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MICHIGAN DEPARTMENT OF LABOR AND ECONOMIC GROWTH
EMPLOYMENT RELATIONS COMMISSION
LABOR RELATIONS DIVISION

IN THE MATTER OF THE ACT 312
ARBITRATION BETWEEN

City of Coldwater,
Public Employer,

And

MERC Case No. L05 D-7008

Coldwater Fire Fighters Ass'n,
IAFF Local 2555,
Union

ACT 312 ARBITRATION AWARD

William P. Borushko
Panel Chairperson

For the Employer:

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For the Union:

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INTRODUCTION

This petition for arbitration was originally filed on June 28, 2005. It was assigned to this arbitrator on October 27, 2005. After a considerable amount of discussion and delay, the arbitration hearing was held in the City of Coldwater offices on August 28, 2006. Subsequent to the hearing, an executive session was held with the arbitration panel in the hope that the remaining issues could be agreed to, or otherwise reduced in number. On or about July 3, 2007 the arbitrator was advised by the parties that such discussions had been terminated, with the resolution of a minimal number of the remaining issues. The parties had previously submitted all documents in support of their respective positions on a timely basis. Ms. Alison L. Paton and Mr. J. Patrick White served as panel delegates in this proceeding, for the Union and the City, respectively.

STATUTORY AUTHORITY

As are all such cases, this matter is governed by Act 312, Public Acts of 1969, MCL 423.231.

The statute provides that any decision of the Panel involved in the proceeding must be based upon the following factors:

- a. the lawful authority of the employer;
- b. stipulations of the parties;
- c. the interests and welfare of the public and the financial ability of the unit of government to meet those costs;
- d. comparison of the wages, hours, and condition of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employment of other employees performing similar service and with other employees generally:
 - (i) in public employment in comparable communities;
 - (ii) in private employment in comparable communities.
- e. the average consumer price 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 proceeding;
- h. such other factors, not confined to the foregoing, which are normally or traditionally taken in to 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.

I am confident that the award in this case is based upon the foregoing factors.

COMPARABLE COMMUNITIES

As indicated immediately above, one of the factors which must be considered by the panel is a comparison of the costs associated with doing the same work in comparable communities, in both the public and private sectors. In spite of the vast areas of disagreement on the issues, the parties were able to reach agreement on the comparables. They are:

City of Owosso
City of Cadillac

City of Niles
City of St. Joseph

OBJECTIONS

Both parties had a number of objections relating to the issues in this case. In the first instance, the Employer raised objections to several issues being raised and discussed at the arbitration hearing, based upon its assertion that the items were withdrawn during bargaining. As evidence in support of its position, the Employer introduced several documents that were exchanged between the parties, which purport to show that the items in question were not part of any proposals. The Union's response to this argument is that all of the items were properly included in the original petition filed in this case, and have always been a part of this proceeding. It presented testimony from Mr. Gregory Sharp, Local President, in support of its position. Further, Mr. Sharp also testified that several items were not included in proposals, because the Union was attempting to gather additional information. His testimony also indicated that some items were withdrawn as part of a package, which was not agreed to by the City. Counsel for the Union argues that the decision in POAM v. Ottawa County, 263 Mich App 358 (2004) clearly

sets forth the responsibility of the panel to consider all issues presented, even if first presented at the hearing itself.

The facts are that there is no clear written record of the Union having withdrawn these items. The first document that does not contain the items was prepared by the City. It is conceivable, though not likely, that the response from the other side could have inadvertently omitted the dropped items also. I concur with the frustration of Counsel for the Employer and his concern that forced consideration of issues previously withdrawn could make a mockery of the collective bargaining process itself. I am not at all certain that Ottawa was meant to apply in just this situation, since these were issues previously raised, not just brought to the table at the arbitration hearing. However, until such time as that decision is clarified, it appears to me that arbitrators in this state must err on the side of caution, and permit discussion and consideration of these issues. And that is what I am going to do.

On October 11, 2006, the Union raised objection to the Employer's Last Best Offer on four of the remaining issues, claiming that the statute required an offer of settlement on each issue. The Employer's offer on sick leave accumulation, sick leave cap/LTD, retiree health, and health insurance did contain language in one article which covered all the items, and I would agree with the Union that it was somewhat confusing. However, all of the proposals were specifically addressed in the Employer's enumerated list of LBO's, which had the language attached. I am confident that, with minimal effort, I am able to clearly ascertain the Employer's proposal, item by item, and that is the manner in which they will be dealt with in this award.

THE ISSUES

WAGES

Employer Proposal	7/1/05 - 2.5%
	7/1/06 - 2.5%
	7/1/07 - 2.5%
	7/1/08 - 2.5%

Union Proposal	7/1/05 - 3.25%
	7/1/06 - 3.25%
	7/1/07 - 3.25%
	7/1/08 - 4.0%

At the hearing, the parties asked to have a decision rendered on how to treat the wage issue; a single item or year-by-year as separate issues. It was my decision to treat each year as a separate issue. Both parties discussed the wage rate proposals in a multi-year context in their briefs. I will look at the proposals in similar fashion, but the award will be year-by-year.

The previous labor agreement provided that the Firefighter pay rate was \$38,892 for 2004 contract year. Rates for the comparable communities are contained in the following table:

City of Owosso	\$37,546 (2004 rate)
City of Niles	\$42,660
City of Cadillac	\$39,593
City of St. Joseph	\$46,335

As noted, the Owosso rate is for the 2004 contract year. In order to properly compare the rates, I have adjusted the Owosso rate by 2.5%. It now becomes \$38,484. We then arrive at the following average, in comparison with the Coldwater rate:

Average rate	\$41,768
Coldwater rate	\$38,892

As one can clearly see, there is a considerable difference between the Coldwater rate and the average rate of the comparables. This is largely due to the influence of St. Joseph, but that is the comparable list that I was handed.

Internally, the wage increases for other units in the City of Coldwater have either been 2.5% or 3.0%, dependent upon whether the unit involved was willing to risk absorption of some of the insurance deductibles. If a unit wanted the City to absorb the deductibles, the increase was evenly divided on the issue, with some getting the 2.5%, and some the 3.0%. The City position here is that the Union has enjoyed an insurance plan, which has no deductibles and which has cost the city a significantly larger amount of money. In the cities view, this would make the 2.5% proposal the appropriate award. The City further points out that none of the comparables has wage rates which are set far enough into the future to provide adequate comparison. The

City also argues that application of the 2.5% wage increase per year would keep the City of Coldwater firefighters in their same relative position with respect to the comparables. The Union, of course, argues that the comparable data clearly indicate that the firefighters in Coldwater are paid substantially below the average contained in the comparables. It also points out that the firefighters have paid increased premium share amounts over the term of the last agreement, when compared to other city units, particularly police.

Let us examine what happens to the wage scale when we apply the proposed rate increases of both parties and compare them to the average of the comparables. For purposes of this comparison, I will apply 2.5% wage increases to the comparable average. We arrive at something that looks like this:

	<u>Coldwater City Prop.</u>	<u>Coldwater Union Prop.</u>	<u>Comparable Average</u>
2005	\$39,864	\$40,155	\$41,768
2006	\$40,861	\$41,461	\$42,812
2007	\$41,882	\$42,808	\$43,882
2008	\$42,929	\$44,199	\$44,979

You can quickly see that the Union's proposed increases narrow the gap between the Coldwater firefighters and those of the comparable communities. In his testimony, Finance Director Budd acknowledged that in the previous round of contract negotiations, police units were given higher than average increases as a result of a survey which indicated that the positions in Coldwater were underpaid relative to their counterparts in other communities. That certainly appears to be the case with respect to the firefighters.

I have concerns with two aspects of the table above. As indicated, there is no known rate for Owosso, and the table assumes 2.5%, which could be a little off, either way. I am comfortable with the first three years of the table. Accepting the Union's proposal of 3.25% for each of the first three years would substantially lessen the gap between Coldwater firefighter and those of the comparable communities. The fourth year increase of 2.5%, may well be high, given the economic climate here in Michigan. I also believe the fourth year proposal of the Union, 4.0%, is

high. It is certainly not justified by the cost-of-living. The City proposal of 2.5% in year four would bring the rate to \$43,878, a substantial reduction of the gap.

It is the award of the panel that the Union's wage proposal for the first, second and third years is adopted.

It is the award of the panel that the City's wage proposal for the fourth year is adopted.

SICK LEAVECAP

Employer Proposal Reduce accumulation to 530 hours

Union Proposal Current contract language

It is with the proposal in this area, that we began to examine the issue specifically addressed in the Union's objection to the Employer's Last Best Offer. The proposal in this area of the agreement hinges upon the reduction in the accumulated hours of sick leave. It is the Employer's proposal to reduce this accumulation from 1300 hrs to 530 hours. It is then the Employer's proposal to deposit the excess hours payable at 50% into a MERS Health Care Savings Plan, which will be addressed as a separate issue. Additionally, if the Employer's proposal to reduce the accumulation is adopted, it would then propose to reduce the LTD waiting period to 30 days from the current 180. It is in this area that I must make some assumptions with respect to the Employer's proposal. I would assume that if the request to reduce the accumulation of sick leave is not adopted, then the reduction in the LTD waiting period would likely fall off the table.

The Employer's proposal to reduce the accumulation of sick leave is a means to achieve a higher funding level in its proposed Health Care Savings Plan. Whether I agree or do not agree with the establishment of the Savings Plan, I do not believe it is appropriate for me to make a judgment as to how employees must use, or dispose of, accumulated leave time. They are the ones who have accumulated the hours of leave, and should not have a third-party dictate what is to happen to them. I would be particularly sensitive to ordering a reduction in hours for

someone who is at, or very near retirement age, and has been anticipating the payment of these hours as a sort of retirement bonus. I do not see any basis, other than the internal comparables, for making this award. In fact, this arbitrator took a very similar position in the Police Command Act 312 arbitration. I make the assumption that in the awarding of the Union proposal, the Employer's proposal of lessening the LTD waiting period is unnecessary.

It is the award of the panel that the Union proposal is adopted.

LTD

Employer proposal Current contract language

Union proposal Modify Section 9.9(e):
The City shall provide a long-term disability plan with a 180 day waiting period, with a monthly benefit of 70% to a maximum of \$6,000/month, to age 65, and with a 24-month limitation period on own occupation.

The current labor agreement between the parties establishes an LTD plan for the first time. The language calls for a plan with a 180 day waiting period, a monthly benefit of 67%, to a maximum of \$5,000 per month, and with a 12-month limitation period on one's own occupation. In the course of bargaining, at or near the arbitration, the Union was made aware that the City was able to procure a higher benefit level for basically the same cost. This was part of a policy which covers all city employees. The Union is now proposing that these higher limits, which the City was able to obtain, be made a part of the labor agreement language. There is no question that the City has complied with the terms of the current agreement. It has been fortunate enough to secure a higher level of coverage for its employees at a better rate. There was no other argument made by the Union other than to include it because it is the benefit level which is currently being obtained, even though it is above the contractual obligation. There was no argument made that the current agreed upon level of coverage is insufficient. It is fortunate that the City was able to obtain this additional coverage for its employees, but I see no reason to modify the contract language.

It is the award of the panel that the Employer proposal is adopted.

RETIREE HEALTH

Employer Proposal Delete provision on payment to health trust fund.
Establish Health Care Savings Plan and deposit \$600
per year, effective 2005.

Union Proposal Delete provision on payment to health trust fund.
For retirees on or after January 1, 2007, provide health care benefits
at pre-retirement level, with City paying 50% of premium for employee
and dependents, until eligible for full Medicare benefits.

In the previous labor agreement, the parties agreed, for the first time, to provide some minimum level of funding for retiree health care. The City agreed to deposit a total of \$22,500 into the IAFF Retire Trust Fund over the course of the agreement. Now, both parties wish to terminate the previous arrangement and modify the contract. The City proposes the establishment of a MERS Health Care Savings Plan, into which it will deposit \$600 per year, per employee. The Union is proposing that the City provide health care to retirees, with the City and the retiree each paying 50% of the cost. Currently, health care is running about \$1360 per month.

Obviously, the parties are far apart on this issue. A look at the comparable data does not provide appreciable help. Internally, no employee groups in the City of Coldwater enjoy retiree health care. Externally the comparable data clearly seems to support the Union's position. Two of the comparables provide retiree health care, one provides health care on a 50/50 basis, and one provides limited employer contributions.

One of the primary concerns that I have with this proposal is the cost of the benefit. What is it? I have absolutely nothing in the record to indicate what the cost to the Employer would be if the proposal were adopted. In its initial proposals, the Union twice proposed increases in the level of Employer contributions to some sort of trust fund. Those proposals are easy to cost, in that they provide a fixed level of contribution. I am aware of another city in Michigan who

undertook an actuarial evaluation of its retiree health care costs in 2001. The plan provided a 100% Employer paid health plan, and the estimated actuarial cost was 16% of payroll. That same city's estimated cost currently is 20%. For the sake of argument, can we assume that the cost to the City of Coldwater will be in the area of 10% of payroll? In light of the upcoming GASB requirements, should this or any arbitrator tack on another large amount of unfunded liability?

Another area of concern is the shape of the coverage and contributions proposed by the Union. To offset the cost of this benefit, I would be more inclined to look at a proposal that would provide coverage on the same level as current employees, not a level frozen at retirement. I realize the arguments concerning the rising costs versus the fixed income. But any level of coverage would be better than the present.

I am not particularly enthusiastic about the Employer's proposal. It is not adequate in the long run. But there are ways to supplement the HCSP with additional employee contributions, as well as increased Employer contributions in the future. It is a start, and it is quantifiable. I cannot award a benefit without knowing the cost.

It is the award of the panel that the Employer's proposal is adopted.

HEALTH INSURANCE

Employer proposal	BC/BS PPO Option 10, co-pays and deductibles reimbursed back to Option 2 levels. Monthly premium contribution of:
	Single \$25
	Double \$50
	Family \$65
Union proposal	Current contract language and coverage, single subscriber premium contribution maximum of \$50 per month.

It is certainly not surprising that one of the remaining issues to be decided in this case is that of health care coverage for the employees in the unit. The issues appear to be straightforward,

but as usual, they are not, and require a careful review of the parties' positions and their bargaining history, so as to better understand their current proposals.

The City proposes to change the current BC/BS PPO Plan from Option 1 to Option 10. Option 1 is basically the best the Blues have to offer here in Michigan. There are no deductibles associated with the plan. With Option 10, there are increased deductibles and co-pays, but the City proposes to reimburse employees for those expenses, back to an amount which would be consistent with the BC/BS Option 2 Plan. The employee would be required to pay a monthly premium contribution of \$25, \$50, and \$65, for single, double or family coverage. The plan proposed is the same plan in effect for other units of the City, but not necessarily the same reimbursement levels. The City, in other negotiations, tied the reimbursement level to the wage proposal, but did not so in this proceeding. But, more on that later.

The Union would like to maintain the present coverage, but with modification in the monthly premium share paid by the employees. Currently the employees pay up to \$100 per month for their coverage, regardless of the single, double or family status. The proposal is to limit the single contribution to \$50 per month.

As part of its argument in support, the Union refers to the previous negotiations with the City, in which it agreed to make the aforementioned contributions to health care. In subsequent talks with other units, the City did not achieve the same level of contribution from other employee groups, including Act 312 eligible and non-eligible groups. Over the course of the period since that negotiations, the Union points out that the firefighters have contributed about \$1600 more to their health care than any other group. It is willing to continue that contribution, with the one premium contribution change, in order to keep the same level of coverage. There was no dispute from the City with respect to the contributions made by the firefighters.

In the latest round of negotiations with other units, the City offered most employee groups a choice of the wage package, coupled with differing levels of reimbursement to the health care plan. In most instances, the proposal was for a 2.5% wage increase, and the City would reimburse the employee's expenses back to certain levels, or a 3% increase, with the employee absorbing the deductible and co-pays. In this proceeding, that option package was not offered. The group choices varied. In the police units, the reimbursement was back to Option 1 levels, also not offered in this case.

Looking at the outside comparables, we can see that either party's position with respect to the premium share on the part of the employees is justifiable. Owosso and St. Joseph require no contribution, and Cadillac and Niles both have contribution levels below that proposed by the City, let alone that proposed by the Union.

The level of coverage in the outside units varies considerably. I think a reasonable way of examining, and comparing the data, would be to look at the maximum exposure of the employees, with respect to premium share, and deductibles and co-pays. Looking at City Exhibit 10, we can see that the average exposure of employees is approximately \$1400 per year, ranging from zero in Owosso to the maximum of \$2100 in Cadillac. I point out that the exhibit shows Niles at over \$2000, but that amount was corrected to \$1955 by Finance Director Jeff Budd in his testimony. The City proposal would have a maximum employee exposure of over \$1700, and the Union's proposal would have a maximum exposure of \$1,200.

I recognize the City's argument with respect to the cost of the health care. But I also give credence to the Union's position that they have stepped up in the past, and paid more for their health care than other employee groups, and are willing to do so in the future. I am somewhat puzzled as to why the City did not propose the maximum reimbursement levels, as it did in the police units. The higher levels of employee exposure in the City's fire proposal fails to recognize the higher contributions the firefighters have made in the past.

Taking into account the varied health care packages in the City, the exposure levels of the employees, and the bargaining history, which is relevant under Section (h), I find that the Unions' proposal is more supported by the evidence on the record.

It is the award of the panel that the Union's proposal is adopted.

DEFINED CONTRIBUTION PENSION PLAN

Employer proposal Current contract language

Union proposal Increase City contribution from 8% to 10%

Presently the City contributes 8% of an employee's annual salary to the Defined Contribution Pension Plan, with the employee contributing 7.5% of salary. All employees hired into the Fire Department since 1997 are covered by the DC plan. The Employer argues that the present contribution level seems to meet acceptable guidelines, even by the Union's own evidence. The suggested combined level is between 15-18% of salary, with the Coldwater Firefighter contribution level at 15.5%.

The four comparable communities selected by the parties do not have a DC plan in effect. In the city itself, all other employee groups have a Defined Contribution Plan. However, none of the groups receive an 8% employer contribution. Nor do they require a 7.5% contribution on the part of the employee. Those plans have employee contribution levels between 5% and 6%. I am not persuaded by the Union's argument that it would necessarily require 30 years of contributions to reach the minimum acceptable level for retirement. Increase in return on investments, as well as future increases in the level of contributions would also contribute to

the adequacy of the plan. However, there appears to be no compelling argument or evidence on the record to support a change in the current contribution levels at the present time.

It is the award of the panel that the Employer’s proposal is adopted.

DEFINED BENEFIT PLAN –FAC INCLUSION OF SICK LEAVE PAYOUT

Employer proposal Current contract language
 (unless employees pay cost)

Union proposal Add sick leave payout amount to FAC at retirement

This Union proposal is one of the items objected to by the Employer on the basis that it had been withdrawn by the Union during the bargaining process. I believe that the current state of the law requires that the panel give some consideration to the issue.

The request here is to include the amount of sick leave payout at retirement in the final average compensation, which is the basis for future retirement benefits for employees covered by the Defined Benefit Plan. There are four of those employees in the unit at the present time. One of the arguments put forth by the Union in its brief is that this is a small, confined benefit only applicable to those four.

The City’s response is varied. It would like to have the panel disregard the proposal because it was withdrawn. That argument appears to have some merit, based upon the testimony on the record. It also points out that the City’s plan appears to be similar to 50% of the comparables. And finally, the City argues that no actuarial study was done to determine the cost of the benefit. It is on that point I am persuaded. Once again, I cannot award any proposal or benefit without knowing the cost, no matter how minor it may appear to be.

It is the award of the panel that the Employer’s proposal is adopted.

For those employees covered by the Defined Contribution plan, effective January 1, 2007 they/their survivors shall be entitled to the same benefits for duty disability and duty death as would apply if they were covered by the Defined Benefit plan. Any dispute as to an employee's/survivor entitlement to said benefits shall be subject to the grievance procedure set forth in Article IV, including final and binding arbitration as set forth in Section 4.7. Any such grievance shall be processed as a Union policy grievance on behalf of the employee /his survivor(s).

As one can clearly see, the Union is seeking the same level of benefit as described in the previous section of this award. Because the nature of these plans is so different, the proposals must be considered separately. One of the major problems in this proposal is, of course, that there are no comparables that support the Union's proposal because none of the comparables has a DC plan in effect. The comparables do support a duty death benefit, however, as indicated above.

The City again argues that this is one of the issues that was withdrawn by the Union during the negotiations. Notwithstanding that position, the City points out that the parties put into place the DC plan, which does have certain advantages to the employee. Additionally, the City maintains that there is no way of determining the cost of the benefit. I agree with the City that there are other ways to provide the same or similar benefit level, such as additional insurances, etc. Those also would have a finite cost that would allow further consideration on my part. Once again, there has been no study undertaken to determine the cost of this benefit. I understand that all of these actuarials add up to a considerable expenditure. But, if the issues are as numerous as they are in this case, that expense is probably necessary. It is certainly useful to me when I consider the proposal. As I have indicated before, I cannot grant a proposal without knowing its financial impact. I do not like treating these proposals differently, but the record allows me no other choice.

It is the award of the panel that the Employer's proposal is adopted.

FOOD ALLOWANCE – 24 HR. EMPLOYEES

Employer proposal Increase to \$700, effective December 2006

Union Proposal Modify Section 10.5 of Appendix:

Employees assigned to platoon duty shall receive a Seven Hundred Fifty(\$750.00) per year allowance effective July 1, 2005, and an Eight Hundred (\$800.00) per year allowance effective July 1, 2007.

During the negotiations for the previous agreement, the parties agreed to an amount of \$520 per year to be paid each firefighter as a food allowance. Apparently, as a result of that amount being subject to taxation under the IRS rules, the parties met and agreed to increase the amount to \$652 per year. The Union is now requesting that the amount be raised to \$800 per year over the course of the agreement.

The comparables range from an allowance of \$500 in Owosso to \$1204 in Cadillac. The other two comparables are \$825 in St. Joseph, and \$544 in Niles. Obviously, Cadillac is far in excess of the others. This large amount appears to be statistically significant, and an argument can be made for its exclusion. If we do so, the average of the comparables would clearly support the Employer's proposal.

I think we must also consider what has occurred in the current agreement. The parties agreed to a higher amount, and then the City agreed to an even higher amount. I assume that the previous amount was in the \$400 range. For the sake of argument, I will assume that it was \$450 per year. Adopting the City position would mean that the rate would increase to \$700, an increase of \$250 over the period, or approximately 64%. The Union points out that from 01-06, the index of finished consumer foods increased by over 10%. It would appear that the food allowance proposed by the City more than adequately covers the rise in prices.

It is the award of the panel that the Employer's proposal is adopted.

JURY DUTY

Employer proposal Leave as City policy

Union Proposal Add new Section 9.12, "Jury Duty":

Any employee called for jury duty shall be released from work without loss of pay or benefits, and without charge against any banked time off, as necessary to fulfill the jury duty; provided, however, the employee shall sign over to the City any compensation he receives for performing jury duty.

The current agreement does not contain any provision for jury duty; nor does any other agreement in the City of Coldwater. In fact, none of the comparable communities have contracts that contain jury duty clauses. At first impression, I would tend to agree that the absence of any provision would leave the application of jury duty subject to the whims of the Employer. Apparently that is not of any concern with a number of other fire units, and certainly not those deemed to be comparable in this proceeding. Absent any support from the record or comparables, the Employer's proposal is the logical alternative.

It is the award of the panel that the Employer's proposal is adopted.

HOLIDAY PAY – 24 HOUR EMPLOYEES

Employer proposal Current contract language

Union Proposal Modify Section 9.6 of Appendix C:

Effective July 1, 2005, platoon personnel shall receive in lieu of time off a premium pay for the recognized holidays, as a lump sum holiday pay, calculated in the following manner: Twelve (12) hours of pay at the

employee's current hourly rate as of the time of payment, for each of the eleven (11) recognized holidays = 132 hours of pay annually.

Coldwater firefighters currently receive Holiday pay in the form of a lump sum. During the last agreement, the amounts paid increased to the following:

Captain	\$1813
Lieutenant	\$1755
Driver-Op.	\$1696
Firefighter	\$1654

The City proposes no increase in these amounts for the contract under consideration in this arbitration.

The Union's proposal is to pay the firefighters an amount equal to their regular hourly rate multiplied by twelve hours per holiday, multiplied by 11 holidays. The comparables, with the single exception of Owosso, pay their firefighters in similar fashion to that which the Union is proposing. Niles and Cadillac both pay an amount equal to the number of holidays times the hourly rate (at twelve hours per day). For some reason, St. Joseph, which indicates that there are twelve holidays, compensates the firefighters for eleven of those days. Owosso is the single exception, granting time off as compensation.

The City acknowledges in its brief that the firefighters are currently compensated for ten holidays. Apparently that is the calculation used to determine the amount indicated in the current agreement. It acknowledges that the total number of days is one less than the majority of the comparable units. I fail to see any reason why the firefighters should not be compensated hour-for-hour for the time they spend away from their families on the holidays. The City's proposal of no increase at all in the amount of compensation is not supported by any data. While the Union's proposal contains an increase in the amount of time that is compensated, it appears to be the proposal that is more clearly supported by the comparable data in the record.

It is the award of the panel that the Union's proposal is adopted.

CONTINUATION CLAUSE

Employer proposal No language added to contract

Union proposal Add to Section 13.1:

In the event that negotiations extend beyond the said expiration date of this agreement, the terms and provisions of this Agreement shall remain in full force and effect pending agreement upon a new contract, subject to termination by either party on sixty (60) days written notice.

The Union's proposal here raises the question of whether or not it is an economic issue, and a mandatory subject of bargaining. Their proposal is to automatically extend the contract between the parties after its scheduled expiration. Under the current application of Michigan law, this extension has limited application, because it is well settled that the Employer must continue in effect the vast number of economic conditions that existed prior to the expiration. Basically, an employer has the right to terminate dues deduction and the arbitration procedure.

The economic impact of the continuation appears to be minimal at best. The actual impact may more clearly be felt by the organization, rather than the individual employee, but it will be felt. I do not believe there is any differentiation based upon the size of the impact, just that it is economic.

The comparable data shows that, of the units, only Owosso has a similar clause in its agreement. No other unit in the City, according to the Employer, has the clause in its contract. This, of course, appears to clearly support the City's position. I also find myself reluctant to grant an automatic extension to either party, and thereby remove a possible bargaining strategy from the bargaining process. The Act 312 provisions confer upon the Police and Firefighters a great deal of advantages over other public groups. It is not too much to ask that, if

they wish to preserve their arbitration and other rights, they should file timely petitions for arbitration.

It is the award of the panel that the Employer's proposal is adopted.

VACATION ACCRUAL

Employer proposal Add 24 hours accumulation to years 6 through 14

Union proposal Modify Section 9.5 (a)(1) of Appendix C:

<u>Years of Employment</u>	<u>Hours of Vacation Platoon Personnel</u>
1 st year	72 hours
2 nd year thru 5 th	144 hours
6 th year	156 hours
7 th year	168 hours
8 th year	180 hours
9 th year	192 hours
10 th year	204 hours
11 th year	216 hours
12 th year	228 hours
13 th year	240 hours
14 th year thru 19 th	252 hours
20 th year and over	288 hours

Modify Section 9.5 (c) as follows:

<u>Years of employment</u>	<u>Hours of Vacation</u>
1 st year	40 hours
2 nd year thru 5 th	80 hours
6 rd year	89 hours
7 th year	98 hours
8 th year	107 hours
9 th year	116 hours
10 th year	125 hours
11 th year	134 hours
12 th year	143 hours
13 th year	152 hours

14 th year	161 hours
15 th year thru 19 th	170 hours
20 th year and over	180 hours

Let us first examine the vacation accrual for platoon, or 24 hour employees. In this category, the City proposes a 24 hour increase from the 6th through the 14th years. The increase amounts would look like this:

1 st through 5 th year	106.0 hours
5 th through 6 th year	116.6 hours
6 th through 7 th year	151.2 hours
7 th through 8 th year	161.8 hours
8 th through 9 th year	172.4 hours
9 th through 10 th year	183.0 hours
10 th through 11 th year	193.6 hours
11 th through 12 th year	204.2 hours
12 th through 13 th year	214.8 hours
13 th through 14 th year	225.4 hours
14 and over	236.0 hours

In the first year, the City proposal provides considerably more hour of vacation, but in the next four years, the Union proposal provides an additional 38 hours of vacation leave per year. Looking at the remainder of the tables, if I understand the proposals correctly, the difference is not as significant, in light of the City's proposed increase. Where the next major difference lies is in the 20th year category, which the City is not proposing. From the 14th through the 19th year, the difference is 16 hours per year.

A review of the comparables shows that, while the categories are not exactly similar, the Coldwater unit is somewhat less than the other firefighter units. The City's proposal seeks to address that somewhat. If we look at the completion of the first year, the City proposal provides a larger amount of time than the average of the comparables; 106 hours versus 72. In the 10th year, the average is 210 hours. The Union proposal in this year is 204 hours, the City's is 194 hours. Looking further, at the 15th year, the average of the comparables is 240 hours. The Union proposal here is 252 hours, and the City's is 236 hours. So, while taking a somewhat different route, the City arrives close to the average in the 15th year.

In the 40 hour category, if the 5 year and 15 year levels are examined, we see that the average of the comparables is 82 hours for 5 years, and 152 hours for 15 years. The Union proposal is 80 hours for 5 years and 170 hours for 15 years. The City proposal is status quo, which is 80.16 hours for the 5 year level, and 160 hours for the 15 year level. Once again, the most significant difference is the inclusion of the 20 year step in the Union proposal.

The City points out that no firefighter will attain 20 years of service during the term of the proposed contract. As I am sure the Union would be quick to point out, this means there is no immediate contract cost to the Employer. Even considering that argument, I believe that the City's proposed increase, particularly in light of the other economic improvements which are contained in this award, narrows the gap between Coldwater and the comparables sufficiently enough to warrant its adoption for the platoon, or 24 hours employees. The City proposal of status quo for the 40 hour employees is right on the average.

It is the award of the panel that the Employer's proposal is adopted.

RESOLVED ISSUES

As I indicated in the opening section of this award, the parties had met after the executive session and, as a result of those discussions, resolved four outstanding issues. I have received a Joint Stipulation of the Parties regarding those issues. They are:

Sick Time Accrual
Holidays for 40 Hour Employees
Promotions
Education/Training

SUMMARY

The award of the panel in its entirety:

<u>Wages</u>	1 st year	3.25%
	2 nd year	3.25%
	3 rd year	3.25%
	4 th year	2.5%
<u>Sick Leave Cap</u>	Current contract language	
<u>LTD</u>	Current contract language	
<u>Retiree Health</u>	Delete Health Trust Fund payment Establish Health Care Savings Plan \$600 per year, per employee, contribution by City, effective 2005.	
<u>Health Insurance</u>	BC/BS Option 1, \$50 single, \$100 double, family Premium contributions by employees.	
<u>DC Pension Plan</u>	Current contract language	
<u>DB Plan-FAC</u>	Current contract language (unless employees pay cost)	
<u>Duty Disability/Death</u>		
<u>DB Plan</u>	Effective January 1, 2007 the D-2 benefit program shall apply to employees covered by the MERS DB Plan.	
<u>Duty Disability/Death</u>		
<u>DC Plan</u>	Current contract language (unless employees pay cost)	
<u>Food Allowance</u>	Increase to \$700, effective December 2006.	
<u>Jury Duty</u>	No contract language (City Policy)	
<u>Holiday Pay-24 Hr.</u>	Twelve (12) hours pay per Holiday, effective July 1, 2005.	
<u>Continuation clause</u>	No language added to contract	
<u>Vacation Accrual</u>	Add 24 hours to years 6 through 14	


The Employer Delegate votes in the affirmative on the issues of: Wages-4th year, LTD, Retiree Health, DC Pension Plan Contribution, DB Plan-FAC, Duty Disability/Death-DC Plan, Food Allowance, Jury Duty, Continuation Clause, and Vacation Accrual. The Employer Delegate dissents with respect to the issues of: Wages-1st, 2nd and 3rd years, Sick Leave Cap, Health Insurance, Duty Disability/Death-DB Plan, and Holiday Pay-24 Hour Employees.

/s/ J Patrick White 8/7/07
J. Patrick White Date

The Union Delegate votes in the affirmative on the issues of: Wages-1st, 2nd and 3rd years, Sick Leave Cap, Health Insurance, Duty Disability/Death-DB Plan, and Holiday Pay-24 Hour Employees. The Union Delegate dissents with respect to the issues of: Wages-4th year, LTD, DC Pension Plan Contribution, Retiree Health, DB Plan-FAC, Duty Disability/Death-DC Plan, Food Allowance, Jury Duty, Continuation Clause, and Vacation Accrual.

/s/ Alison L. Paton 8/10/07
Alison L. Paton Date

PANEL CHAIRPERSON:


William P. Borushko 8/6/07
William P. Borushko Date

DC Pension Plan Current contract language

DB Plan-FAC Current contract language
(unless employees pay cost)

Duty Disability/Death

DB Plan Effective January 1, 2007 the D-2 benefit program shall apply to employees covered by the MERS DB Plan.

Duty Disability/Death

DC Plan Current contract language
(unless employees pay cost)

Food Allowance Increase to \$700, effective December 2006.

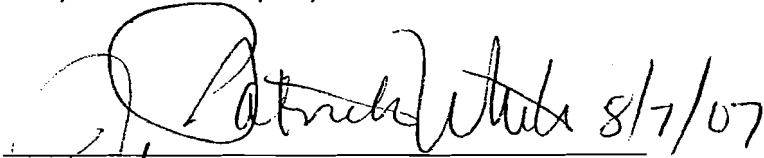
Jury Duty No contract language (City Policy)

Holiday Pay-24 Hr. Twelve (12) hours pay per Holiday, effective July 1, 2005.

Continuation clause No language added to contract

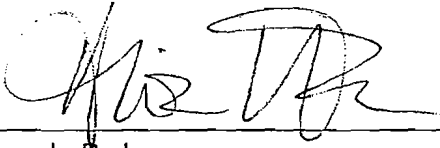
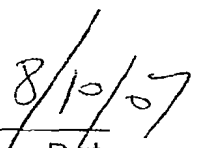
Vacation Accrual Add 24 hours to years 6 through 14

The Employer Delegate votes in the affirmative on the issues of: Wages-4th year, LTD, Retiree Health, DC Pension Plan Contribution, DB Plan-FAC, Duty Disability/Death-DC Plan, Food Allowance, Jury Duty, Continuation Clause, and Vacation Accrual. The Employer Delegate dissents with respect to the issues of: Wages-1st, 2nd and 3rd years, Sick Leave Cap, Health Insurance, Duty Disability/Death-DB Plan, and Holiday Pay-24 Hour Employees.



J. Patrick White Date 8/7/07

The Union Delegate votes in the affirmative on the issues of: Wages-1st, 2nd and 3rd years, Sick Leave Cap, Health Insurance, Duty Disability/Death-DB Plan, and Holiday Pay-24 Hour Employees. The Union Delegate dissents with respect to the issues of: Wages-4th year, LTD, DC Pension Plan Contribution, DB Plan-FAC, Duty Disability/Death-DC Plan, Food Allowance, Jury Duty, Continuation Clause, and Vacation Accrual.

 
Alison L. Paton Date

PANEL CHAIRPERSON:

William P. Borushko Date