

Daniel Nielsen, Arbitrator

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In the Matter of the Arbitration of an Interest Dispute Between

**THE CITY OF COLLINSVILLE**

and

**THE ILLINOIS FRATERNAL ORDER OF  
POLICE LABOR COUNCIL**

Case No. S-MA-12-032  
Wages

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Appearances:

The Illinois Fraternal Order of Police Labor Council, by **Gary Bailey**,  
Attorney at Law, 5600 S. Wolf Rd, Suite 120, Western Springs, IL 60558,  
appearing on behalf of the Union.

Hodges, Loizzi, Eisenhammer, Rodick & Kohn, by **Timothy E. Guare**,  
Attorney at Law, 3030 Salt Creek Lane, Suite 202, Arlington Heights, Illinois  
60005, appearing on behalf of the City.

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### **ARBITRATION AWARD**

The City of Collinsville (hereinafter referred to as the City or the Employer) and the Illinois Fraternal Order of Police Labor Council (hereinafter referred to as the FOP or the Union), selected the undersigned to serve as the arbitrator of a dispute over the terms of the collective bargaining agreement for sworn officers in the employ of the City's Police Department. A hearing was held on April 18, 2013 at the City Hall in Collinsville, at which time the parties presented such testimony, exhibits, other evidence and arguments as were relevant. Post-hearing briefs were submitted, which were exchanged through the undersigned on June 10, 2013. The parties granted an extension of time for the issuance of the Award.

## General

The City of Collinsville is located in west central Illinois, and is part of the St. Louis metro area. It has a population of 25,513. The Union represents approximately 32 Police Officers and 4 Police Sergeants in the City's Police Department. The parties have had a collective bargaining relationship for decades, which has generally been marked by voluntary agreements. In the course of fifteen contracts, this is the second interest arbitration proceeding. The prior one resulted in a stipulated Award.

## Issues and Offers

The Union and the City have reached stipulations on all but two items, and they have requested that those stipulations be incorporated into this Award. Those stipulations are attached as Appendix "A" and are incorporated in the Award by reference. The items in dispute are across the board wages increases, and the Union's proposal to enhance the sick leave buyback program. Both are economic issues. The parties also disagree on whether the City of Belleville is an appropriate external comparable. The City proposes to include Belleville, while the Union proposes to exclude it. In summary form, the Union's final offer is:

**Wages:**

January 1, 2012:	2.50%
January 1, 2013:	2.50%

**Sick Leave:** Increase the number of unused sick leave hours that are redeemed at 100% upon death or retirement from 480 hours to 720 hours.

Also in summary form, the City's final offer is:

**Wages:**

January 1, 2012:	2.00%
January 1, 2013:	2.00% <sup>1</sup>

**Sick Leave:** Status Quo.

As the dispute concerns economic issues, the arbitrator is confined to selecting one or the other of the final offers on each issue, without modification.

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<sup>1</sup> The parties have submitted identical proposals on the calculation and application of retroactive pay, and that is not discussed herein.

## **Statutory Criteria**

Section 14(h) of the Illinois Public Labor Relations Act, 5 ILCS 315 provides the specific factors for an arbitrator to use when analyzing the issues in an interest arbitration dispute:

[T]he arbitration panel shall base its findings, opinions, and order upon the following factors, as applicable:

- (1) The lawful authority of the employer.
- (2) Stipulations of the parties.
- (3) The interests and welfare of the public and the financial ability of the unit of government to meet those costs.
- (4) Comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally:
  - (A) In public employment in comparable communities.
  - (B) In private employment in comparable communities.
- (5) The average consumer prices for goods and services, commonly known as the cost of living.
- (6) 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.
- (7) Changes in any of the following circumstances during the pendency of the arbitration proceedings.
- (8) 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.

All of the criteria have been considered in arriving at this Award, although given the nature of the dispute, not every criterion is discussed.

### **Appropriate External Comparables**

There is a threshold dispute over what constitutes the appropriate comparable grouping for the City. The parties agree that Alton, Edwardsville, Fairview Heights, Granite City and O'Fallon are appropriate comparables. The City proposes to include Bellville, while the Union takes the position that it is not comparable.

### **The Arguments of the FOP – External Comparables**

At the outset, the Union argues that the City of Belleville cannot be considered a legitimate comparable for Collinsville, and the arbitrator should confine his analysis to the five stipulated comparable communities: Alton, Edwardsville, Fairview Heights, Granite City and O'Fallon. Belleville is vastly different from Collinsville. If it were to be included in the comparable pool, it would be the most populous community by a wide margin, have the largest overall workforce by a wide margin, have the largest complement of sworn officers by a wide margin, and have the highest crime rate by a wide margin. This is not a case where there are not a sufficient number of agreed comparables to conduct a fair analysis, and the parties and the arbitrator must “reach” to add an outlier to the mix. There is no good reason to distort the comparable pool with the addition of a community that lies outside the normal range of comparisons.

### **The Arguments of the City – External Comparables**

The City asserts that the City of Belleville is a logical comparable for Collinsville. It is geographically proximate, which is a critical factor in determining comparability. Moreover, demographic data shows that Belleville is more closely comparable to Collinsville than either O'Fallon or Edwardsville, both of which were stipulated as appropriate comparables. While the Union objects to Belleville's larger population, sworn workforce and crime rate, on closer examination those should not be held to be persuasive. The number of police officers in Belleville relative to population is almost exactly the same as in Collinsville. Belleville has 556 citizens for each officer; Collinsville has 567. In that respect, Belleville is merely a larger version of Collinsville.

The City also observes that numerous arbitrators in the past have included

Belleville in comparable groupings with Collinsville. Alton, Granite City, and East St. Louis have all been found to have comparable groupings that include both Collinsville and Belleville. Only three years ago, the FOP argues that Collinsville was an appropriate comparable for Belleville, when the Belleville officers were in arbitration. It cannot be the case that Collinsville is comparable to Belleville, but Belleville is not comparable to Collinsville. Both are part of the same Metro East labor market, and have routinely been included in the same comparable groupings.

### **Discussion – External Comparables**

The City argues principally that Belleville is an appropriate comparable because it is treated as a comparable for the other communities in the Metro East labor market which also use Collinsville as a comparable, and it is geographically proximate. Those are powerful considerations, but so too is the general concern about grouping communities of significantly different size together for comparison purposes. The rule of thumb is that plus or minus 50% sets the margin of comparability. Belleville's population is roughly 175% of Collinsville's. The Department is 178% the size of Collinsville. The total municipal workforce is 203% the size of Collinsville. The reported crime rate is 284% that of Collinsville. The City correctly points out that Belleville is more comparable to Collinsville than Edwardsville or O'Fallon in per capita EAV, median housing value and median income, and is within 50% of Collinsville in the other demographic measures generally used to establish comparability.

The significance of the Metro East grouping is somewhat overstated, in that in the East St. Louis cases before Edelman, Briggs and Reynolds, the City took the position that there were no comparables anywhere. That position was obviously untenable, and was rejected all three times in favor of the grouping proposed by the Union. In Belleville, Arbitrator Goldstein found that the Metro East grouping proposed by the Union was appropriate, as was as a completely separate grouping proposed by the City. In the end, difficulties with the data and the economic turbulence of 2010 made the use of comparability data something of a problem in that case. Having said that, the City does, in general, make a valid point that two communities that are generally judged comparable to one another for interest arbitration purposes for other agreed members of their comparable grouping should be presumed to be comparable to one another in a case involving one of the cities itself. This is particularly compelling where, as here, one

of the cities has already used the other as a comparable in interest arbitration. The differences in size of departments and population are no different when analyzing whether Collinsville can be compared to Belleville, than when analyzing whether Belleville can be compared to Collinsville. The fact that Alton and Granite City, among the agreed comparable grouping, have also relied upon both Belleville and Collinsville as comparables in interest arbitration bolsters this conclusion.

Collinsville and Belleville are within the same local labor market as one another, and have been judged comparable in prior interest arbitration proceedings. While I am mindful of the disparity in population and size of workforce, and believe that the persuasive value of Belleville is reduced by that consideration, on the whole it is more reasonable to include it in the comparable grouping for this proceeding than it would be to exclude it.

### **Wages**

The Union proposes 2.50% across the board in both years of the contract. The City proposes 2.00% across the board in both years. This is an economic issue and the arbitrator is obligated to select one of the offers, without modification.

### **The Arguments of the FOP – Wages**

The Union takes the position that its offer on wages is preferable by all of the commonly accepted criteria for making such judgments under the Act, and there is no reason to set aside that conclusion. The City does not contend that it is unable to pay the increases sought by the Union. Certainly the City has every right and, indeed, an affirmative obligation to be prudent in its expenditures, but an appeal to prudence cannot obscure the fact that the City's revenues have steadily increased over the past five years, while its Fund Balance is higher in FY 2011 than it was in FY 2007 or 2008. The overall difference between the parties' offers is 0.06% of the City's revenues for 2012. The financial condition of the City is not a factor at all in these proceedings.

The Union observes that in light of the financial tumult of recent years, prominent arbitrators have substantially downgraded the importance of the external comparables in wage disputes, in favor of a more stable and reliable indicator – the cost

of living. In this case, the cost of living strongly favors the Union's position. In 2011, the Union agreed to a wage freeze. In that same year, the cost of living increased by 2.85%. In 2012, the Union seeks a 2.50% wage increase, but the cost of living increased by 1.74% on average. Thus the real wages of bargaining unit members will have decreased by over 2% as of December 31, 2012, even if the Union's offer for the first year is selected. The cost of living for the first 3 months of 2013 increased by 1.47%, on average. Again, even if the cost of living remained flat for the balance of the year, and even if the Union's offer is accepted, officers will realize a 1% decline in their standard of living over the past three years. The City's offer reduces purchasing power by over 2%, with no justification whatsoever.

As noted, external comparability is not the dominant factor it was before the financial crisis, but it remains a statutory criteria and an indicator of the labor market in which these parties negotiate. Among the comparables, excluding Belleville, the Union's proposed 5% increase over two years has solid support, while the City's 4% offer has no support. Four of the five comparables have two year settlements, while Granite City is settled only for 2012:

Comparable	2011 % Increase	2012 % Increase	2013 % Increase	Overall	Overall
				2011-13	2012-13
Alton	0.00	1.25	3.3/0.75	5.30	5.30
Edwardsville	4.00	2.00	2.50	8.50	4.50
Fairview Heights	2.00	2.00	3.75/2.75	10.50	8.50
Granite City	2.50	2.50	ns		
O'Fallon	2.50	2.50	3.00	8.00	5.50
<b>Average</b>	<b>2.20%</b>	<b>2.05%</b>	<b>4.01%</b>	<b>8.07%</b>	<b>5.95%</b>
<b>City Offer</b>	<b>0.00%</b>	<b>2.00%</b>	<b>2.00</b>	<b>4.00%</b>	<b>4.00%</b>
<b>Union Offer</b>	<b>0.00%</b>	<b>2.50%</b>	<b>2.50%</b>	<b>5.00%</b>	<b>5.00%</b>

By any measure, across this contract the Union has proposed the lowest settlement among the comparables. The Union offer is 3% below the average of the past three years, and even if only this contract term is considered, the Union offer comes in a 1% below the comparables. The City's even lower offer simply cannot be justified.

The statute also looks to comparisons with internal employee groups. The City

has a history of uneven settlements across its employee groups – there is no parity arrangement, and no history of basing one group’s settlement on another group’s bargaining. The settlements with other units does show, however, that the City’s proposed 2.00% increase in 2012 would be lower than any settlement it has reached with other groups, aside from firefighters, who took a freeze in 2012, but received a 5.00% increase in 2011, when the police were frozen:

<b>Internal</b>	<b>2010 % Increase</b>	<b>2011 % Increase</b>	<b>2012 % Increase</b>
Public Works	3.00	3.00	3.00
Water Plant	5.00	2.50/2.50	2.50/2.50
City Hall	5.00	2.50/2.50	2.50/2.50
Firefighters	5.00	5.00	0.00
Police Civilians	5.00	0.00	n/s
Police	5.00	0.00	n/s

From the Union’s point of view, it cannot be fairly said that internal comparability offers any useful guidance, and this criterion should be disregarded.

The statutory criteria that truly bear on this dispute are external comparability and the cost of living. Both decisively favor the Union’s wage offer, and the arbitrator should, accordingly, select the final offer of the FOP.

**The Arguments of the City – Wages**

The City asserts that the arbitrator’s decision on wages is governed by ability to pay and interests of the public, the external comparables, the cost of living, and the other traditional factors criteria. Each one supports the City’s position. The City begins by noting that it operates under a 2007 Council-mandated policy requiring that reserves be at least 10% of revenues. If the Fund balance dips to 5% or less, the City Manager is required to formulate a plan to cut services and costs to restore the Fund balance. The Fund balance declined precipitously in the wake of the financial crisis, prompting wage freezes for City employees, and other cost cutting measures. For 2012 and 2013, the City has budgeted 2% increases, and any Award above that amount will require cuts elsewhere. The City does not claim an inability to pay the Union’s demands. Certainly the money can be found, but it must come from some other City services, most likely in

the form of layoffs. The arbitrator must reject the fallacy that the ability to pay, under the statute, only comes into play when there is actually an inability to pay. Rather the criterion must be understood to allow an arbitrator to consider the impact of paying the increase. If an employer can pay what is demanded by the Police, but only at the cost of laying off firefighters or clerical employees, the ability to pay criterion should affirmatively favor the offer that avoids those negative effects.

These same considerations arise under the other portion of this statutory criterion – “the interests and welfare of the public.” The arbitrator must determine how the Union’s offer will benefit the public, and how it might harm the public. The need to divert funds from other public purposes is, of course, an example of the harm that can be done by the Union’s wage offer. The most commonly cited benefit to the public from higher wages is the ability to retain officers and avoid turnover. That is not a factor here. The Collinsville Department has a very stable and experienced cadre of officers. In part, this is likely due to the fact that the City already pays very competitive wages to its officers and sergeants.

Turning to external comparisons, the City starts by noting that the 2013 wage rates for Alton and Fairview Heights are substantially and artificially inflated. In both of those communities, the parties agreed to liquidate the holiday pay benefits in the contract, and roll them into base wages. The result is an apparent across the board increase that includes money that was already being paid to the officers. Those two communities’ wage increases must therefore be adjusted to account for the actual increases, as opposed to the internal money shift. If new money alone is the basis for comparison, the City’s offer would maintain its ranking at or near the top of the comparable communities in terms of salaries. In 2011, the City ranked 1<sup>st</sup> in starting patrol wages, 2<sup>nd</sup> in maximum patrol, 2<sup>nd</sup> at starting sergeant, and 3<sup>rd</sup> at maximum sergeant. The new money in the City’s offer would maintain its strong standing, relative to the new money in the comparable settlements:

**Patrol Benchmarks – 2012 and 2013 – New Money Only**

<b>Comparable</b>	<b>Starting Patrol 2012</b>	<b>Maximum Patrol 2012</b>	<b>Starting Patrol 2013</b>	<b>Maximum Patrol 2013</b>
Alton	\$53425	\$60905	\$55,600	\$63384
Belleville	\$47516	\$65242	\$48951	\$67212
Edwardsville	\$57652	\$78293	\$59094	\$80125
Fairview Heights	\$54811	\$70449	\$58551	\$75256
Granite City	\$47539	\$64752	\$48680*	\$66306*
O'Fallon	\$57783	\$74399	\$59506	\$76623
<b>Average</b>	<b>\$53121</b>	<b>\$69007</b>	<b>\$55064</b>	<b>\$71484</b>
<b>City Offer</b>	<b>\$58781 - 1<sup>st</sup></b>	<b>\$74424 - 2<sup>nd</sup></b>	<b>\$59957 - 1<sup>st</sup></b>	<b>\$75913 - 3<sup>rd</sup></b>
<b>Union Offer</b>	<b>\$59076 - 1<sup>st</sup></b>	<b>\$74758 - 2<sup>nd</sup></b>	<b>\$60545 - 1<sup>st</sup></b>	<b>\$76637 - 2<sup>nd</sup></b>

\* The 2013 rates for Granite City are projected, based on the average increase across the comparable departments

**Sergeant Benchmarks – 2012 and 2013 – New Money Only**

<b>Comparable</b>	<b>Starting Sgt. 2012</b>	<b>Maximum Sgt. 2012</b>	<b>Starting Sgt. 2013</b>	<b>Maximum Sgt. 2013</b>
Alton	\$63910	\$70055	\$66512	\$72908
Belleville	\$61068	\$70968	\$62912	\$73111
Edwardsville	\$72575	\$85620	\$74390	\$87635
Fairview Heights	\$80799	\$90033	\$82593*	\$92059
Granite City	\$66152	\$69932	\$67621*	\$71505*
O'Fallon	\$69340	\$80940	\$71150	\$83164
<b>Average</b>	<b>\$68974</b>	<b>\$77925</b>	<b>\$70863</b>	<b>\$80064</b>
<b>City Offer</b>	<b>\$74468 - 2<sup>nd</sup></b>	<b>\$81034 - 3<sup>rd</sup></b>	<b>\$75958 - 2<sup>nd</sup></b>	<b>\$82654 - 3<sup>rd</sup></b>
<b>Union Offer</b>	<b>\$74822 - 2<sup>nd</sup></b>	<b>\$81410 - 3<sup>rd</sup></b>	<b>\$76680 - 2<sup>nd</sup></b>	<b>\$83462 - 3<sup>rd</sup></b>

\* The 2013 rates for Granite City and Fairview Heights are projected, based on the average increase across the comparable departments

The City's strong showing carries forward if career earnings are considered. Over a 26 year career, an officer in Collinsville would rank first among the comparables in career earnings, a standing that is maintained under either offer. Sergeants would remain second in career earnings under either offer. Every measure of comparison shows that the City offer maintains its police employees at a very favorable position. There is simply no need for any extraordinary increase.

While the Union claims that the percentage increases in its offer are supported by the comparables, that argument can only be sustained by excluding Belleville, by including 2011 wage increases in the analysis, and by pretending that the holiday pay shifts in Alton and Fairview Heights are actual increases, rather than just a shift of salary money from one provision to another. As explained, those are not valid bases for comparison. Moreover, the arbitrator should reject the Union's effort to make arguments based on the 2011 wage freeze. The Union and the City already negotiated for 2011, and the Union should not receive some sort of credit for the wage settlement in that year. They made the deal they made, and they cannot now renegotiate it, which is effectively what they seek to do.

Accounting for the distinction between new money and shifted money, the actual increases in salaries in the comparable communities for 2012 and 2013 for the starting patrol salaries are:

<b>Comparable</b>	<b>2012 % Increase Patrol</b>	<b>2013 % Increase Patrol</b>	<b>Overall Increase Patrol</b>
Alton	1.25%	0.75%	2.00%
Belleville	1.00%	3.02%	4.02%
Edwardsville	2.00%	2.50%	4.50%
Fairview Heights	2.00%	2.75%	4.75%
Granite City	2.50%	2.40%*	4.90%*
<b>O'Fallon</b>	<b>2.51%</b>	<b>2.98%</b>	<b>5.49%</b>
<b>Average</b>	<b>1.88%</b>	<b>2.40%</b>	<b>4.28%</b>
<b>City Offer</b>	<b>2.00%</b>	<b>2.00</b>	<b>4.00%</b>
<b>Union Offer</b>	<b>2.51%</b>	<b>2.49%</b>	<b>5.00%</b>

\* The 2013 rates for Granite City are projected, based on the average increase across the comparable departments

The results for sergeants' salaries are slightly more favorable to the City's position:

<b>Comparable</b>	<b>2012 % Increase Sergeant</b>	<b>2013 % Increase Sergeant</b>	<b>Overall Increase Sergeant</b>
Alton	1.25%	0.75%	2.00%
Belleville	1.00%	3.02%	4.02%
Edwardsville	2.00%	2.50%	4.50%
Fairview Heights	2.00%	2.00%*	4.75%*

Granite City	2.50%	2.22%*	4.90%*
O'Fallon	2.19%	2.61%	4.80%
<b>Average</b>	<b>1.82%</b>	<b>2.22%</b>	<b>4.04%</b>
<b>City Offer</b>	<b>2.00%</b>	<b>2.00</b>	<b>4.00%</b>
<b>Union Offer</b>	<b>2.51%</b>	<b>2.49%</b>	<b>5.00%</b>

\* The 2013 rates for Granite City and Fairview Heights are projected, based on the average increase across the comparable departments

Making the necessary adjustments to reflect new money only, the external comparables strongly support selection of the City's offer.

The City offer is also preferable based upon the changes in the CPI during the contract term. The arbitrator should decline the Union's effort to expand the CPI review period to include the wage freeze year of 2011, unless he also wishes to include the years preceding that, when the Union received 5% across the board increases, vastly outstripping the CPI. In 2012 the Midwest Urban Area CPI-U increased by 1.79%. The All Cities index increased by 1.74%. Both are below the City's offer. In 2013, the forecasters predict an increase in CPI of between 1.5% and 2.00%. This is consistent with the historical data, back to 2008. The City's 2.00% offer is reasonable by either measure.

The City's offer is also more reasonable when overall compensation is considered. In particular, the City notes that its costs for health insurance - and thus the income the officers derive from City subsidized health insurance - is increasing even more quickly than wages. The City estimates that the true cost of total compensation, should the Union's proposal be accepted, will be 7.4% across the two years of the contract. This is 225% of the projected increase in CPI. Obviously the Union's proposal is excessive under the "overall compensation" criterion.

Finally, the City points to internal comparability as a factor supporting adoption of its position. The current settlements with the Water Plant and the City Hall clericals are not of particular importance. What is important is that those contracts expired on July 31, 2013. Thus it is fair to say that the wage award in this case will set the expectations of those groups. Granting the higher demands of the Union will create a ripple effect, and the City will be forced to choose between breaking its general policy of treating employees similarly, or granting the higher increases, at the cost of eliminating jobs and services.

Every point of analysis under the statute favors the position of the City. The Union's offer can only be made to appear reasonable if the arbitrator ignores the reality of the settlements in Alton and Fairview Heights, and elects to make comparisons to years that are not in dispute. There is simply no basis on which that can be justified. Accordingly, the arbitrator should award the final of the City on wages.

### **Discussion – Wages**

This is a dispute over an economic item – the 2012 and 2013 wage increases – and the arbitrator is required to select one of the parties' offers without modification. While I have considered each of the statutory criteria, it is apparent that this dispute centers on three of them – Cost of Living, the Interests of the Public, and External Comparisons.

### **Cost of Living**

The Midwest Urban Consumers index shows an increase in the cost of living of 1.8% in 2012, and 1.8% through July in 2013, although there has been considerably volatility in the 2013 rates. The Union suggests that the cost of living should be viewed in a longer context, in part to account for the impact of the wage freeze in 2011. The City responds that 2011 is not relevant, but that if the arbitrator wants a truly long view, he should include the years before 2011, when unit employees were receiving pay increases well in excess of the cost of living. Not surprisingly, both parties want the arbitrator to account for those portions of the past that favor their positions. The issue before me is the 2012-2013 contract, and there is sufficient data available to assess the offers in light of the conditions during the contract term.

The first year of the contract would provide support for the City's position, as it exceeds the CPI by 0.2%. To date, the second year would provide similar support, but the degree of volatility in the index makes that a less certain calculation. The professional forecasters at the Philadelphia Federal Reserve have lowered their inflation forecast for 2013, to a "headline" rate of 1.4% for the year, down from earlier projections of 1.6% in the second quarter and 2.0% in the first quarter. Again the volatility in the

rates makes it difficult to assess this with certainty, but the available data would seem to indicate that both offers offset the increases in the cost of living over the term of the contract, and provide modest increases in the purchasing power of the unit members. To the extent that the City's proposal more nearly matches the apparent rate of increase in the cost of living, it would be preferred under this measure.

### **Interest and Welfare of the Public**

The City does not assert an inability to pay the increases proposed by the Union. It asserts instead, that paying those increases will force it to eliminate services, reduce positions, or both, and that this would be contrary to the public interest. Certainly the ability to pay an increase includes the choices that must actually be made in order to pay it. If the additional one-half of one percent sought by the Union would wreak havoc on the City's operations, the City is entitled to point that out, and the arbitrator is obliged to consider it. In this case, the disastrous scenario painted by the City is considerably overstated. As the Union notes, the difference between the two offers is 0.06% of City revenues, and the City's fund balance has recovered from its low points. It is not in the 5% zone in which City policy demands cuts, but neither is it back to the 10% to 15% level the City defines as desirable. Doubtless that recovery was the result of difficult decisions, and sacrifices by all concerned, and that cannot be minimized. Among those sacrifices was a wage freeze by this bargaining unit for the last contract, and the attrition of vacant unit positions.

The awarding of any increase in wages means that those funds will not be available for other public purposes. It does not follow that the interests of the public are well served by routinely freezing wages, or even by always selecting the lowest wage offer. The public has a general interest in keeping public costs low, but it also has a general interest in fairly compensating employees, within its means, as evidenced by Section 14 of the Act. A party asserting the interests of the public on behalf of its position has an obligation to identify specific beneficial consequences from the selection of its offer, or specific negative consequences from the selection of the other party's offer. Here the City Council has identified fiscally prudent goals for its Fund balance, with specific consequences should the balance fall to a critical level. The offer of the Union does not threaten to bring the balance near to that trigger point.

## External Comparables

The initial question associated with the external comparables is the appropriate treatment of the wage increases in Alton and Fairview Heights. In both communities, the parties agreed to eliminate the separate holiday pay and fold it into the base wage rates. 88 hours of pay were added to the rates in Fairview Heights, and 72 hours were added in Alton. The Union treats the resulting across the board increases as comparable for comparison purposes, while the City insists that the portion attributable to the holiday pay transfer must be excluded. The City clearly has the better of the arguments on this point. It is always a tricky proposition to judge the tradeoffs in another bargain. Different parties value different items in different ways. Here, there is no complexity. Prior to this round of bargaining, the officers in these communities received additional annual earnings for holiday pay. After this round of bargaining, they will receive exactly that same amount of money, paid out as part of their base wages. While the wage appears to be higher, annual earnings remain the same. The employer's cost remains the same. The nominal increase in wage rates says nothing about what reasonable parties in another jurisdiction who were not moving money from holiday pay to base wages might have agreed to.

The Union bases some of its comparison arguments on the increases in 2011, as well as the proposed increases in 2012, and 2013. The City objects, arguing that the 2011 bargain has been made, and should not be subject to renegotiation. In general, I would agree with the City that it is not entitled to credit in this bargain for the 5% increases in years past, and the Union is not entitled to credit for the wage freeze in 2011. Consideration of past settlements may be given in assessing their impact - historical benchmark rankings and the like -but revisiting the actual levels of increase and treating them as live factors for determining this contract's across the board increases invites revisiting of the past when the bargaining climate and the factors that led to those settlement no longer obtain.<sup>2</sup>

Comparing the two offers, using the new salary dollars in the Alton and Fairview Heights settlements, provides support for the City's offer in the first year, and slightly less support for the Union offer in the second year:

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<sup>2</sup> There are cases, where contract terms overlap for example, where prior years may be useful in understanding the context and getting a true picture of how settlements compare across units.

<b>Comparable</b>	<b>2012 % Increase</b>	<b>2013 % Increase</b>	<b>Total</b>
Alton	1.25	0.75	2.00
Belleville	1.00%	3.02%	4.02%
Edwardsville	2.00	2.50	4.50
Fairview Heights	2.00	2.75	4.75
Granite City	2.50	ns	4.75
O'Fallon	2.50	3.00	5.50
<b>Average</b>	<b>1.88%</b>	<b>2.40%</b>	<b>4.28%</b>
<b>City Offer</b>	<b>2.00%</b>	<b>2.00%</b>	<b>4.00%</b>
<b>Union Offer</b>	<b>2.50%</b>	<b>2.50%</b>	<b>5.00%</b>

Over the term of the contract, considerations of external comparability show the City's offer to be somewhat below the going rate in the area (-0.28%), and the Union's offer to be above the going rate (+0.72%). This criterion would favor selection of the City's final offer.

#### **Internal Comparables**

The Union takes the position that internal comparisons are not relevant in this proceeding, and the City asserts that they are relevant only in the sense that the Award here will set the template for internal settlements, and asks that the arbitrator be mindful of the ripple effect of his decision. The decision on wages is made on the basis of the statutory criteria, and if the analysis is correctly done, the result is presumed to be reasonable. The effect of a reasonable decision on the bargaining environment for the other units may be unwelcome to one party or the other, but the arbitrator's jurisdiction extends only to the parties who are before him.

#### **Conclusion on Wages**

The statutory criteria favor the selection of the final offer of the City of Collinsville on the issue of across the board wage increases for 2012 and 2013.

## **Sick Leave Payout**

The Union proposes to increase the payout of unused sick leave between 480 hours and 720 hours from 50% to 100%. The City proposes to maintain the status quo. This is an economic issue, and the arbitrator is required to select one offer or the other, without modification.

### **The Arguments of the FOP – Sick Leave Payout**

The Union proposes to amend the current system of paying out unused sick leave to retired or deceased officers. Currently, sick leave accumulation is capped at 720 hours. On retirement or death, officers are paid 100% of the value of their unused sick leave, up to 480 hours. Anything in excess of 480 hours is paid out at 50% of its value. Virtually everyone in the unit (22 of 23 members) has more than 480 hours of sick leave, and this is a very important issue to them. On the other hand, given that the benefit is by its nature spread out over time, the City should have no particular cost concerns about this proposal. It imposes no identifiable hardship on the City. The City cannot have any concerns that are matters of principle in connection with this, since they have already agreed to 100% payout for the Police Civilians, who are separately represented by the FOP. Those employees also have the ability to accumulate up to 720 hours of sick leave, but they receive 100% on retirement. This internal precedent provides strong support for the Union's proposal.

External comparisons also strongly support the Union's request.

#### **Comparable**

Alton	100% for 1 <sup>st</sup> 240 hours; 50% in excess of 240
Edwardsville	100% of all hours up to 720
Fairview Heights	50% for all hours up to 1440
Granite City	33.3% for all hours up to 720
O'Fallon	100% for all hours up to 1040

O'Fallon provides roughly twice the benefit the Union seeks, while Fairview Heights and Edwardsville offer the same maximum benefit. Both Alton and Granite City offer less than what the contract currently provides. Thus the Union's proposal does not break

any new ground within the City or within the external comparables. The benefit would simply match what the civilians who work alongside the officers currently receive, and would place the bargaining unit in the middle of the pack among its comparables.

The Union urges the arbitrator to reject any suggestion that it must bear some special burden for changing the status quo ante. The Union's offer is supported by the ability to pay, the internal comparables, and the external comparables. Even if the arbitrator were to hold that there is a burden to be carried, the need for change is evident – officers are receiving a substandard sick leave payout benefit measured by their co-workers and their colleagues in other municipalities. It is likely that these parties would have included this benefit if they had been able to reach an overall settlement, simply because the City *already did so*, in its negotiations with this same Union over the Police Civilians.

As all of the applicable statutory criteria support the Union's proposal, the arbitrator should order the inclusion of the modified sick leave benefit in the 2012-13 collective bargaining agreement.

### **The Arguments of the City – Sick Leave Payout**

The City asserts that the Union seeks what is, effectively, a 20% increase in the cost of the sick leave payout benefit. While this is not a breakthrough proposal, the Union nonetheless must justify it, and it has not done so. There is no need for this change, and there is no quid pro quo offered for the change. The current system compensates officers for unused sick leave, and provides an incentive not to abuse sick leave. It benefits both parties, and will continue to benefit both parties if it is unchanged. The change sought by the Union does not address any problem. The sole justification is that the Police Civilians have this benefit. However, there are multiple employee groups in the City. The fact that one of them has a benefit does not create an entitlement in the other groups. Moreover, since the proposal appears to be retroactive, if it were awarded it would require the City to go back and make payments against 2012 and 2013 that were not budgeted.

There is no clear pattern of sick leave buyout provisions in the contracts for other

comparable municipalities that warrants the change sought by the Union. The City points out that there are multiple aspects to the existing system – payouts on death or retirement, but also annual payouts at 50% to officers for hours earned above 720 hours. Officers earn up to 144 hours per year. While some municipalities have more generous payouts on retirement, they do not make annual payouts. This ongoing payout system allows these officers to monetize sick leave, in a way that effectively erases the apparent advantage departments such as Edwardsville and O’Fallon have in maximum retirement payouts. In other words, the Collinsville officers will likely realize more money with a 720 hour cap than will their colleagues who have a nominally higher cap or a nominally higher payout rate.

### **Discussion – Sick Leave Payout**

The Union’s proposed improvement in the sick leave payout system is based on a need to improve a substandard benefit relative to other departments, and achieve parity with the Police Civilians’ bargaining unit, which has exactly the same benefit as proposed here. It is apparent, however, that the sick leave payout benefit currently enjoyed by Collinsville officers is actually superior to the benefits received in most, and potentially all, other comparable communities.

It is true that the benefit paid at death or retirement – 100% for up to 480 hours, and 50% up to 720 hours, for a total of 600 hours of pay - is less than is available to officers in O’Fallon, where officers are paid 100% of accumulated hours to a cap of 1040 hours. The payout on retirement is also less than is paid to officers in Edwardsville where the payout is 100% to 720 hours, and Fairview Heights, where the payout is 50% up to a maximum of 1440 hours. However, the payout at death or retirement is only a portion of the overall benefit of the provision. The ability to receive a payout of accumulations above the cap at 50% creates the potential for officers to realize a monetary benefit that is in most cases going to be more valuable than what their counterparts in other departments will receive:

#### **Comparable**

Alton	Accrual at 96 hours per year – cap of 480 for payment – 5 years to max Payout: 100% for 1 <sup>st</sup> 240 hours; 50% in excess of 240 to 480 – 360 hours
Belleville	Accrual at 120 hours per year – no apparent cap Payout: \$1.50 per hour to 1000 hours; \$3.75 per hour over 1,000

	hours – no calculation possible.
Edwardsville	Accrual at 120 hours per year – cap of 720 for payment – 6 years to max Payout: 100% of all hours up to 720 – 720 hours in value
Fairview Hghts	Accrual at 120 hours per year – cap of 1440 for payment – 12 years to max Payout: 50% for all hours up to 1440 – 720 hours in value
Granite City	Accrual at 144 hours per year – cap of 720 for payment – 5 years to max Payout: 33.3% for all hours up to 720 – 240 hours in value
O’Fallon	Accrual of 104 hours per year – cap of 1040 for payment – 10 years to max Payout: 100% for all hours up to 1040 – 1040 hours in value
Collinsville	Accrual of 144 for per year – cap of 720 hours for payment – 5 years to max Payout: 480 at 100% plus 240 at 50% = 600 hours in value  1 <sup>st</sup> year at cap - 144 hours paid annually at 50% - 672 hours in value 2 <sup>nd</sup> year at cap - 144 hours paid annually at 50% - 744 hours in value 3 <sup>rd</sup> year at cap - 144 hours paid annually at 50% - 816 hours in value 4 <sup>th</sup> year at cap - 144 hours paid annually at 50% - 888 hours in value 5 <sup>th</sup> year at cap - 144 hours paid annually at 50% - 960 hours in value 6 <sup>th</sup> year at cap - 144 hours paid annually at 50% - 1032 hours in value

Obviously not all officers who have reached the cap will receive the full payout in each year, but it is fair to say that the overall value of the Collinsville sick leave payout provisions compares very favorably to the value of the provisions in other departments. It provides compensation before retirement or death, and at a level that obviates the nominal disparities with other departments having higher payouts at retirement or death. The Union’s position that the benefit is substandard relative to other police departments is not correct.

The sole basis on which the improved sick leave payout could be justified is that the City agreed to provide the benefit to the Police Civilians bargaining unit. The Civilians receive full payment for accumulated sick leave, up to 720 hours, in the event of death, retirement, or upon leaving the City with 15 years of service. This payout is more generous than the police officers’ in two respects – it pays out fully and it pays out upon leaving the City, no matter what the reason if the employee has been employed for 15 years. Clearly it pays out at a lower hourly rate, but in relative terms it is a more valuable benefit.

The Union correctly observes that arbitrators seek to the extent possible to replicate what a voluntary agreement might have looked like, had one been possible. They understandably suggest that this proposal is not a matter of principle for the City, and that the City might have been holding this proposal hostage, in hopes of trading it

for agreement on wages. It is entirely possible that this was a strategic choice, and that the City might have traded this benefit for a lower wage settlement. I agree that it's likely the City would have agreed to improve this benefit under some set of circumstances, simply because it did so in the other unit. However, since the trade was not made, and no voluntary settlement resulted, the circumstances under which the City might have agreed are unknown. The record does not disclose what tradeoffs were made in the Civilians unit to secure this benefit. In any event, at this stage, this is not a negotiation or a mediation. An arbitrator will seek to avoid awarding proposals that could not reasonably have been part of a voluntary settlement between reasonable parties, but each economic item must be judged in accordance with the statutory criteria and the accepted norms of interest arbitration.

The fact that the City has agreed to add this benefit in another bargaining unit creates a strong inference that the proposal to add it here is not facially unreasonable. That is, this is something that could be awarded without breaking new ground. However, to say that something is not unreasonable is not the same as saying that adding it to the contract is a more reasonable action than not adding it to the contract. This is not a case where the benefit sought is commonplace across the industry, or across the City's workforce, with the employer stubbornly holding out from extending it to this bargaining unit. ~~The Union does not identify any quid pro quo for the expansion~~ of this benefit, and as discussed above, the current benefit as a whole is quite good when compared to what other area police officers have available. In the normal course, a party seeking to change the status quo has a burden of showing that it is solving a problem, and/or has offered some tradeoff or inducement that should have led the other party to agree, or which should lead the arbitrator to conclude that the other party was unreasonable in not agreeing. The record here does not make it clear why this change should be adopted.

### **Conclusion on Sick Leave Payout**

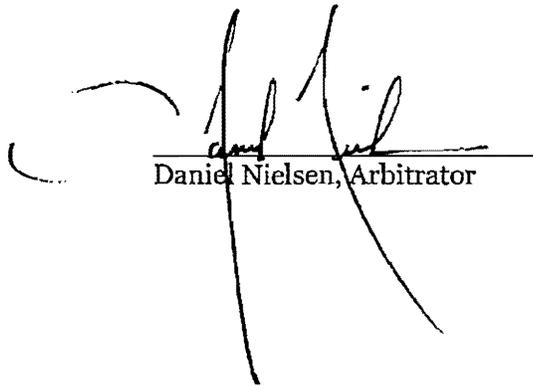
The statutory criteria favor the selection of the final offer of the City of Collinsville – the status quo ante - on the issue of Sick Leave Payout.

## AWARD

On consideration of all of the statutory criteria, and the record as a whole, the 2011-2013 collective bargaining agreement shall incorporate the provisions of the predecessor agreement, as modified by the tentative agreements attached hereto as Appendix "A", and the Wage offer of the City.

The Arbitrator will retain the official record and jurisdiction over the dispute until the parties notify him that any issues related to the implementation of the interest arbitration award have been resolved.

Signed this 19<sup>th</sup> day of August, 2013.



Daniel Nielsen, Arbitrator

## Appendix "A"

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### City of Collinsville, Illinois And Illinois Fraternal Order of Police Labor Council / Collinsville FOP Lodge #103

#### 2010 Successor Negotiations Tentative Agreements Summary

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Section 7.1 Health Insurance: add a new section that creates a Union / Management Insurance Committee.

*"Insurance Planning and Advisory Committee. The Employer agrees to establish a health insurance planning and advisory committee. The purpose of the committee shall be to review the operation of the City health insurance plan, investigate ways to improve the health care program, and make effective recommendations for changes to the health insurance plan and program. The committee shall be comprised of equal number of members appointed by the City to represent management and representatives appointed by each bargaining unit that chooses to participate in the committee; said committee shall include a representative selected by the FOP police officer unit."*

Section 7.7.1 Vacation Pay Advance: accept City proposal to delete the language contained in Section 7.7.1 Vacation Pay Advance

Section 7.11.2 Subcontracted Work: amend to reflect that the rate of pay for all officers working subcontracted work shall be equal to an office's rate of pay at the rate of time and one-half. *Effective for all individual contracts entered into on or after the execution of this Agreement.*

Section 7.1.3 Disabled Officers: revise to clarify that the Public Safety Employee Benefits Act ("PSEBA", 820 ILCS 320/1 et seq.) supersedes, and if not applicable, employees would pay per Section 7.1.3 (currently \$275.00).

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### MEMORANDUM OF AGREEMENT

NOW COMES the City of Collinsville, Illinois ("City") and the Illinois Fraternal Order of Police Labor Council, representing Collinsville Patrol Officers ("Lodge"), parties to a collective bargaining agreement which took effect on January 1, 2011 and expired on December 31, 2011 ("Agreement"), to set forth certain understandings and agreements between them.

WHEREAS, the parties have discussed certain portions of Section 4.9 of said Agreement, which currently provide:

**“SECTION 4.9 - Canine Agreement...**

...The parties agree that a reasonable time to provide for travel to and from work, and to provide housing, feeding, grooming, exercise and other miscellaneous daily care for the dog is 45 minutes per day. The parties therefore agree that:

A. The canine officer's regular work shift time shall include, on his/her regular duty days, 45 minutes per day to travel to and from work and to provide housing, feeding, grooming, exercise, and other miscellaneous daily care for the dog, which time shall be allocated by the Chief of Police or his/her designee. In the event for any reason that the Chief of Police does not allocate the 45 minutes per day, then the canine officer shall be paid overtime for additional time worked.

B. The canine officer shall be paid overtime or compensatory time for 45 minutes per day for the above-stated purposes for each day that he/she is not on duty. On off duty days when the canine officer may be called out for extra duty with the dog, he/she will be paid overtime or compensatory time according to regular departmental rules and regulations.”

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WHEREAS, the parties have met and conferred regarding the costs of the Police Department's canine operations;

WHEREAS, the parties have arrived at certain understandings and agreements regarding changes to the Agreement providing for the compensation of the Police Department's canine officers to the extent that such changes impact, and require amendment to, the Agreement;

WHEREAS, the parties have been in negotiations for a successor Agreement without resolution to date, and the Lodge commenced interest arbitration proceedings on or about December 1, 2011;

WHEREAS, Section 14(1) of the Illinois Labor Relations Act (“the Act”) provides that, during the pendency of interest arbitration proceedings, the existing terms and conditions of employment may only be changed with the consent of both parties; and

WHEREAS, the parties now desire to set their said understandings and agreements to writing, and to implement same, as permitted by Section 14(1) of the Act.

NOW, THEREFORE, in consideration of the foregoing premises, the parties hereto agree as follows:

1. The Section 4.9 of the parties' expired Agreement shall be amended as follows, and shall be incorporated into the parties' successor Agreement:

**“SECTION 4.9 - Canine Agreement...**

The parties agree that a reasonable time to provide for travel to and from work, and to provide housing, feeding, grooming, exercise and other miscellaneous daily care for the dog is as follows:

A. The canine officer's regular work shift time shall include travelling to and from work and provide housing, feeding, grooming, exercise, and other miscellaneous daily care for the dog, and the officer shall receive 15 additional minutes' premium (i.e., time and one-half) pay, in wages or comp time, per regular work shift, as compensation for such canine-related duties which are not completed within the regular work shift times.

B. The canine officer shall be paid, at overtime or compensatory (i.e. time and one-half) rates, for 30 minutes per day for the above-stated purposes for each day that he/she is not on duty. On off duty days when the canine officer may be called out for extra duty with the dog, he/she will be paid overtime or compensatory time according to regular departmental rules and regulations.

C. (and re-designate current paragraph C. as paragraph D.) The provisions of paragraph A. above and this paragraph B. shall take effect on February 1, 2013, and shall remain in effect through January 31, 2016, at which time the language of Section 4.9 shall revert back to the language as it existed on or before February 1, 2013 unless the parties negotiate otherwise."

2. The remainder of the current Section 4.9 shall remain unchanged by this Memorandum of Agreement.

3. Said amendments to Section 4.9 of the Agreement shall be effective on the later of February 1, 2013, or immediately upon execution of this Memorandum of Agreement.

4. The parties' agreement to amend Section 4.9, and implement said amendment, as described paragraphs 1. thru 3. above is the product of their mutual consent and shall not create any prejudice to either party's other rights or positions under the *Act*, and shall neither constitute, nor be used as evidence of, any violation of Section 14(1) of the *Act*.

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## MEMORANDUM OF AGREEMENT

NOW COMES the City of Collinsville, Illinois ("City") and the Illinois Fraternal Order of Police Labor Council, representing Collinsville Patrol Officers ("Lodge"), parties to a collective bargaining agreement which took effect on January 1, 2011 and expired on December 31, 2011 ("Agreement"), to set forth certain understandings and agreements between them.

WHEREAS, the second sentence of Section 1.1 of said Agreement currently provides:

"The Lodge and the Employer agree that the exclusion of the position of the Lieutenant shall be based on the Employer maintaining a minimum level of 4 Sergeant positions and a maximum of 3 Lieutenant positions."

WHEREAS, the parties have met and conferred regarding the City's

contemplated changes to the Police Department's operations and organizational structure;

WHEREAS, the parties have arrived at certain understandings and agreements regarding changes to the Police Department's operations and organizational structure to the extent that such changes impact, and require amendment to, the Agreement;

WHEREAS, the parties have been in negotiations for a successor Agreement without resolution to date, and the Lodge commenced interest arbitration proceedings on or about December 1, 2011;

WHEREAS, Section 14(1) of the Illinois Labor Relations Act ("the Act") provides that, during the pendency of interest arbitration proceedings, the existing terms and conditions of employment may only be changed with the consent of both parties; and

WHEREAS, the parties now desire to set their said understandings and agreements to writing, and to implement same, as permitted by Section 14(1) of the Act.

NOW, THEREFORE, in consideration of the foregoing premises, the parties hereto agree as follows:

1. The second sentence of Section 1.1 of the parties' expired Agreement shall be amended as follows, and shall be incorporated into the parties' successor Agreement:

"The Lodge and the Employer agree that the exclusion of the position of the Lieutenant shall be based on the Employer maintaining a minimum level of 4 Sergeant positions and a maximum of 4 Lieutenant positions."

2. Said amendment to Section 1.1 of the Agreement shall be effective immediately upon execution of this Memorandum of Agreement.

3. The parties' agreement to amend Section 1.1, and implement said amendment, as described paragraphs 1. and 2. above is the product of their mutual consent and shall not create any prejudice to either party's other rights or positions under the Act, and shall neither constitute, nor be used as evidence of, any violation of Section 14(1) of the Act.

## APPENDIX B

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### GROUND RULES AND PRE-HEARING STIPULATIONS

- 1) The Arbitrator in ILRB Case No. S-MA-12-032 shall be Arbitrator Daniel Nielsen. The City of Collinsville (hereinafter referred to as "Employer" or "City) and the Illinois Fraternal Order of Police Labor Council (hereinafter referred to as "Union") stipulate that the procedural prerequisites for convening the arbitration hearing have been met, and that the Arbitrator has jurisdiction and authority to rule on those mandatory subjects of bargaining submitted to him as authorized by the Illinois Public Labor Relations Act, including but not limited to the express authority and jurisdiction to make retroactive adjustments to wages and benefits. Each party expressly waives and agrees not to assert any defense, right or claim that the Arbitrator lacks jurisdiction and authority to make such adjustments; however, the parties do not intend by this Agreement to predetermine whether any adjustments to wages or other forms of compensation in fact should be retroactive to January 1, 2012.
- 2) The hearing in said case will be convened on April 18, 2013 at 9:00 a.m. The requirement set forth in Section 14(d) of the Illinois Public Labor Relations Act, requiring the commencement of the arbitration hearing within fifteen (15) days following the Arbitrator's appointment, has been waived by the parties. The hearing will be held at this location: City Hall, Collinsville, Illinois.
- 3) The parties have agreed to waive Section 14(b) of the Illinois Public Labor Relations Act requiring the appointment of panel delegates by the employer and exclusive representative and agree that Arbitrator Nielsen shall serve as the sole arbitrator in this dispute.
- 4) The hearing will be transcribed by a court reporter or reporters whose attendance is to be secured by the Employer for the duration of the hearing by agreement of the parties. The cost of the reporter and the Arbitrator's copy of the transcript shall be shared equally by the parties.
- 5) The parties agree that the following issues remain in dispute, that the issues, which are mandatory subjects of bargaining, are submitted for resolution by the Arbitrator, and that the Arbitrator must choose either the Employer's offer or the Union's offer on the issues presented inasmuch as the issues are **economic** within the meaning of Section 14(g) of the Illinois Public Labor Relations Act:
  - a) Wages (Section 5.1)
  - b) Payment for Unused Sick Leave (Section 6.1.3)
- 6) The parties agree that the following communities shall be deemed as the "external comparables" for purposes of this interest arbitration:
  - a) Alton
  - b) Edwardsville
  - c) Fairview Heights
  - d) Granite City

e) O'Fallon

The parties disagree as to whether the City of Belleville should be used as an "external comparable" community for purposes of this interest arbitration.

- 7) The parties agree that the Arbitrator shall award and incorporate into the collective bargaining agreement any tentative agreements reached during negotiations between the parties. All other provisions of the current collective bargaining agreement, except those at issue herein, shall remain unchanged in the successor agreement.
- 8) Final offers shall be exchanged in a manner agreeable to counsel, but prior to the commencement of the hearing. Once exchanged, such final offers may not be altered and no additional issues may be proffered except by mutual agreement of the parties. The parties agree that the Arbitrator is empowered to resolve issues regarding the exchange of final offers should the parties be unable to reach agreement on this procedural matter.
- 9) Each party shall be free to present its evidence in either the narrative or witness format, or a combination thereof. The Union shall proceed first with the presentation of its case-in-chief. The Employer shall then proceed with its case-in-chief. Each party shall have the right to cross-examination the others' witnesses and narrators, as well as to present rebuttal evidence. Neither party waives the right to object to the admissibility of evidence.
- 10) Post-hearing briefs shall be submitted to the Arbitrator, with the copy for the opposing party sent through the Arbitrator, no later than 30 days from their receipt of the transcript of the hearing, or such further extensions as may be mutually agreed to by the parties or as granted by the Arbitrator. If sent by U.S. Mail, the post-marked date of mailing shall be considered to be the date of submission of a brief; however, the briefs may also be sent by electronic means to the arbitrator, if he so consents.
- 11) Nothing contained herein shall be construed to prevent negotiations and settlement of the terms of the contract at any time, including prior, during, or subsequent to the arbitration hearing.
- 12) The Arbitrator shall issue his award within sixty (60) days after the due date of the post-hearing briefs or any agreed upon extension requested by the Arbitrator.
- 13) The parties represent and warrant to each other that the undersigned representatives are authorized to execute on behalf of and bind the respective parties they represent, subject to the Employer's right to review and reject one or more terms of the Arbitrator's decision pursuant to Section 14(n) of the Illinois Public Labor Relations Act.
- 14) The parties agree that the arbitration proceedings are not subject to the public meeting requirements of the Illinois Open Meetings Act, 5 ILCS 120/1, *et seq.* All sessions of the hearing(s) will be closed to all persons other than the arbitrator, court reporter, representatives of the parties, including negotiating team members, witnesses to be called at the hearing, resources persons of the parties,

members of the bargaining unit, and elected officials and management staff of the Employer.

- 15) The Arbitrator shall retain the official record of the interest arbitration proceedings until such time as the parties confirm that the interest arbitration award has been fully implemented.

