to 100 percent of cost. (*Id.*)

Looking at the external comparables, the City asserts that a number of them have already adopted PPO coverages as the benchmark. The clear trend is to move towards managed health care in order to contain employer health care costs. Alternatively, some communities are requiring employees to share in the cost of premiums, in addition to scaling down health care plans. The external comparables also support the in-network and out-of-network deductibles called for in the City's proposal. (City Exhibit 172.)

With regard to internal comparables, the City is attempting, through negotiations, to settle all of its contracts in a manner which assures that the City reduce its expenditures in the area of health care. The City urges this Arbitration Panel to consider the domino effect of its arbitration award.

The Union opposes the City's last best offer and proposes, in the alternative, that the employees opting for Traditional Blue Cross/Blue Shield pay the difference in premium between BCBS Traditional and Community Blue Option I, with \$10 generic and \$20 brand prescription co-pay. Additionally, employees selecting any of the other options would pay the difference between Community Blue Option I and the

alternative selected. The Union proposes Community Blue Option I as the benchmark for paying a premium differential based on a comparison of the costs and benefits of Community Blue Option I versus Community Blue Option II. Community Blue Option I rates are currently \$457 (single), \$1,069 (double), and \$1,189 (full family).

Option II in-network has annual deductibles of \$100 per single and \$200 per family. For family coverage, that means an annual maximum in-network deductible of \$1,800. Out-of-network Option II deductibles and co-insurance are higher. Out-of-network annual deductibles are \$250 for single coverage and \$500 for family coverage. The out-of-network annual 30% co-insurance limits are \$1,750 for single coverage and \$3,500 for family coverage. Thus, the total annual out-of-network maximum is \$2,000 for a single individual and \$4,000 for a family. The Union asserts that taking into account the City's proposal on this issue with its wage freeze proposals will result in the bargaining unit members taking home far less pay than they had at the beginning of the prior contract period.

By contrast, utilizing the Community Blue Option I as the benchmark, results in a more equitable cost shift between the two parties. Community Blue Option I has no in-network deductibles or co-insurance. Out-of-network deductibles are \$250, 20% co-insurance to an annual out-of-pocket of \$2,500. For family coverage, the exposure results in a \$500 deductible, 20% co-insurance to a cap of \$4,500 for a total out-of-pocket of \$5,000. The Union agrees that should an employee choose an option other than Community Blue Option I, and if that option results in a higher monthly cost to the City, the employee would pay the difference.

In looking at the external comparables, Community Blue Option I is the base plan for the communities of Waterford Township, Shelby Township, and Redford Township. Canton Township provides a Blue Cross/Blue Shield Trust 15 PPO, through which there are no co-pays or co-insurance provisions. The Clinton Township contract provides Blue Cross/Blue Shield Traditional with no premium sharing. The Royal Oak dispatchers have the Blue Cross/Blue Shield Blue Preferred PPO Plan with no deductibles or co-pays. St. Clair Shores provides a benefit which equates to a Community Blue I, as does Waterford Township. So too does the City of Westland, which completely pays for Blue Preferred PPO, if selected by the bargaining unit member. Its health care coverage does not include high deductibles or co-pays as are present in a Community Blue II program.

With regard to the internal comparables, the Union asserts that all have the same options as the Union's bargaining unit presently enjoys. None have Community Blue Option II as the base plan for benefit coverage. None have high deductibles or co-pays. All have a \$5 drug rider, except the SAEA. The SAEA has a \$10 drug rider, which is the same as that provided by Community Blue I. (See City Exhibit 189.) Even the non-union exempt employees have Community Blue I as their base line option.

The Union notes that rates for the current Blue Cross/Blue Shield PPO Plan actually decreased from 2005 to 2006. The rates are single coverage \$411.67, two person coverage \$926.27, and full family coverage \$1,100.53.

The Union urges the Arbitration Panel to consider the fact that the City of Pontiac is self-funded for health care. Periodically, the City receives refund checks from

the administrator based upon its experience. The Union points out that the City's proposal does not reflect that these refunds should be returned to the employees on a pro rata basis.

The Union also argues that since the City's health care is self-funded, it may dictate whatever illustrative rates are charged to it and passed on to the employees in a "premium differential" situation. Theoretically, the City could increase its rates and pass on a larger portion to the employees to increase the share that they shoulder.

Under the City's proposal, bargaining unit members would be faced with paying the first \$100 or \$200 of all medical expenses for in-network services, \$250/\$500 for out-of-network services, annually before the City covers health care services. After the deductibles have been satisfied, bargaining unit members would have annual exposure of \$700/\$1,400 for in-network services versus \$2,500/\$5,000 for out of network services. The Union asserts that requiring the employees to assume a three year wage freeze, a reduction in overtime compensation, a cap on payment for unused vacation leave and a reduction of call back pay unreasonably shifts the financial burden for bailing the City out of its financial woes to the bargaining unit members. To place such a financial burden on the backs of the bargaining unit members is simply inequitable. This is especially true since no other employee group in the City has faced these harsh concessions.

The Arbitration Panel has considered the arguments and proposals of the parties on the issue of health care plan and has determined to award the last best offer of the City on this issue. The City's Last Best Offer provides the more realistic cost savings to the City with minimal cost impact on the bargaining unit. It is certainly in line

with the health care plans of the external comparables which establish a clear trend towards managed health care as a way to contain escalating health care costs. While the Union's health care proposal recognizes this trend, it simply does not afford the City the savings it must realize to maintain operations and balance its budget.

It also appears that the internal comparables favor the position of the City on this issue. Shifting from Blue Cross Traditional as the benchmark to a PPO 2 with the increased deductions has been the preferred cost saving measure employed by the City as it settles outstanding contracts.

Accordingly, the Arbitration Panel awards the last best offer of the City on this issue.

City Issue No. 9: Article VIII – Fringe Benefits, Section 6 – Health Insurance (a) (Economic)

For the reasons sated in the foregoing section, and since these proposals are in tandem, the Arbitration Panel adopts the last best offer of the City on this issue, which is to treat this issue as addressed and incorporated in City Issue No. 8.

City Issue No. 10: Article VIII – Fringe Benefits, Section 6 – Health Insurance (I) (Economic)

The City proposes that all bargaining unit members hired after July 1, 2006, be required to pay 20% towards the rate to maintain any of the identified health care plans. The City maintains that its proposal is consistent with its attempts to control health care costs, balance its budget, and be consistent with the trend of municipalities that are increasingly requiring "premium" sharing on the part of their employees.

In addition to the City's continuing financial ability to pay argument, it cites the external communities as supportive of its position. It points out that of the 11

external comparables, seven of the communities have at least some form of employee premium contribution. (City Exhibit 175.) Although no other City employee contributes or shares in the cost of their health care benefits, the City is currently attempting to negotiate some form of "premium" sharing in all other City units. This Arbitration Panel will be the first to rule on this issue. Since this proposal will not affect employees hired before July 1, 2006, it will not affect employees who were on staff at the time that this 312 arbitration took place. Rather, it will apply to future employees who will be well aware of its existence at the time they are hired.

The Union repeats and incorporates by reference its arguments on the previous health care proposals. It also argues that the creation of a two-tiered health system will ultimately negatively impact its bargaining unit and make new hires "second class citizens." The adoption of a two-tiered health care system will not have an immediate effect of substantial health care savings.

The Arbitration Panel has very carefully considered the last best offers of the parties on this issue. Although it is fundamentally opposed to the creation of two-tiered systems, regardless of whether they impact retirement plans/benefits, leave accruals, or health care premiums, these systems do not impact current bargaining unit members. In essence, they "mortgage the future" on the backs of individuals yet to be hired, who have no financial stake in City employment and who have not enjoyed historical benefits at higher rates.

The Arbitration Panel is cognizant of the underlying philosophy of "people will not miss what they have never had." Nonetheless, they will look to their more senior

brothers and sisters and aspire to the wages, hours, and working conditions that they enjoyed in better economic times.

Having said this, the Arbitration Panel reluctantly acknowledges that the Section 9 factors support the City on this issue. The Arbitration Panel will not belabor the financial situation of the City. Nor will it belabor the fact that the trend currently is to shift some portion of health care costs from the employer to the employees. Lastly, it appears to be the intent of the City to try to get a handle on health care costs, by not penalizing employees who have enjoyed greater benefits, but by apprising new hires of scaled down benefits. The Arbitration Panel acknowledges this trend and, under the present circumstances, finds that it favors the position of the City. Therefore, the Arbitration Panel adopts the last best offer of the City on this issue.

City Issue No. 11: Article VIII – Fringe Benefits, Section 9 – Retirement Benefits (e) (Economic)

In its last best offer, the City proposes that bargaining unit members contribute 2.5% of base pay and overtime towards retiree health care costs through a VEBA. The City proposes that this change become effective July 1, 2006.

Currently, the City provides health care benefits to retirees pursuant to its retirement plan. The City's retiree health care liability has increased dramatically in recent times and the City proposes to address this problem by requiring that employees participate in "pre-funding" of retiree health care to maintain retiree health care benefits. The City explains that as of December 31, 2003, it had a total accrued liability of \$118,194,450 in obligations for retiree health care benefits. (City Exhibit 106.) Only \$2,197,961 has been set aside in a VEBA to cover this liability. (*Id.*) The City's actuaries have recommended that the City set aside 39.92% of payroll to pay for retiree

health insurance. (*Id.*) Yet, given the City's financial situation, it is presently unable to set aside any monies to pay for retiree health insurance. To do so would only create a larger deficit in the City's general fund. (II:132.) Compounding the problem is that GASB 45 requires the City to show its accrued liabilities for retiree health insurance, commencing in 2006. Its substantial under-funding of retiree health care will be an additional liability, scarring the City's already pessimistic financial statements. Recent efforts by the City to increase attrition through retirement, versus layoff, has compounded this retiree health care liability.

The City points out that currently members of this bargaining unit make no contribution to their retirement benefits. By contrast, the police, police supervisors, and fire fighters all contribute 2.5% of their payroll. Further, the City is presently attempting to negotiate employee contributions with the other bargaining units. (City Exhibit 178, VI:137.) Looking at the external comparables, the City points out that the health care benefits received by Pontiac retirees are quite competitive. The external communities place restrictions or limitations upon the level of health insurance provided to retirees.

The cost of retiree health coverage has become a serious problem, just like the escalation of health care for current employees. Further, even though the City's pension system is currently over-funded, its actuaries have recommended that the City begin contributing 1.4% of payroll to its retirement system, commencing July 1, 2006, in order to meet future liabilities. This additional expense comes at a time when the City is trying to trim, not increase, its expenditures. This problem will be exacerbated when the City is required to reflect retiree health insurance in conformity with new accounting standards. For those reasons, the City requests that the Arbitration Panel require

current employees to contribute 2.5% of their base and overtime to a VEBA to fund retiree health benefits.

The Union opposes the City's proposal and, in the alternative, offers that its bargaining unit members contribute 1% of their base pay towards retiree health care (VEBA). In support of its position, the Union points out that none of the employee groups which participate in the general employees pension system for the City of Pontiac pay anything into the pension system.

For some years, the City has been pre-funding retiree health care, without employee contribution, through the establishment of a VEBA. The VEBA satisfies the GASB 45 requirement of pre-funding of retiree health care by public employers where such health care is provided. (City Exhibit 180.) As of December 31, 2003, the fund contained more than \$2,000,000.

While the Union is unwilling to have its bargaining unit members pay 2.5% of their base pay and overtime into the VEBA, they are willing to help with the pre-funding of retiree health care by having their bargaining unit members contribute 1% of their annual salary. The Union argues that this contribution rate is reasonable in light of the fact that the dispatchers have not had a pay increase for three years. Any greater percentage contribution would be unreasonable and create a financial hardship. Additionally, the Union's position requires that the contribution begin 30 days after the Arbitrator's Award. This would avoid a large retroactive payment dating back to July 1, 2006.

The Arbitration Panel has carefully considered the parties' last best offers and awards the position of the Union on this issue. The Union's proposal recognizes

that employee health care must be pre-funded and that employees should have some responsibility in contributing to this pre-funding. At the same time, the Union's last best offer minimizes the financial impact of such a contribution on employees who have not received a wage increase for a substantial period of time. The Arbitration Panel believes that the Union's position is reasonable as it represents an acknowledgment of the substantial cost of this benefit and the financial hardship of the City to meet it, while at the same time remains in line with external and internal comparables. It is indeed fitting that the Union take a leadership position designed to raise employee awareness of the necessity that retiree health benefits be pre-funded. Retiree health benefits are an extraordinary benefit not enjoyed by employees as a customary part of a retirement plan or a 401(k) plan. Accordingly, a modest initial contribution is appropriate considering all of the foregoing factors.

Accordingly, the Arbitration Panel awards the last best offer of the Union on this issue.

City Issue No. 12: Article VIII – Wages and Benefits, Section 3 – Longevity (Economic)

The City's last best offer proposes to eliminate longevity payments for all bargaining unit employees, effective July 1, 2006. Currently, the collective bargaining agreement provides longevity bonuses at the following levels:

5 to 9 years of service:	2%
10 to 14 years of service:	4%
15 to 19 years of service	6%
20 to 24 years of service	8%
25 or more years of service:	10%

The City proposes an elimination of the longevity payment as another means of addressing its financial situation. Since the City's longevity payments are expressed as a percentage of compensation, versus a flat dollar amount, the City notes that they provide the employees with a second percentage increase to their wages on a periodic basis.

City Exhibit 163 demonstrated that at least one of the external comparables provides no longevity payment to its employees. Of the remaining external communities, longevity payments are provided in fixed dollar amounts, rather than percentages. These fixed dollar amounts are far below the longevity payments provided to bargaining unit employees of the City. (City Exhibit 163.) City employees receive as much as \$3,875 per year in longevity payments, given the calculation of longevity based on a percentage of compensation.

With regard to internal bargaining units, the City asserted that the elimination of longevity had been presented as a bargaining proposal to every bargaining unit in the City. (V:87) The City hopes to reap savings, not only based upon the Petitioner's bargaining unit, but also that of the other bargaining groups as well. The City can ill afford to continue this "second annual pay increase," given its current and projected financial difficulties.

The Union opposes the City's last best offer to eliminate longevity. It points out that should the Arbitration Panel award the City's proposal, bargaining unit members would have to repay longevity that they received in 2006. Given the fact that employees of the bargaining unit have gone without a pay increase since July 1, 2003, they have only been able to rely on overtime and longevity to enhance their base wage.

Of the external comparables, only St. Clair Shores does not provide a longevity benefit. (City Exhibit 163, Joint Exhibit 17, and Joint Exhibit 12.) Accordingly, the external comparables favor retention of longevity.

As for the internal comparables, every group, including non-union employees, receive some form of longevity. Every internal employee group, including the instant bargaining unit, has agreed to a phase out of longevity for employees hired on or after April 26, 2001. Since this benefit is being phased out, the Union asserts that it is unnecessary for the City to take it away from senior employees who are currently receiving it.

The Arbitration Panel has carefully considered the last best offers of the parties in light of the Section 9 criteria and awards the last best offer of the Union on this issue. While the Arbitration Panel once again acknowledges the financial circumstances of the City, it is simply unreasonable, and unnecessary, to gut the wages and benefits received by current employees as a method of reducing the budget deficit. This is particularly true with regard to a benefit that is being phased out for all of the employee groups anyway. And certainly, with regard to the external comparables, longevity remains a customary benefit provided to public employees.

In light of the foregoing, the Arbitration Panel adopts the last best offer of the Union on this issue.

Union Issue No. 1: Article IX – Wages and Benefits, Section 1 – Wages – July 1, 2004 (Economic)

The Union proposes that bargaining unit members receive a \$1,000 signing bonus attributable to July 1, 2004. A \$1,000 signing bonus would not be rolled into bargaining unit members' wages and, thus, would have no rollup impact.

In support of its last best offer, the Union points to the fact that other employee groups of the City received increases effective July 1, 2004, by reason of collective bargaining agreements that were in place at that time. By contrast, the dispatchers have not received a wage increase in over three years. Non-union employees and mayoral employees of the City all received pay and step increases during the aforementioned period.

The Union also asserts that the cost of its proposal, \$17,000, is extremely modest and, if looked at over a three year period (assuming that the Arbitration Panel does not award any wage increases for the ensuing two contract years), does not even keep up with the cost of inflation.

The City opposes the Union's last best offer and proposes a wage freeze at the level effective July 1, 2003.

The City's position is supported by its financial condition, which has been described in detail, *supra*. Even though the external comparables may have provided their dispatch units with increases effective July 1, 2004, none of the external comparables are in the dire financial situation that the City finds itself in.

Further, even without a pay increase effective July 1, 2004, the City's dispatchers rank 8 out of 12, when compared to the wages paid by the comparables. (City Exhibit 129.) Comparable communities have a much larger taxable value (City Exhibit 130), which demonstrates that the City is working hard to use its resources to compensate its employees. As for the increases that were received by other employee groups of the City, the City asserts that those increases had been committed before the City ascertained and experienced its substantial budget deficits. (City Exhibits 124,

125.) Since those contracts expired, the City has not negotiated any new increases for those groups.

Nor, in the City's opinion, should the Arbitration Panel rely on any increases it may have awarded non-union management employees to support the Union's proposal. Non-union employees received no pay increase in 2001. They received modest catch-up increases in 2002. Further, it is undisputed that the non-union employees have not received a pay increase since July 1, 2004. Any increases they received prior to that time were awarded before the City became cognizant of its dire financial condition. Further, the City points out that non-union management personnel do not receive the panoply of benefits enjoyed by the Union's bargaining unit members.

The Union's proposal for a \$1,000 signing increase represents a 2.58% pay increase for bargaining unit members at the top of the pay scale. Even if the external communities gave their dispatch employees pay increases effective July 1, 2004, none of those comparables face the budget difficulties and deficit that the City does. Further, those increases were negotiated prior to the City's discovery of its budget difficulties.

As to the internal comparables, the City asserts that the police officers, fire fighters, and teamsters units did not receive pay increases attributable to July 1, 2004. Any pay increases given to other City units were negotiated or agreed to well in advance of the City's discovery of its financial position.

Having carefully considered the Section 9 factors, and all of the other disputed contract issues in this matter, the Arbitration Panel awards the position of the Union on this issue.

The fundamental difficulty which this Arbitration Panel faces is to balance the competing interests (as well as what should be the cooperative interests) between the Union and the City. The parties acknowledge the financial problems which the City has experienced during the term of this contract. The question in this arbitration is not why those problems have occurred, but whether, and to what extent, the Union's bargaining unit members should contribute toward a solution.

As expressed more fully in the Arbitration Panel's resolution of the City's issues, the Arbitration Panel is of the belief that the employees should make some "contribution" to "holding the line" on the City's expenses. To that end, the Arbitration Panel has granted a number of contract modifications which should result in labor cost savings for the City and charts a more financially prudent course in the future with regard to rising health care costs and overtime.

By the same token, saddling the bargaining unit with both a three year wage freeze, along with substantial benefit retrenchment, is neither equitable nor in keeping with the Section 9 factors.

The Union's first year wage offer does not propose a percentage increase to the wage scale. Rather, it proposes a one time signing bonus which will have no rollup effect on the City's budget. Such a modest monetary award, coupled with a wage freeze in years two and three, and benefit reductions in other areas, in the Arbitration Panel's opinion, addresses the City's financial ability to pay argument. It is also far less

than the increases agreed to by the external comparables. While no external comparable is suffering to the financial extent that the City is, nor has any other external comparable sought, and received, the wage freezes and benefit reductions that the City has by reason of this arbitration proceeding.

With regard to the internal comparables, the Arbitration Panel is also cognizant of the fact that a number of the units received wage increases, effective July 1, 2004, because they had prior contractual commitments for such increases. Thus, to keep matters internally equitable, a modest compensation award to this bargaining unit is appropriate and would place the internal bargaining units roughly in the same position with regard to the disputed contract years. Lastly, considering the overall compensation received by the City's dispatchers, along with factors that are normally and traditionally taken into consideration in the determination of wages through voluntary collective bargaining, the Arbitration Panel concludes that the last best offer of the Union should be awarded on this issue.

Union Issue No. 2: Article XI – Wages and Benefits, Section 1 – Wages – July 1, 2005 (Economic)

The Union proposes a two percent across the board increase, effective July 1, 2005, for all bargaining unit members.

The Union observes that all external comparables with contracts in place awarded pay increases ranging from a low of 1.5% to a high of 3% to their dispatchers. Accordingly, the Union's proposal is well within range of the increases paid by the external comparables in 2005.

The Union calculates that its proposal would result in its bargaining unit members receiving an average 37¢ per hour increase to their hourly rate. The cost to the City would be \$13,083, excluding rollup.

Averaging this increase over a two year period, assuming that the Arbitration Panel did not award the Union's proposal on wages effective July 1, 2004, would represent only a one percent per year average increase for the bargaining unit members.

The City proposes a wage freeze effective July 1, 2005, at the July 1, 2003 compensation rates based upon its financial condition, as aforescribed.

The Arbitration Panel has carefully considered the last best offers of the parties on this issue and awards the last best offer of the City.

The Arbitration Panel will not belabor the importance of the City's budget deficit as constituting the driving force behind, and rationale for, its award. While the external communities paid increases to their dispatchers in 2005, none of them were experiencing the financial tailspin that the City was experiencing. Further, the City has been uniform in not paying increases to units, other than those previously committed, since July 1, 2004. Accordingly, of the relevant Section 9 factors, the overwhelming evidence supports the position of the City on this issue.

Union Issue No. 3: Article IX – Wages and Benefits, Section 1 – Wages – July 1, 2006 (Economic)

The Union proposes a 2.5 percent across the board increase, effective July 1, 2006, for its bargaining unit members. Of the external comparables which had contracts in place in 2006, the dispatchers received anywhere from a 3% to 6% increase. By comparison, the Union asserts that its 2.5% offer is very modest.

A 2.5% increase would bring the hourly rate of the dispatchers to \$19.09, a 46¢ per hour increase over the 2004 hourly rate of \$18.63. Even if both the 2005 and 2006 wage increases that the Union proposes were implemented, the bargaining unit's relative position with regard to the external comparables would remain static.

The City opposes the Union's last best offer and proposes that the bargaining unit members' wages remain frozen, effective July 1, 2006, at the July 1, 2003 rates. Relying on its inability to pay, the City incorporates by reference its previous arguments. No other internal unit of the City received a pay increase on July 1, 2006. (Union Exhibit 211.) Only two of the external comparables awarded any pay increase in 2006. The six communities are in negotiation with their dispatchers. Therefore, the external comparables do not provide an adequate basis of comparison which would be supportive of the Union's position.

After careful consideration of the parties' proposals on this issue, the Arbitration Panel awards the last best offer of the City on this issue. The Arbitration Panel repeats and incorporates by reference the City's arguments in connection with the prior two wage proposals, as if fully stated herein. It further repeats and incorporates by reference its analysis of the Section 9 factors on this issue. Simply stated, none of the Section 9 factors support the position of the Union on this issue.

Union Issue No. 4: Article IX – Fringe Benefits, Section 9 – Retirement Benefits – Age and Service Requirements (Economic)

Both parties have proposed in their last best offers to maintain the status quo in the collective bargaining agreement on this issue. There being no dispute on this issue, the Arbitration Panel treats the parties' last best offers as their stipulation to

maintain the current contract language on the age and service requirements for retirement benefits under Article IX, Section 9 of the collective bargaining agreement.

Union Issue No. 5: Article IX – Fringe Benefits, Section 9 – Retirement Benefits – Pension Multiplier (Economic)

The last best offers of both parties propose maintaining the status quo in the collective bargaining agreement on this issue. There being no dispute, the Arbitration Panel treats the parties' last best offers as their stipulation that there should be no change in the successor agreement of Article IX, Section 9 as it relates to the pension multiplier.

Union Issue No. 6: Article VIII – Fringe Benefits, Section – Vacation Leave, Subsection A – Earning Vacation Leave

The Union proposes in its last best offer to increase vacation leave accrual to bring the dispatchers bargaining unit in line with the vacation accrual earned by officers in the PPOA, PPSA, and the fire fighters in the PFFU. (Union Exhibit 220.) The Union also relies on the external comparables to support its proposal, observing that seven of the comparable communities provide more vacation leave to their dispatchers than is currently provided to the Pontiac dispatchers.

The Union argues that working in dispatch can be very stressful and that additional vacation leave is necessary to counteract the stress and keep the dispatchers attentive and able to respond to public safety calls in an appropriate and timely manner.

The City proposes to maintain the status quo and opposes the Union's last best offer. The City disagrees with the Union's argument that the internal and external comparables favor the Union's position in this matter. The City points out that its dispatchers currently earn as much leave time, if not more, than all other City units with

the exception of the three uniformed public safety groups. (Union Exhibit 220.) The City also observes that the Pontiac dispatchers earn more vacation leave than the dispatchers in Dearborn Heights, Redford Township, St. Clair Shores, and Southfield. (Union Exhibit 221.) At present, the Pontiac dispatchers receive on the average of three more vacation leave days annually than those comparable communities. (*Id.*)

Lastly, the City argues that to the extent the Union's proposal is economic, it would put a further strain on the City's already economically crippled condition. The City is not in a position, at this time, to grant economic enhancements. It needs economic concessions to balance its budget.

The Arbitration Panel has carefully considered the last best offers of the parties and awards the position of the City on this issue. An enhancement to the unit's vacation accrual in a time where the City is attempting to retrench and rein in its costs in the areas of overtime and health care, simply is not warranted. Nor does it appear that the unit's vacation accrual is out of line when compared either to the internal or external comparables. While no doubt the interest and welfare of the public requires employment of dispatchers who are attentive and can react to requests for public safety services in an efficient manner, it appears that the vacation leave already provided to the dispatch unit is adequate to accomplish that purpose. For those reasons, as well as consideration of all applicable Section 9 factors, the Panel awards the last best offer of the City on this issue.

Union Issue No. 7: Article V – Conditions of Work, Section 3 – Overtime (Economic)

In its last best offer, the Union proposes to amend certain contract language dealing with overtime to prohibit the City from changing an employee's hours

of work to avoid the payment of overtime, unless voluntarily agreed to by the employee. The Union asserts that its language is necessary to prevent the City from changing work schedules once they have been established to avoid the payment of overtime. Utilization of the phrase, "hours of work," would prevent the City from being able to send an employee home earlier, or having an employee report to work later, than scheduled. Further, the Union points out that its last best offer maintains flexibility in that it allows the City to make schedule changes with the concurrence of the employee.

In the City's last best offer, it proposes to add language to the overtime provision which would afford it the flexibility to schedule work to ensure efficient and economical operations, while at the same time agreeing that it will not change an employee's scheduled hours of work in a work week for the sole purpose of avoiding the payment of overtime.

In support of its position, the City emphasizes that no other internal or external comparable has language which restricts the municipality from changing an employee's schedule to prevent the payment of overtime. (Exhibits 223 and 224.) The City requires maximum flexibility to schedule its employees, rather than restrictions on its ability to do so.

The City characterizes its last best offer as a reasonable attempt to address the Union's concern of an employee's work week schedule being changed to avoid the payment of overtime. It attempts to address the Union's concern while retaining the City's flexibility to provide efficient and economical operation of dispatch services. The City views its proposal as a "reasonable compromise."

Upon careful consideration of the last best offers of the parties, in light of the applicable Section 9 factors, the Arbitration Panel awards the proposal of the City on this issue. Without belaboring the prior extensive discussion of the City's financial hardship, the Arbitration Panel agrees with the City's rationale that its last best offer attempts to address the concern of the Union, without totally hamstringing the City's flexibility to schedule dispatch services, as necessary and on a cost effective basis. Inasmuch as the factors of financial ability to pay, and external and internal comparability all favor the position of the City on this issue, the Arbitration Panel awards the City's last best offer.

Union Issue No. 8: Article V – Conditions of Work, Section 3 – Overtime – Compensatory Time (Economic)

In its last best offer, the Union proposes that, effective upon the date of the Arbitration Panels' award, an employee be able to carry over 100 hours, non-accumulative, of compensatory time to the following calendar year. Currently, bargaining unit members are not allowed to carry over any compensatory time from one year to the next. The Union argues that the other public safety units are able to carry over compensatory time to the following year. (Union Exhibit 226.) Of the external comparables, only one permits a carry over of compensatory time from one year to the next. (Union Exhibit 227.)

The Union asserts that its offer is reasonable in that it does not force the City to pay off any employee who has compensatory time on the books at the end of the calendar year. It limits the amount that can be carried over from one year to the next to a maximum of 100 hours. It may also ease the City's cash output by allowing

bargaining unit members to carry over compensatory time, rather than receiving compensation for it.

The City proposes to maintain the status quo, and opposes the Union's proposal to permit the carry over of compensatory time from one year to the next.

The City reminds the Arbitration Panel of its position that compensatory time should be eliminated rather than expanded. Nonetheless, if compensatory time is retained by the Arbitration Panel, the City urges that considerations of internal and external comparability do not support the Union's last best offer on this issue.

Of the internal units, only the three uniformed public safety units currently allow the carry over of 100 hours of compensatory time in the ensuing contract year. (Union Exhibit 226.) None of the other City units permit such carryover. Nor do any of the external comparables permit their dispatchers to carry forward 100 hours of compensatory time into the following year. Therefore, the City urges that considerations of internal and external comparability do not support the Union's last best offer on this issue.

As discussed in connection with the City's proposal to eliminate compensatory time, the City desires to limit leave time, rather than to create situations where bargaining unit members could extend leave time, thereby creating potential overtime situations for the City and attendant increased labor costs. This creates a vicious circle of employees taking compensatory time off, thereby creating the potential for compensatory time to be earned by the employee who fills in.

The Arbitration Panel has carefully considered the last best offers of the parties in light of the Section 9 factors on this issue and awards the last best offer of the

City. For all of the reasons previously articulated with regard to the prior economic issues, the Panel is persuaded that the City's financial ability to pay, and considerations of external and internal comparability, along with the overall compensation of the members of the bargaining unit favor the last best offer of the City on this issue.

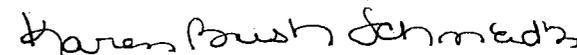
Therefore, the Arbitration Panel awards the last best offer of the City on this issue.

AWARD

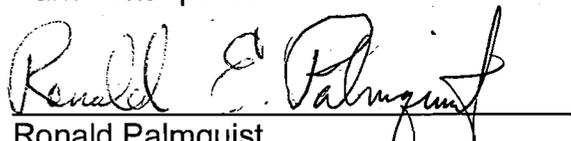
Joint Issue No. 1 – Duration

The parties have stipulated to a three (3) year contract term, commencing July 1, 2004 through June 30, 2007. The Arbitration Panel adopts and awards the parties' stipulation.

Dated: 1/30/07


Karen Bush Schneider
Panel Chairperson

Dated: 1/23/07


Ronald Palmquist
Union Delegate

Dated: 1-25-07


Larry Marshall
City Delegate

Joint Issue No. 2 – Undisputed Contract Provisions and Tentative Agreements

The parties have stipulated that all undisputed contract provisions and tentative agreements shall be carried forward in the 2004-2007 collective bargaining agreement. The Arbitration Panel adopts and awards the parties' stipulation.

Dated: 1/30/07

Karen Bush Schneider

Karen Bush Schneider
Panel Chairperson

Dated: 1/23/07

Ronald E. Palmquist
Ronald Palmquist
Union Delegate

Dated: 1-25-07

Larry Marshall
Larry Marshall
City Delegate

City Issue No. 1 – Subcontracting

The Arbitration Panel adopts and awards the last best offer of the Union
as follows:

Status Quo. No change to current language.

Accepted:

Rejected:

Karen Bush Schneider
Dated: 1/30/07

Dated: _____

Ronald E. Palmquist
Dated: 1/23/07

Larry Marshall
Dated: 1-25-07

Dated: _____

Dated: _____

City Issue No. 2 – Overtime (Hours Worked in Excess of Eight)

The Arbitration Panel adopts and awards the last best offer of the City as
follows:

Article V – Conditions of Work, Section 3. Overtime, first paragraph shall

be revised to provide as follows:

Overtime is authorized time worked in excess of forty (40) hours during a scheduled workweek.

Effective Date: Effective date of the Award.

Accepted:

Rejected:

Karen Ruth Schmidt

Dated: 1/30/07

Dated: _____

[Signature]

Dated: 1-25-07

Ronald E. Palmgren

Dated: 1/23/07

Dated: _____

Dated: _____

City Issue No. 3 – Overtime (Double Time on Sundays and Seventh Day of the Workweek and Leave Time Calculated in Computing Overtime)

The Arbitration Panel acknowledges the tentative agreement of the parties on this issue and its incorporation in the Arbitration Panel's award under Joint Issue No. 2, *supra*

Accepted:

Rejected:

[Signature]

Dated: 1-25-07

Dated: _____

Ronald E. Palmgren

Dated: 1/23/07

Dated: _____

Haren Bush Schmidt

Dated: 1/30/07

Dated: _____

City Issue No. 4 – Compensatory Time

The Arbitration Panel adopts and awards the last best offer of the Union as follows:

Status Quo. No change to current language.

Accepted:

Rejected:

Haren Bush Schmidt

Dated: 1/30/07

Dated: _____

Ronald E. Palmquist
Dated: 1/23/07

[Signature]
Dated: 1-25-07

Dated: _____

Dated: _____

City Issue No. 5 – Utilization of Probationary Employees in Emergency Vacancies

The Arbitration Panel adopts and awards the last best offer of the Union as follows:

Status Quo. No change to current language.

Accepted:

Rejected:

Haren Bush Schmidt

Dated: 1/30/07

Dated: _____

Ronald E. Palmquist
Dated: 1/23/07

[Signature]
Dated: 1-25-07

Dated: _____

Dated: _____

City Issue No. 6 – Call Back Time

The Arbitration Panel adopts and awards the last best offer of the Union as follows:

Status Quo. No change to current language.

Accepted:

Rejected:

Haren Bush Ahmedn

Dated: 1/30/07

Dated: _____

Ronald E. Palungin

Dated: 1/23/07

[Signature]

Dated: 1-25-07

Dated: _____

Dated: _____

City Issue No. 7 – Vacation Leave as Terminal Pay

The Arbitration Panel adopts and awards the last best offer of the Union as follows:

Status Quo. No change to current language.

Accepted:

Rejected:

Haren Bush Ahmedn

Dated: 1/30/07

Dated: _____

Ronald E. Palungin

Dated: 1/23/07

[Signature]

Dated: 1-25-07

Dated: _____

Dated: _____

City Issue No. 8 – Health Insurance

The Arbitration Panel adopts and awards the last best offer of the City as follows:

Article VIII Fringe Benefits, Section 6 Health Insurance, Subsection A shall be revised to provide as follows:

- A. The city shall provide all bargaining unit employees with full paid Blue Cross/Blue Shield Community Blue PPO Plan 2 with a ten (10) dollar deductible preferred prescription rider for generic drugs and a twenty (20) dollar deductible preferred prescription rider for brand name drugs, or the equivalent of the same. Individuals retiring after the effective date of this Section shall also be covered by this health insurance plan and pay the above-referenced prescription co-pays. The City reserves the right to require, where available, the use of mail order prescriptions.
1. The City shall also offer the following health insurance options which, subject to the provisions of this Subsection, may be selected by an employee:
 - a. Blue Cross/Blue Shield Traditional, \$10/\$20 prescription co-pay
 - b. Blue Cross/Blue Shield PPO, \$10/\$20 prescription co-pay
 - c. Blue Care Network, \$10/\$20 prescription co-pay
 - d. Health Alliance Plan – HMO, \$10/\$20 prescription co-pay
 - e. Health Alliance Plan – PPO, \$10/\$20 prescription co-pay

An employee who elects one of the optional health insurance coverages set forth in a-e shall pay the difference in the annual premium rates between the option selected and the rate for BC/BS Community Blue Option 2. The employee must sign the appropriate authorization and shall make such payment through payroll deductions.

2. This Section VIII, Subsection A shall be implemented as soon as practicable after the date of the Award.

Effective Date: Date of the Award.

Accepted:

Haren Roush Ahmedin

Dated: 1/30/07

[Signature]

Dated: 1-25-07

Dated: _____

Rejected:

Dated: _____

Ronald E. Palungant

Dated: 1/23/07

Dated: _____

City Issue No. 9 – Health Care Deductible

The Arbitration Panel adopts and awards the last best offer of the City as follows:

The City withdraws this separate issue inasmuch as it is covered in City Issue #8 and covered in the City's final offer of settlement on that issue.

Accepted:

[Signature]

Dated: 1-25-07

Ronald E. Palungant

Dated: 1/23/07

Haren Roush Ahmedin

Dated: 1/30/07

Rejected:

Dated: _____

Dated: _____

Dated: _____

City Issue No. 10 – Health Insurance Premium Sharing

The Arbitration Panel adopts and awards the last best offer of the City as follows:

Article VIII Fringe Benefits, Section 6. Health Insurance shall be revised by adding the following new subsection 1:

Effective July 1, 2006, bargaining unit employees hired after July 1, 2006, will be responsible for paying twenty (20%) percent of any costs for healthcare premiums.

Accepted:

Rejected:

Maren Poush Schneider
Dated: 1/30/07

Dated: _____

[Signature]
Dated: 1-25-07

Ronald E. Paluniant
Dated: 1/23/07

Dated: _____

Dated: _____

City Issue No. 11 – Pension Contribution

The Arbitration Panel adopts and awards the last best offer of the Union as follows:

Pension Contribution: Effective thirty (30) days after the arbitrator's award, employees shall contribute 1% of their base pay towards retiree health care (VEBA).

Accepted:

Rejected:

Maren Poush Schneider
Dated: 1/30/07

Dated: _____

Ronald E. Paluniant
Dated: 1/23/07

[Signature]
Dated: 1-25-07

Dated: _____

Dated: _____

City Issue No. 12 – Longevity

The Arbitration Panel adopts and awards the last best offer of the Union
as follows:

Status Quo. No change to current language.

Accepted:

Rejected:

Haren Bush Denmark

Dated: 1/30/07

Dated: _____

Ronald E. Palungant

Dated: 1/23/07

[Signature]

Dated: 1-25-07

Dated: _____

Dated: _____

Union Issue No. 1 – Wages -- July 1, 2004

The Arbitration Panel adopts and awards the last best offer of the Union as follows:

July 1, 2004

\$1000 signing bonus (not rolled into wages)

Accepted:

Rejected:

Haren Bush Denmark

Dated: 1/30/07

Dated: _____

Ronald E. Palungant

Dated: 1/23/07

[Signature]

Dated: 1-25-07

Dated: _____

Dated: _____

Union Issue No. 2 – Wages – July 1, 2005

The Arbitration Panel adopts and awards the last best offer of the City as follows:

Effective July 1, 2005, Article IX – Wages and Benefits, Section 1. Wages

and the PPFDA Pay Plan (contract p. 50) shall reflect a 0% increase and that the current wage rates shall be maintained.

Accepted:

Rejected:

Haren Bush deMedin
Dated: 1/30/07

Dated: _____

[Signature]
Dated: 1-25-07

Ronald E. Palumbo
Dated: 1/23/07

Dated: _____

Dated: _____

Union Issue No. 3 – Wages – July 1, 2006

The Arbitration Panel adopts and awards the last best offer of the City as follows:

Effective July 1, 2006, Article IX – Wages and Benefits, Section 1. Wages and the PPFDA Pay Plan (contract p. 50) shall reflect a 0% increase and that the current wage rate shall be maintained.

Accepted:

Rejected:

Haren Bush deMedin
Dated: 1/30/07

Dated: _____

[Signature]
Dated: 1-25-07

Ronald E. Palumbo
Dated: 1/23/07

Dated: _____

Dated: _____

Union Issue No. 4 – Retirement (Eligibility)

The Arbitration Panel adopts and awards the last best offer of the City and the Union as follows:

Status Quo. No change in current contract language.

Accepted:

Rejected:

Haven Bush Schmidt
Dated: 1/30/07

Dated: _____

[Signature]
Dated: 1-25-07

Ronald E. Palumbo
Dated: 1/23/07

Dated: _____

Dated: _____

Union Issue No. 5 – Retirement (Multiplier)

The Arbitration Panel adopts and awards the last best offer of the City and the Union as follows:

Status Quo. No change in current contract language.

Accepted:

Rejected:

Haven Bush Schmidt
Dated: 1/30/07

Dated: _____

[Signature]
Dated: 1-25-07

Ronald E. Palumbo
Dated: 1/23/07

Dated: _____

Dated: _____

Union Issue No. 6 – Vacation Leave

The Arbitration Panel adopts and awards the last best offer of the City as follows:

Article VIII – Fringe Benefits, Section 1. Vacation Leave. Subsection A. Earning Vacation Leave shall be maintained unchanged and the current contract language shall be retained.

Effective Date: July 1, 2004

Accepted:

Rejected:

Maren Bush Ahmed
Dated: _____

Dated: _____

[Signature]
Dated: 1-25-07

Ronald E. Palmyra
Dated: 1/23/07

Dated: _____

Dated: _____

Union Issue No. 7 – Overtime (Change of Schedule)

The Arbitration Panel adopts and awards the last best offer of the City as follows:

Article V – Conditions of Work Section 3. Overtime shall be revised by adding the following provision at the end of the first paragraph:

While the City shall continue to have the right to schedule work to ensure the most efficient and economical operation, the City agrees that it will not change an employees' scheduled hours of work in a work-week for the sole purpose of avoiding the payment of overtime.

Effective Date: Date of the Award.

Accepted:

Rejected:

Haren Bush Schmidt
Dated: 1/30/07

Dated: _____

[Signature]
Dated: 1-25-07

Ronald E. Palumbo
Dated: 1/23/07

Dated: _____

Dated: _____

Union Issue No. 8 – Compensatory Time (Carryover)

The Arbitration Panel adopts and awards the last best offer of the City as follows:

Article V – Conditions of Work, Section 3. Overtime, Subsection D shall be maintained unchanged and the current contract language shall be retained.

Effective Date: July 1, 2004

Accepted:

Rejected:

Haren Bush Schmidt
Dated: _____

Dated: _____

[Signature]
Dated: 1-25-07

Ronald E. Palumbo
Dated: 1/23/07

Dated: _____

Dated: _____