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I. INTRODUCTION

This is a matter of final and binding interest arbitration for the purpose of resolving a bargaining impasse between the City of Elgin (“City,” “MPS” or “Employer”) and the Local 439 of the International Association of Firefighters (“Union”). The City is a municipal employer. The Union is the exclusive collective bargaining representative for certain employees of the City. The City and the Union were parties to a collective bargaining agreement effective January 1, 2007, through December 31, 2010. The agreement was extended through December 31, 2011.

After negotiations over the terms of a successor agreement reached impasse, the parties selected the undersigned as the arbitrator in this proceeding. The parties waived the tripartite arbitration panel provided for in Section 14 of the Illinois Public Relations Act (5 ILCS 315) and agreed that the undersigned would serve as the sole arbitrator. Four days of hearing were held on October 3, 8, and 31, 2012, and February 5, 2013. On April 20, 2013, the parties submitted briefs totaling over 250 pages.

II. THE PARTIES

The City’s Fire Department employs approximately 132 persons who provide fire suppression and emergency medical services. The Department operates seven fire stations—two on the east side and five on the west side of the City. Stations 1 and 2 each house an engine, a fire truck, and an ambulance. The trucks and ambulances are cross-manned by jump companies who are trained on and can operate both apparatuses. Because of insufficient personnel, the three apparatuses cannot be operated at the same time.

The Union has represented employees in an exclusive bargaining representative capacity since 1976. The Union bargained at least ten contracts from 1976 through 2006. Among the Department's sworn personnel, five employees are not represented by the bargaining unit. The Department employs one Fire Chief, one Assistant Chief, and three Battalion Chiefs who work out of stations. The remaining Department employees are in the unit represented by the Union and comprise the following ranks: seven Captains, twenty-nine Lieutenants, and ninety-two Firefighters. The bargaining unit employees work a schedule of twenty-four hours on-duty, followed by forty-eight hours off-duty, and work one of three shifts, gold, black or red.

At the time the parties executed the current Agreement, on October 29, 2007, the bargaining unit consisted only of Firefighters and Lieutenants. Captains were recognized as part of the bargaining unit in October 2008.

III. BARGAINING HISTORY

Following the inclusion of the Captains in the bargaining unit, the parties engaged in negotiations over the terms and conditions of the Captains' employment. Those negotiations resulted in an "Addendum to Contract" executed by both parties in June 2010.

During the term of the current contract, the parties engaged in mid-term bargaining during which the parties agreed to a limited reduction in minimum manning and a joint request for a transfer of money from the Foreign Fire Tax Board to the City in exchange for the City's promise of no layoffs through December 31, 2010, and a guarantee that the minimum manning *status quo* would be returned following the expiration of the one-year Variance Agreement the parties executed on February 10, 2010.

The parties' collective bargaining agreement was to expire December 31, 2010. On August 21, 2010, the parties, at the City's request, agreed to a one-year extension of both the collective bargaining agreement and Variance Agreement, through December 31, 2011.

On September 21, 2011, the Union requested to begin negotiations over the terms of a successor agreement. On November 16, 2011, the Union notified the Federal Mediation and Conciliation Services that the parties had begun negotiations and anticipated a future request for the assistance of a mediator.

The parties exchanged proposals and engaged in negotiations, reaching some tentative agreements. In February 2012, the parties requested a mediator from FMCS and thereafter engaged in mediation. On July 25, 2013, the

Illinois Labor Relations Board appointed the Arbitrator to preside over the interest arbitration, and this arbitration proceeding ensued.

IV. FINAL OFFERS

A. STIPULATED LIST OF OPEN ISSUES

On September 19, 2012, the parties agreed to a Stipulated List of Open Issues identifying forty-six outstanding issues for interest arbitration. The stipulation provides as follows:

STIPULATED LIST OF OPEN ISSUES

I. LOCAL 439'S LIST OF ISSUES FOR INTEREST ARBITRATION

A. ISSUES TO ACCOMMODATE CAPTAINS IN UNIT

1. Article 13. Holiday Pay, Section a. Holiday Pay for All Employees Except Captains and Section b. Holiday Pay for Captains. The parties do not agree as to whether the City or the Union is the moving party on this issue.
2. Article 14. Vacation. The parties do not agree as to whether the City or the Union is the moving party on this issue.
3. Article 15. Sick Leave. The parties do not agree as to whether the City or the Union is the moving party on this issue.
4. Article 16. Group Hospitalization and Life Insurance, Section d. Life Insurance. The parties do not agree as to whether the City or the Union is the moving party on this issue.

B. OTHER UNION ISSUES

5. Article 6. Duties of Employees, Section a. Duties
6. Article 6. Duties of Employees, Section b. Sub-contracting

7. Article 8. Salary Range, Section b. Working Out of Class
8. Article 9. Wages, Section a. Ranges and Section b. Retroactivity
9. Article 9. Wages, Section d. Longevity Pay
10. Article 10. Firefighter/Paramedic, Lieutenant/Paramedics, Mechanic, and Driver Engineer, Section d. Mechanic Pay
11. Article 10. Firefighter/Paramedic, Lieutenant/Paramedics, Mechanic, and Driver Engineer, Section e. Assigned Driver Engineer Pay
12. Article 11. Hours of Work and Overtime. Section b. Normal Work Period, Section e. Computation of Straight Time Hourly Rate of Pay and Article 15. Sick Leave, Section a. Accrual
13. Article 11. Hours of Work and Overtime. New Section m. Minimum Manning
14. Article 14. Vacation, Section d. Scheduling
15. Article 24. Fireman's Disciplinary Act
16. Article 29. Promotions, Section c. Rating Factors and Weights. New Section f. Monitors and New Section g. Right to Review. The Union contends that these sections are a single issue and the City contends these are three separate issues.
17. Article 30. Miscellaneous, Section g. Station /Shift/Vehicle Assignment Bidding
18. Article 31. Entire Agreement
19. Article 35. Term

II. CITY'S LIST OF ISSUES FOR INTEREST ARBITRATION

20. Article 9. Wages, Section a. Ranges

21. Article 11. Hours of Work and Overtime, Section b. Normal Work Period
22. Article 11. Hours of Work and Overtime, Section c. Regular Overtime Pay and Section d. FLSA Overtime and Work Period.
23. Article 11. Hours of Work and Overtime, Section e. Computation of Straight Time Hourly Rate of Pay
24. Article 11. Hours of Work and Overtime, Section f. Time Off Scheduling
25. Article 11. Hours of Work and Overtime, Section h. Call Back
26. Article 11. Hours of Work and Overtime, Section k. Light Duty Pool
27. Article 11. Hours of Work and Overtime, Section I, Shift Hold-Over
28. Article 13. Holiday Pay, Section a. Holiday Pay. The parties do not agree as to whether the City or the Union is the moving party on this issue.
29. Article 14. Vacation, Section a. Accrual. The parties do not agree as to whether the City or the Union is the moving party on this issue.
30. Article 15. Sick Leave - Captains Bank, The parties do not agree as to whether the City or the Union is the moving party on this issue.
31. Article 15. Sick Leave - New Hires
32. Article 15. Sick Leave - The Union contends that the City's proposals regarding sick leave proof, monitoring usage and Section d. Conversion are three separate issues. The City contends that this is a single issue.

33. **Article 15. Sick Leave, Section a. Accrual.** The parties do not agree as to whether the City or the Union is the moving party on this issue.
34. **Article 15. Sick Leave, Section e. Sick Leave Incentive Recognition**
35. **Article 16. Group Hospitalization and Life Insurance,** Introduction, **Section a. Medical Insurance (PPQ) and Section b. Health Maintenance Organization (HMO)**
36. **Article 16. Group Hospitalization and Life Insurance,** Section d. **Life Insurance.** The parties do not agree as to whether the City or the Union is the moving party on this issue.
37. **Article 16. Group Hospitalization and Life Insurance.** **New Section - Subsidized Retiree Insurance**
38. **Article 16. Group Hospitalization and Life Insurance,** **New Section - Health Club Membership**
39. **Article 21. Discipline,** Subparagraph 4, (expungement)
40. **Article 21. Discipline,** Subparagraph 5, (investigations)
41. **Article 25. Drug and Alcohol Testing**
42. **Article 30. Miscellaneous,** Section e. **Non-City Employment**
43. **Article 35. Term**
44. Side Letter - Subcontracting
45. Side Letter- Retirement Incentive
46. June 2010 Addendum to Contract

By entering into this Stipulated List of Open Issues, neither party waives any position it may have regarding those issues identified by the City in its August 31, 2012 letter and those

identified by Local 439, IAFF during negotiations and as confirmed in its September 4, 2012 correspondence.

On September 26, 2012, the parties exchanged their final offers for these issues.

B. THE CITY'S FINAL OFFER

CITY'S FINAL OFFER IN ARBITRATION

The City respectfully submits its final offer in arbitration on all open issues, as identified in the parties' September 19, 2012, Stipulated List of Open Issues.¹ The City reserves the right to argue that the Union's final offer on any issue is a non-mandatory subject of bargaining.

The following is a summary of the City's offers on each open issue. The corresponding contract language is attached as Appendix A.

Issue No. 1. Article 13. Holiday Pay.

The City proposes no changes to the current contract language.

Issue No. 2. Article 14. Vacation.

The City proposes no changes to the current contract language.

Issue No. 3. Article 15. Sick Leave.

The City proposes no changes to the current contract language, except as provided in Issue No. 31 below.

Issue No. 4. Article 16. Group Hospitalization and Life Insurance. Section d. Life Insurance.

The City proposes that it will provide a life insurance policy of \$70,000 to all bargaining unit employees, regardless of rank.

Issue No. 5. Article 6. Duties of Employees, Section a. Duties.

¹ The contract language of the City's final offer is found in Appendix A.

The City proposes no changes to the current contract language.

Issue No. 6. Article 6. Duties of Employees, Section b. Subcontracting

The City proposes that it will maintain the right to subcontract to the extent permitted by law.

Issue No. 7. Article 8. Salary Range. Section b. Working Out of Class

The City proposes no changes to the current contract language.

Issue No. 8. Article 9. Section a. Ranges and Section b. Retroactivity

The City proposes a 2% across-the-board increase effective January 1, 2012, and a 2.5% across-the-board increase effective January 1, 2013. Wage increases will be retroactive to January 1, 2012, as provided by the current contract language in Section 9(b).

Issue No. 9. Article 9. Wages. Section d. Longevity Pay.

The City proposes to maintain the *status quo*.

Issue No. 10. Article 10. Firefighter/Paramedic. Lieutenant/Paramedics. Mechanic and Driver Engineer. Section d. Mechanic Pay.

The City proposes to maintain the *status quo*.

Issue No. 11. Article 10. Firefighter/Paramedic. Lieutenant/Paramedics. Mechanic and Driver Engineer. Section e. Assigned Driver Engineer Pay.

The City proposes to maintain the *status quo*.

Issue No. 12. Article 11. Hours of Work and Overtime, Section b. Normal Work Period. Section e. Computation of Straight Time Hourly Rate of Pay and Article 15. Sick Leave, Section a. Accrual.

The City proposes no changes to the current contract language, except as outlined in Issue No. 21 below.

Issue No. 13. Article 11. Hours of Work and Overtime, New Section m. Minimum Manning.

The City proposes no addition to the current contract language.

Issue No. 14. Article 14. Vacation. Section d. Scheduling.

The City proposes no changes to the current contract language.

Issue No. 15. Article 24. Fireman's Disciplinary Act

The City proposes no changes to the current contract language.

Issue No. 16. Article 29. Promotions.

The City contends that the Union's proposal to modify sections c, f, and g, are three separate issues.

Section c. Rating Factors and Weights.

The City proposes no changes to the current contract language.

Section f. Monitors.

The City proposes no addition to the current contract language.

Section g. Right to Review.

The City proposes no addition to the current contract language.

Issue No. 17. Article 30. Miscellaneous. Section g. Station /Shift/Vehicle Assignment Bidding.

The City proposes no changes to the current contract language.

Issue No. 18. Entire Agreement

The City proposes modifying the entire agreement clause to eliminate the waiver of impact bargaining.

Issue No. 19. Term.

The City proposes a two year contract, expiring on December 31,2013.

Issue No. 20. Article 9. Wages.

This is the same as Issue No. 8 above. The City proposes a 2% across-the-board increase effective January 1, 2012, and a 2.5% across-the-board increase effective January 1, 2013. Wage increases will be retroactive to January 1, 2012, as provided by the current contract language in Section 9(b).

Issue No. 21. Article 11. Hours of Work and Overtime. Section b. Normal Work Period.

The City proposes that for employees hired on or after January 1, 2012, employees will be scheduled to receive one Kelly Day off every 18th duty day.

Issue No. 22. Article 11. Hours of Work and Overtime. Section c. Regular Overtime Pay and Section d. FLSA Overtime and Work Period.

The City proposes that overtime will be paid as required by the FLSA only, based on 212 hours in a 28-day work cycle.

Issue No. 23. Article 11. Hours of Work and Overtime. Section e. Computation of Straight Time Hourly Rate of Pay.

The City proposes amending this section to reflect reduced Kelly days for employees hired on or after January 1, 2012.

Issue No. 24. Article 11. Hours of Work and Overtime. Section f. Time Off Scheduling

The City proposes that the language be modified to reflect the *status quo* practice with respect to time off scheduling: no more than 5 lieutenants may be off at the same time. No more than one captain (or two captains if a battalion chief is on duty for the shift) may be off at the same time.

Issue No. 25. Article 11. Hours of Work and Overtime. Section h. Call Back.

The City proposes that employees will receive a two hour minimum at their regular rate of pay, or overtime rate if required by the FLSA, for call-backs.

Issue No. 26. Article 11. Hours of Work and Overtime. Section k. Light Duty Pool.

The City proposes a technical, clean-up change to the language of this section regarding light duty assignments in six-month increments.

Issue No. 27. Article 11. Hours of Work and Overtime. Section 1. Shift Hold-Over.

The City proposes that employees will be paid for holdover work for the actual hours worked at the employee's regular rate of pay, or overtime if required by the FLSA.

Issue No. 28. Article 13. Holiday Pay. Section a. Holiday Pay.

This is the same as Issue No. 1, above. The City proposes no change to the current contract language.

Issue No. 29. Article 14. Vacation. Section a. Accrual.

The City proposes modifying Article 14, Section a, to reflect vacation accrual caps as per the City ordinance.

Issue No. 30. Article 15. Sick Leave - Captains Bank.

This is the same as Issue No. 3, above. The City proposes no change to the current contract language, except as provided in Issue No. 31 below.

Issue No. 31. Article 15. Sick Leave - New Hires.

The City proposes that employees hired after January 1, 2012, will receive 6 hours of sick leave for each full month of continuous service, or 72 hours of sick leave per year.

Issue No. 32. Sick Leave proof, monitoring, and conversion.

The City proposes changes as detailed in Appendix A to curb sick leave abuse.

As the *quid pro quo* for these changes, the City offers that employees may receive 25% of the value of their accrued, unused sick leave at the time of separation.

Issue No. 33. Article 15. Sick Leave. Section a. Accrual.

The City proposes that the use of sick leave shall not count towards the determination of whether an employee has earned 50.15 hours of pay so as to accrue additional sick leave.

Issue No. 34. Article 15. Sick Leave. Section e. Sick Leave Incentive Recognition.

The City proposes deleting this section of the bargaining agreement.

Issue No. 35. Article 16. Group Hospitalization and Life Insurance. Section a. Medical Insurance (PPO) and Section b. Health Maintenance Organization (HMO).

The City proposes that effective March 1, 2013, all employees hired before July 1, 2012, will pay 12% of their health insurance premiums. Beginning July 1, 2012, all employees hired on or after July 1, 2012, will pay 20% of their health insurance premiums.

Issue No. 36. Article 16. Group Hospitalization and Life Insurance. Section d. Life Insurance.

This is the same as Issue No. 4 above. The City proposes that it will provide a life insurance policy of \$70,000 for all bargaining unit employees, regardless of rank.

Issue No. 37. Article 16. Group Hospitalization and Life Insurance. New Section - Subsidized Retiree Insurance.

The City proposes that employees hired on or after July 1, 2012, shall not be eligible for the retiree health insurance premium subsidy that is provided by City Ordinance.

Issue No. 38. Article 16. Group Hospitalization and Life Insurance. New Section - Health Club Membership.

The City proposes that upon the effective date of the Arbitrator's award, the Health Club Membership benefit that is provided by City ordinance shall only be for The Centre of Elgin.

Issue No. 39. Article 21. Discipline. Subparagraph 4 (expungement).

The City proposes that oral reprimands will be expunged after 3 years, written reprimands after 4 years, and that there will be no expungement of suspension or violations of the anti-harassment/nondiscrimination policy. The City's Legal Department may retain copies of expunged discipline and expunged investigation files.

Issue No. 40. Article 21. Discipline. Subparagraph 5 (investigations).

The City proposes that the investigation provisions only apply to cases where the contemplated disciplinary action would involve a suspension or discharge.

Issue No. 41. Article 25. Drug and Alcohol Testing.

The City proposes that the article be amended to allow random testing.

Issue No. 42. Article 30. Miscellaneous, Section e. Non-City Employment.

In summary, the City proposes amending the section to require pre-approval, and annual approval renewals, on a City-issued form for any Non-City employment. Employees must have acceptable performance, including attendance and productivity, to be eligible for Non-City employment. Employees may not engage in secondary employment while on medical or sick leave. Employees may work a maximum of twenty hours per week in their secondary job, and may not work in their secondary job within 8 hours of the start time of their scheduled shift.

Issue No. 43. Article 35. Term.

This is the same as Issue No. 19, above. The City proposes a two year contract, expiring on December 31, 2013.

Issue No. 44. Side Letter - Subcontracting.

The City proposes to delete the side letter. Subcontracting shall be governed by Article 6, Section b.

Issue No. 45. Side Letter - Retirement Incentive.

The City proposes deleting this side letter in its entirety.

Issue No. 46. June 2010 Addendum.

The City proposes that Captains will be governed by the terms of the collective bargaining agreement, as are all other bargaining unit employees.

C. THE UNION'S FINAL OFFER

**LOCAL #439'S FINAL LAST OFFERS OF SETTLEMENT
PRIOR TO ARBITRATION**

**I. LOCAL 439'S LIST OF ISSUES FOR INTEREST
ARBITRATION**

**A. ISSUES TO ACCOMMODATE CAPTAINS IN
UNIT**

1. **Article 13. Holiday Pay, Section a. Holiday Pay for All Employees Except Captains and Section b. Holiday Pay for Captains. The parties do not agree as to whether the City or the Union is the moving party on this issue.**

Section a. Holiday Pay for All Employees Except Captains

Employees shall receive holiday compensation at their straight time hourly rate on an hour **for** hour basis for all hours worked on the actual holiday in addition to their regular pay. Employees who are not scheduled to work on a holiday and who are called back to work on a holiday shall receive holiday compensation of their straight time hourly rate

Section b. Holiday Pay for Captains

Captains shall receive holiday compensation at their straight time hourly rate on an hour for hour basis for all hours worked on the actual holiday in addition to their regular pay (double time). In addition, Captains shall receive twelve (12) hours of personal time off for each holiday that falls on a scheduled day off as well as for each of five (5) undesignated holidays (60 hours) at the beginning of each year. Overtime worked on a hol-

iday shall be paid at the rate of double time and a half. The foregoing shall be in addition to any callback provisions of Article 11, Section h. of this Agreement. For the purpose of this section, the holidays shall be as follows: New Year's Day, Martin Luther King Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day after Thanksgiving, Christmas Eve, Christmas Day, and New Year's Eve.

2. **Article 14. Vacation.** The parties do not agree as to whether the City or the Union is the moving party on this issue.

Employees covered by this Agreement, with the exception of Captains shall be eligible for paid vacation as follows:

| <u>Years of Continued Service</u> | <u>Vacation Time Off</u> |
|---|--------------------------|
| From the completion of one (1) year to the seventh (7th) anniversary date | Five (5) shifts |
| After seven (7) years to the fourteenth (14th) anniversary date | Seven (7) shifts |
| After fourteen (14) years to the twenty-second (22nd) anniversary date | Ten (10) shifts |
| After twenty-two (22) years and over | Twelve (12) shifts |

Captains shall be eligible for paid vacation as follows:

| <u>Years of Continued Service</u> | <u>Vacation Time Off</u> |
|---|--------------------------|
| <u>From the completion of one year through five (5) years</u> | <u>Two (2) weeks</u> |
| <u>From six (6) years through eleven (11) years</u> | <u>Three (3) weeks</u> |
| <u>From twelve (12) years through twenty-one years</u> | <u>Four (4) weeks</u> |

After twenty-two (22) years and over Five (5) weeks

The employee's anniversary date of employment from the last day of hire as a full-time employee shall be the basis of determining length of continuous service.

3. **Article 15. Sick Leave.** The parties do not agree as to whether the City or the Union is the moving party on this issue.

Add to the end of paragraphs before Section a as follows: In addition to the above, employees shall have placed on account, when promoted to the rank of Captain, fifteen (15) days in 12 hour increments

4. **Article 16. Group Hospitalization and Life Insurance, Section d. Life Insurance.** The parties do not agree as to whether the City or the Union is the moving party on this issue.

The City shall provide each employee covered by this Agreement, with the exception of Captains, who has been employed full-time for thirty (30) days or more, with a \$50,000 group term life insurance policy (including accidental death and dismemberment). The City shall provide each Captain with a life insurance policy in an amount equal to the nearest \$1,000.00 of the Captain's annual base salary.

B. OTHER UNION ISSUES

5. **Article 6. Duties of Employees.** Section a. Duties

Section a. Duties. Employees covered by the terms of this Agreement shall be required to perform those duties assigned to them as described in the applicable position description attached hereto as Appendix ___; provided, however, no bargaining unit employee shall be required to engage in work amounting to personal servitude for another employee, e.g., making beds and washing dishes.

6. **Article 6. Duties of Employees, Section b. Subcontracting**

Local 439 proposes the *status quo* language with **Side Letter of October 29, 2007** regarding subcontracting *status quo* with change in date only. See Employer Issue No. 44.

7. **Article 8. Salary Range, Section b. Working Out of Class**

Section b. Working Out of Class. Employees covered by this Agreement shall receive additional compensation for assigned work in a higher job classification. Compensation for such assigned responsibility shall be the difference between the straight time rate of: a) the top step of the Firefighter's salary range and the first step of the Fire Lieutenant's salary range when a Firefighter is so assigned, or b) the top step of the Fire Lieutenant's salary range and the first step of the Fire Captain's salary range when a Fire Lieutenant is so assigned, or c) ~~effective June 1, 2010,~~ the top step of the Fire Captain's salary range and the next full step of the Battalion Chiefs salary range when a Captain is so assigned, not to exceed maximum Battalion Chief pay. No employee shall be required to work out of class. Only employees who are on a valid eligibility list for one rank above the employee's current rank shall be eligible to work out of class. In the event there is an insufficient number of employees on the applicable eligibility list, then the approved acting officer list may be used to supplement the valid eligibility list.

8. **Article 9. Wages, Section a. Ranges and Section b. Retroactivity**

Section a. Effective January 1, 2012, the monthly and yearly salary ranges for employees covered by this Agreement shall increase across the board by two percent (2%).

Effective July 1, 2012 - across the board increase of 1% representing an equity adjustment

Effective January 1, 2013 - across the board increase of 2.5%

Effective July 1, 2013 - across the board increase of .5% representing an equity adjustment

Effective January 1, 2014 - across the board increase of 3%

Change all language to incorporate the foregoing wage increases and the Captains' wage chart.

Section b. Retroactivity. Employees covered by this Agreement who are still on the active payroll and employees who have retired, taken a disability pension and/or have disability pension applications pending shall be entitled to retroactive payment under this Agreement. Retroactive checks shall be issued no later than sixty (60) days from the date **of the issuance of Arbitrator Grenig's Interest Arbitration Award** ~~last ratification by the parties to this Agreement or by a date agreed upon by the parties.~~ Employees who have been involuntarily separated, resigned or were not eligible for a pension shall not be entitled to retroactive pay. Payment shall be on an hour-for-hour basis for all regular hours actually worked since January 1, 2012 including all hours of paid leave, holiday additional pay or overtime hours between January 1, 2012 and a date no later than sixty (60) days following **the issuance of Arbitrator Grenig's Interest Arbitration Award.** ~~date of last ratification by the parties hereto.~~

9. Article 9. Wages, Section d. Longevity Pay

~~Effective January 1, 2012,~~ Employees with continuous service with the City in a position covered by this Agreement shall receive annual longevity pay in accordance with the following schedule:

| <u>Years of Continuous Service</u> | <u>Amount of Longevity Pay</u> |
|------------------------------------|---|
| 10 years but less than 15 years | 1.48% of Step VI of the yearly salary for the Firefighter position |
| 15 years but less than 20 years | 2.00% of Step VI of the yearly salary for the Firefighter position |
| 20 years or more | 2.51% of Step VI of the yearly salary for the Firefighter position |
| <u>25 years or more</u> | <u>2.95% of Step VI of the yearly salary for the Firefighter position</u> |

Longevity pay shall be considered as part of the employee's base salary for the purpose of computing the hourly rate of pay for overtime pay purposes.

10. **Article 10. Firefighter/Paramedic, Lieutenant/Paramedics, Mechanic, and Driver Engineer, Section d. Mechanic Pay and Requirements**

Mechanics covered by this contract shall receive a monthly stipend of 0.15% of Step VI of the yearly salary for the Firefighter position in addition to their base pay. Mechanics shall be selected from voluntary applicants and shall meet NFPA 1071 requirements.

11. **Article 10. Firefighter/Paramedic, Lieutenant/Paramedics, Mechanic, and Driver Engineer, Section e. Assigned Driver Engineer Pay**

A. Selection. Each vacancy in an Engineer's position shall be filled by appointing the firefighter with the most departmental seniority within ten (10) calendar days after the vacancy occurs. There shall be a probationary period of one (1) year for each new Engineer. Each Engineer shall be granted permanent status after serving the probationary period unless there exists just cause to remove the employee from the position.

B. Appointment Refusal. If a firefighter chooses not to accept the appointment as a probationary Engineer, the next senior firefighter will be appointed, and so on. However, when an appointment has been refused, that individual must wait one (1) year before that employee can accept another appointment.

All Firefighters who are certified as Fire Apparatus Engineers and regularly assigned as permanent Engineers shall receive a monthly stipend of .29% of Step VI of the yearly salary for the Firefighter Position in addition to their base pay.

Delete Side Letter dated October 29, 2007 regarding this section.

12. **Article 11. Hours of Work and Overtime, Section b. Normal Work Period, Section e. Computation of Straight Time Hourly Rate of Pay and Article 15, Sick Leave, Section a. Accrual**

Section b. Normal Work Period. The normal hours of work shall be 24 consecutive hours of duty starting at 7:00 a.m. and ending the following 7:00 a.m., followed by 48 consecutive hours off duty. A Kelly Day (i.e., what would otherwise be a 24 hour duty day) shall be scheduled off every ninth duty day, thereby reducing the normal work week to an average of ~~50.15~~ 49.79 hours.

In keeping with past practice, Captains receive thirteen and one-half (13.5) - 24 hour Kelly Days which they may schedule in 12 hour increments.

Section e. Computation of Straight Time Hourly Rate of Pay. The straight time hourly rate of pay for employees shall be calculated by dividing the employee's annual base salary by the annual hours of duty. The annual hours of duty used to compute the regular straight time hourly rate of pay shall be ~~2,608~~ 2,598.

Article 15, Section a. Accrual. Change 50.15 to 49.79

13. **Article 11. Hours of Work and Overtime, New Section m. Minimum Manning** Minimum shift manning shall be thirty-six (36) including the Battalion Chief.

14. **Article 14. Vacation, Section d. Scheduling**

Vacations shall be scheduled insofar as practicable at times most desired by each employee, in increments of one (1) shift or more, with the determination of preference being made on the basis of an employee's length of continuous service. In order to provide an even distribution of vacation picks over the course of an entire year, three (3) slots per shift per duty day shall be available for vacation picks by Firefighters and three (3) slots per shift per duty day for Fire Lieutenants and Fire Captains, bargaining unit employees. ~~After all three (3) vacation slots on all duty days per shift have been picked, which shall be completed by January 1, a fourth slot shall be made available for any remaining vacation picks.~~ A vacation pick may "bridge" a scheduled Kelly day.

15. **Article 24. Fireman’s Disciplinary Act**

Nothing in this Agreement shall be construed to preclude the applicability of the Firemen’s Disciplinary Act, as set forth in 50 ILCS 745/1 et. seq, ~~but said Firemen’s Disciplinary Act shall not be~~ which is incorporated herein by reference.

16. **Article 29. Promotions, Section c. Rating Factors and Weights. New Section f. Monitors and New Section g. Right to Review.** The Union contends that these sections are a single issue and the City contends these are three separate issues.

Section c. Rating Factors and Weights. All examinations shall be impartial and shall relate to those matters which will test the candidate’s ability to discharge the duties of the position to be filled. The placement of employees on promotional lists shall be based on the points achieved by the employee on promotional examinations consisting of the following components weighted as specified:

| | | |
|----------------|------------------------------|--------------------|
| (1) | Seniority | 15% |
| (2) | Education Incentive | 10% |
| (3) | Oral Assessment | 25% |
| (4) | Written Assessment | 50% 40% |
| (5) | Department Points | 10% |

1. Seniority - No change
2. Education Incentive Points - For the ranks of Lieutenant and Captain, educational points shall be given as follows:

| <u>Lieutenant</u> | <u>Points</u> |
|--|------------------|
| OFSM Certifications (5 points per certification up to a maximum of 25 points) | 25 |
| Fire Officer I (or Provisional) | 25 |
| Associate Degree or 60 hours | 25 |
| Bachelor’s Degree (to be added to Associate Degree or 60 hour points) | 25 50 |

Captains Points

OFSM Certifications (5 points per certification up to a maximum of 25 points) 25

Associate Degree or 60 hours 25

Bachelor's Degree (to be added to Associate Degree or 60 hour points) ~~25~~ 50

3. Oral Assessment - No change

4. Written Exam - No change

~~5. Department Points - The process of awarding departmental points shall be in accordance with the Act.~~

Section d. Maintenance of Promotion Lists. No change

Section e. Demotions or Removals from Non-Bargaining Unit Positions. No change

New Section f. Monitors. Two impartial persons who are not candidates for the promotional process shall be selected to act as observers by the Union. The Department may also select two additional impartial observers. Each party shall disclose its monitors at least 48 hours prior to the beginning of the promotional process.

New Section g. Right to Review. The Union or any affected employee who believes that an error has been made with respect to eligibility to take an examination, examination result, placement or position on a promotion list, or veteran's preference shall be entitled to a review of the matter pursuant to the grievance/arbitration procedures contained in this Agreement.

17. **Article 30. Miscellaneous, Section g. Station /Shift/Vehicle Assignment Bidding**

Employees Lieutenants shall be permitted to bid for their shift, station and vehicle assignment (collectively "Assignments") on a bi-annual basis beginning in October ~~2007~~ of odd numbered years to become effective January 1st of the following year. The procedure for such bidding shall be by seniority in ~~the~~ rank ~~of~~

~~Lieutenant~~ (based on date of promotion) with each ~~employee~~ ~~Lieutenant~~ picking his/her shift, station and vehicle assignment at that station. The assignment at the particular station shall mean the vehicle assignment. The selection of Assignments will be ~~determined by the Fire Chief~~ based upon the bids as submitted ~~by the Lieutenants taking into account the~~ except for demonstrated operational needs of the Department as set forth below.

Employees may express their preferences pursuant to the following schedule and procedure:

- A. Captains. Captains will be asked to indicate through the Telestaff bidding process, their preferences for station /shift/vehicle assignments.
- B. Lieutenants. Lieutenants will be asked to indicate through the Telestaff bidding process, their preferences for station/shift/vehicle assignments.
- C. Firefighters. Firefighters will be asked to indicate, through the Telestaff bidding process, their preferences for station/shift/vehicle assignments.

The Fire Chief shall notify employees as to their station/shift/vehicle assignments within thirty (30) days of completion. Notwithstanding any of the foregoing, the Fire Chief or his designee shall in his sole discretion have the right to transfer ~~Lieutenants~~ ~~employees~~ who have been assigned pursuant to the procedure described herein in order to meet a demonstrated operational need of the department. Operational needs of the department shall be deemed to include, but not be limited to, a balance of seniority at stations and on shifts. Upon request, the Fire Chief or his designee(s) shall meet with the Union President or his designee to provide him in writing with the bona fide operational reasons justifying the City's decision(s) and answer any questions.

The method of replacement for vacant ~~Lieutenant~~ positions that occur outside of the aforementioned bi-annual bidding period shall be determined exclusively by the Fire Chief.

18. Article 31. Entire Agreement

Delete second paragraph and replace with the following:

The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject matter not removed by law from the area of collective bargaining and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the parties, for the duration of this Agreement, each voluntarily and unqualifiedly waives the right to negotiate on any issue which was known to them at the time of bargaining and which either was or could have been negotiated, and that the understandings and agreements reached by the parties after the exercise of that right and opportunity are set forth in this Agreement. This paragraph does not waive the Union's right to impact/effects bargaining and such right is specifically reserved.

19. **Article 35. Term**

a. *Introduction*

The parties agreed to change 2007 to 2012. Change 2010 to 2014.

D. SETTLED OR WITHDRAWN ISSUES

During the hearing, the parties settled or withdrew many of the outstanding issues. An additional issue is pending before the Illinois Labor Relations Board—minimum manning. Although this issue is not before the Arbitrator, the parties agreed that the Arbitrator would retain jurisdiction of the issue for a potential future hearing.

The following issues were settled, withdrawn, or are not otherwise before the Arbitrator:

Union Issue No. 2: Captains' Vacation (Art. 14)

The City accepted the Union's proposal.

Union Issue No. 3, City Issue No. 30: Captains' Sick Leave (Art. 15)

The City withdrew its proposal and accepted the Union's proposal.

Union Issue No. 4, City Issue No. 36: Captains' Life Insurance (Art. 16,
§ d)

The City withdrew its proposal and accepted the Union's proposal.

Union Issue No. 5: Duties of Employees (Art. 6, § a)

The parties' tentative agreement, which they agreed must be incorporated into the arbitration award, was read into the record. (Tr. 56-59).

Union Issue No. 6, City Issue No. 44: Subcontracting (Art. 6, § b and Side Letter)

The parties' tentative agreement, which they agreed must be incorporated into the arbitration award, was read into the record. (Tr. 58-59).

Union Issue No. 7: Working Out of Class (Art. 8, § b)

Following the Labor Board's issuance of the Declaratory Ruling in Case No. S-DR-13-003, the Union withdrew its proposal in favor of current contract language.

Union Issue No. 8, City Issue No. 20: Retroactivity (Art. 9, § b)

The parties reached agreement with regard to the retroactivity language and agreed that tentative agreement must be incorporated into the arbitration award, was read into the record. (Tr. 168-69).

Union Issue No. 10: Mechanic Pay and Requirements (Art. 10, § d)

Following the Labor Board's issuance of the Declaratory Ruling in Case No. S-DR-13-003, the Union withdrew its proposal in favor of current contract language.

Union Issue No. 11: Assigned Driver Engineer Pay (Art. 10, § d)

Following the Labor Board's issuance of the Declaratory Ruling in Case No. S-DR-13-003, the Union withdrew its proposal in favor of current contract language.

Union Issue No. 12, City Issue Nos. 21, 22, 23: Calculation of Hours/Computation of Time/Kelly Days (Art. 11, § b, c, d, and e; Art. 15, § a)

Both parties withdrew their respective proposals, in favor of current contract language.

Union Issue No. 13: Minimum Manning (Art. 11)

This issue is the subject matter of two cases pending before the Illinois Labor Relations Board. The parties have asked the Arbitrator to retain jurisdiction over the issue pending the outcome of the Board's decisions.

Union Issue No. 16: Promotions (Art. 20)

The parties' tentative agreement, which the parties agreed shall be incorporated into the arbitration award, was read into the record. (Tr. 169-71).

City Issue No. 25: City Call Back (Art. 11, § h)

The City withdrew its proposal in favor of current contract language.

City Issue No. 26: Light Duty (Art. 11, § k)

The City withdrew its proposal in favor of current contract language.

City Issue No. 27: Shift Holdover (Art. 11, § l)

The City withdrew its proposal in favor of current contract language.

City Issue No. 31: Sick Leave, New Hires (Art. 15)

The City withdrew its proposal in favor of current contract language.

City Issue No. 41: Random Drug and Alcohol Testing (Art. 25)

The City withdrew its proposal in favor of current contract language.

City Issue No. 45: Retirement Incentive Side Letter

The parties agreed to delete this side letter.

V. STATUTORY CRITERIA

Under the IPLRA, as to each economic issue the arbitrator must adopt the last offer of settlement that, in the opinion of the arbitrator, more nearly complies with the applicable factors prescribed in 5 ILCS 315/14(h). *See* 5 ILCS 315/14(g). 5 Ill. 5 ILCS 315/14 provides, in pertinent part, as follows:

§ 14. Security Employee, Peace Officer and Fire Fighter Disputes.

...

(g) At or before the conclusion of the hearing held pursuant to subsection (d), the arbitration panel shall identify the economic issues in dispute, and direct each of the parties to submit, within such time limit as the panel shall prescribe, to the arbitration panel and to each other its last offer of settlement on each economic issue. The determination of the arbitration panel as to the issues in dispute and as to which of these issues are economic shall be conclusive. The arbitration panel, within 30 days after the conclusion of the hearing, or such further additional periods to which the parties may agree, shall make written findings of fact and promulgate a written opinion and shall mail or otherwise deliver a true copy thereof to the parties and their representatives and to the Board. As to each economic issue, the arbitration panel shall adopt the last offer of settlement which, in the opinion of the arbitration panel, more nearly complies with the applicable factors prescribed in subsection (h). The findings, opinions and order as to all other issues shall be based upon the applicable factors prescribed in subsection (h).

(h) Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, and the wage rates or other conditions of employment under the proposed new or amended agreement are in dispute, the arbitration panel shall base its findings, opinions and order upon the following factors, as applicable:

(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 foregoing 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, factfinding, arbitration or otherwise between the parties, in the public service or in private employment.

...

(j) Arbitration procedures shall be deemed to be initiated by the filing of a letter requesting mediation as required under subsection (a) of this Section. The commencement of a new municipal fiscal year after the initiation of arbitration procedures under this Act, but before the arbitration decision, or its enforcement, shall not be deemed to render a dispute moot, or to otherwise impair the jurisdiction or authority of the arbitration panel or its decision. Increases in rates of compensation awarded by the arbitration panel may be effective only at the start of the fiscal year next commencing after the date of the arbitration award. If a new fiscal year has commenced either since the initiation of arbitration procedures under this Act or since any mutually agreed extension of the statutorily required period of mediation under this Act by the parties to the labor dispute causing a delay in the initiation of arbitration, the foregoing limitations

shall be inapplicable, and such awarded increases may be retroactive to the commencement of the fiscal year, any other statute or charter provisions to the contrary, notwithstanding. At any time the parties, by stipulation, may amend or modify an award of arbitration.

...

VI. STIPULATIONS

The parties entered into the following stipulations:

1. The parties' tentative agreements shall be incorporated into the Arbitrator's award.
2. Pursuant to Section 14(j) of the Act, the Arbitrator has full authority to issue an award for wages retroactive to January 1, 2012.
3. Arbitrator Grenig retains jurisdiction over the issue of minimum manning (Union Issue No. 13), if it is determined by the Board to be a mandatory subject of bargaining.

VII. THE CITY OF ELGIN

In 2007, the City of Elgin employed a total of 803 full-time equivalent employees. The City now employs 72 fewer people, lowering the total number of employees to 731. The City laid off a total of 68 employees: 19 in 2008; 12 in October 2009; 21 in November 2009; and 16 in 2012. The City also reduced its workforce by an additional 10 employees in 2009 by way of an early retirement program. In addition to these cuts, 21 vacancies were created because of regular turnover, but the City made a financial decision not to fill those vacant positions. The City currently employs fewer people than it did in 2002.

The City's Fire Department staffing increased from 127 full time equivalent employees in 2007 to 136.5 employees in 2011. No Fire Department employees have been affected by the City-wide layoffs.

The City has collective bargaining agreements with three bargaining units in addition to the IAFF unit. The Policemen's Benevolent and Protective Association represents a unit of 145 patrol officers. The Service Employees International Union represents two different bargaining units: one unit of 116 public works employees, and a separate unit of 85 clerical and technical employees. The City also has 137 non-represented employees.

Historically, the City's firefighters have received the same cost-of-living-adjustments as the City's represented police officers. From 1986 to 2011, the firefighters received the exact same wage increases as the police officers twenty-five times.

The City receives a majority of its general fund revenue from five sources: sales tax, local sales tax, income tax, telecommunications tax, and property tax. The City's overall revenue from these sources in Fiscal Year 2011 is flat when compared to the revenues in Fiscal Year 2007.

- The City's Sales Tax declined by \$400,000 from \$11.86 million to \$11.48 million from 2007 to 2011.
- The City's Local Sales Tax declined by \$200,000 from \$5.39 million to \$5.15 million.
- The City's Income Tax grew by \$12,000, from \$8.363 million to \$8.375 million.
- The City's Telecommunications Tax declined by more than \$300,000 from \$4.70 million to \$4.39 million.
- The City's General Fund Property Tax rose by \$1.52 million, from \$30.49 million to \$32.01 million.
- The total of all major revenue sources grew by less than 1%, from \$60.80 million to \$61.41 million from 2007 to 2011 (less than 0.25% growth per year).

The City also receives a significant amount of revenue from taxes generated by a riverboat casino. Because of the fluctuation in gambling revenues, the City has determined that those revenues will only be used for capital projects to improve the City, and not for basic operating expenses. The City's riverboat revenue dropped from \$24.3 million in 2007, to \$14.7 million in 2011.

From 2007 to 2011, the City's contributions to the fire pension fund grew by more than \$1.0 million, from \$2.13 million to \$3.16 million. During that same time period, the employees' contributions to the fire pension fund grew by less than \$200,000, from \$898,773 to \$1,086,992.

Direct wage expenses in the Fire Department also outpaced revenue growth. While revenues grew by less than 1%, the salary schedules increased by a total of 17.5% from 2007 to 2011. In 2011 Fire Department employees received step and longevity adjustments valued at more than \$146,000.

In addition to the layoffs and other personnel reductions, the City reduced general fund expenditures by more than \$3.5 million, and reduced expenditures from the riverboat fund by almost \$1.9 million.

VIII. COMPARABLE COMMUNITIES

The parties agreed that the following communities are comparable to the City for purposes for external comparability analysis:

Arlington Heights
Aurora
Des Plaines
Evanston
Joliet
Oak Park
Skokie
Waukegan

IX. ANALYSIS

A. INTRODUCTION

While it is frequently stated that interest arbitration attempts to determine what the parties would have settled on had they reached a voluntary settlement, it is manifest that the parties' are at an impasse because neither party found the other's final offer acceptable. Realistically, if the parties reached a negotiated settlement, the final resolution would probably be the result of compromise and the outcome would be contract provisions somewhere between the two final offers here. The arbitrator must determine which of the parties' final offers is more reasonable, regardless of whether the parties would have agreed to that offer, by applying the statutory criteria. The arbitrator must select the complete final offer.

The interest arbitration process is very conservative. Arbitrators generally require the party seeking a change to provide justification for the change. It is not the function of an interest arbitrator to make changes to terms of an existing collective bargaining agreement based only on good ideas. The party seeking the change must show that the existing condition is broken and in need of change.

With regard to economic issues, the Arbitrator must adopt the party's final proposal that best complies with the factors identified in Section 14(h) of the Act. With respect to non-economic issues, the Arbitrator may award ei-

ther proposal or a fashion a resolution of his own crafting language occupying the middle ground between the parties' competing proposals.

The following issues are economic issues: Issue No. 1, Issue No. 8, Issue No. 9, Issue No. 19, Issue No. 20, Issue No. 28, Issue No. 29, Issue No. 32, Issue No. 33, Issue No. 34, Issue No. 35, Issue No. 37, Issue No. 38, Issue No. 42, Issue No. 43, and Issue No. 46.

B. ISSUES

1. Article 13. Holiday Pay, Section a. Holiday Pay for All Employees Except Captains and Section b. Holiday Pay for Captains. The parties do not agree as to whether the City or the Union is the moving party on this issue.

a. Introduction

Captains were added to the bargaining unit in 2010. The parties have not reached an agreement on the holiday pay benefits for the captains or on whether the paragraph in the addendum addressing the maintenance of *status quo* benefits for the Captains should be removed from the collective bargaining agreement.

The Union proposes that the Captains be entitled to the same holiday pay benefits as all other bargaining unit employees. The Union proposes that the Captains have 12 holidays and receive double-time pay if they work a scheduled shift on a holiday. The Union also proposes that the Captains receive 12 hours of personal time if a holiday falls on a scheduled day off. The City proposes that the Captains have 12 holidays and receive double-time pay if they work a scheduled shift on a holiday.

The Fire Department command staff receive 10 holidays per year as do the public works employees. Police officers also receive ten holidays per year, but all receive four hours of straight time on Christmas Eve and New Years Eve.

In the comparable communities that include Captains in a bargaining unit, none of the comparable communities provide 12 paid holidays. None of the comparables provides double-time holiday benefits.

b. The City

The City says its proposal will bring the Captains' holiday pay benefits in line with the benefits given to every other bargaining unit employee. It argues there is no compelling reason why the Captains should receive greater

holiday pay benefits than any other bargaining employee. The City explains that under the Union's proposal the Captains would be the only bargaining unit employees who receive 12 hours of personal time if a holiday falls on a scheduled day off.

c. The Union

The Union notes that the Captains' holiday pay benefit dates back nearly twenty years. Since at least 2006, the Captains have received ten holidays per year. In addition, since at least 1999, Captains have received additional compensation at straight time pay on an hourly basis for scheduled work on holidays resulting in double-time pay.

The Union argues its proposal seeks to maintain the *status quo* and incorporate into the agreement the holiday benefit the captains have enjoyed for the last several years. It says the City's proposal substantially diminished the long-standing holiday benefit enjoyed by the Captains, thereby significantly altering the *status quo*.

d. Analysis

The City's proposal brings the Captain's holiday benefits in line with the holiday benefits of other bargaining unit members as well as the holiday benefits of City police officers. The City's proposal is also consistent with the holiday benefits paid firefighters in the comparable communities. Accordingly, the City's final offer is selected.

2. **Article 14. Vacation.**

The City accepted the Union's proposal.

3. **Article 15. Sick Leave.**

The City withdrew its proposal and accepted the Union's proposal.

4. **Article 16. Group Hospitalization and Life Insurance, Section d. Life Insurance.**

The City withdrew its proposal and accepted the Union's proposal.

5. **Article 6. Duties of Employees, Section a. Duties**

The parties' tentative agreement, which they agreed must be incorporated into the arbitration award, was read into the record. The parties agreed to add the following paragraph to Article 6, Section a:

If the City revised any job description for employees covered by this Agreement or issues any new job description for employees covered by this agreement, the City will provide the Union with a copy of any such revised or new job description. The Union may request that any new or revised job description be placed on the agenda of the next meeting of the Labor Management Committee.

6. Article 6. Duties of Employees, Section b. Subcontracting

The parties' tentative agreement, which they agreed must be incorporated into the arbitration award, was read into the record. The parties agreed to add the following paragraph to Article 6, Section b:

The parties have agreed to current contract language, including the side letter of agreement that is currently attached to the collective bargaining agreement. And the side letter date of October 29, 2007, would then be modified to be the effective term of this collective bargaining agreement, the term of which we do not know at this time because that is one of the issues before [the Arbitrator].

7. Article 8. Salary Range, Section b. Working Out of Class

Following the Labor Board's issuance of the Declaratory Ruling in Case No. S-Dr-13-003, the Union withdrew its proposal in favor of the current contract language.

8. Article 9. Wages, Section a. Ranges and Section b. Retroactivity

a. Introduction

The parties reached agreement with regard to the retroactivity language and agreed that tentative agreement must be incorporated into the arbitration award. The parties agreed that Article 9, Section B would read as follows:

Employees covered by this agreement who are still on the active payroll and employees who have retired, taken a disability pension, and/or have disability pension applications pending shall be entitled to retroactive payment under this agreement.

Retroactive checks shall be issued no later than 60 days from the date of the issuance of Arbitrator Grenig's interest arbitration award or execution of the agreement, whichever occurs later, unless the parties agree to a different date.

Employees who have been involuntary separated, resigned, or were not eligible for pension shall not be entitled to retroactive pay.

Payment shall be on an hour-per-hour basis for all regular hours actually worked since January 1, 2012, including all hours of paid leave, holiday, additional pay, or overtime hours between January 1, 2012, and a date no later than 60 days following the issuance of Arbitrator Grenig's interest arbitration award or execution of the agreement, whichever occurs later, unless the parties agree to a different date.

The City proposes a 2.0% increase on January 1, 2012, and a 2.5% change on January 1, 2013. The Union proposes a 2.0% change on January 1, 2012, a 1.0% change on July 1, 2012, a 2.5% change on January 1, 2013, a 0.5% change on July 1, 2013, and a 3.0% change on January 1, 2014.

Including step adjustments, wages would increase by \$615,387 under the City's proposal—a 5.84% wage increase. Under the Union's proposal, wages would increase by \$798,827—the equivalent of a 7.57 increase (excluding the proposed wage increases in 2014).

b. The City

The City says its wage proposal is the more reasonable proposal. The City argues that the internal comparability strongly supports its wage proposal. The City says its wage proposal maintains the historical internal settlement pattern. The City asserts that its proposed wage increase exceeds the average wage increases in the comparable communities.

According to the City, the Union cannot prove a need for a catch-up wage increase. Acknowledging that the wage rankings declined slightly in 2011, the Union stresses the 2011 wage settlement was a voluntary settlement that followed the above-market wage increases in 2007-2010.

The City contends that the interests and welfare of the public do not support the Union's proposal for a wage increase exceeding the average wage increases in both the comparable municipalities and the internal comparables. The City says its economic condition does not support an above-market

wage increase. The City also asserts that the recruitment and retention data support its wage proposal.

c. The Union

Because the City is unwilling to pay the Union's proposed wage increases, the Union argues it is necessary to review the City's financial state as well as review the burden the City faces in arguing that the Union's proposal is too expensive.

The Union asserts that the City is financially healthy. It says the City is doing so well economically that it has proposed in its 2013 budget to reduce property taxes in the amount of \$2,000. The City enjoys a AAA rating. The Union points out that the City has the ability impose additional taxes.

According to the Union, the cost data support the Union's proposal. The Union asserts the cost to the City of the Unions three-year proposal is an additional \$1,930,116. The Union says its proposal for 2012 through 2013 costs an additional \$907,662. Using its methodology, the Union asserts the cost of the City's two-year proposal is \$708,787. It points out the difference between the proposals 2012 through 2013 is \$198,905.

It is the Union's position that the backloaded equity adjustments in its proposal are reasonable and reduce the City's costs. The Union explains that, in contemplating the City's financial complaints, its proposal backloads the equity adjustment wage increases over two years, rather than frontloading the adjustment at once.

The Union argues that external comparability supports its proposal. It asserts that it is seeking to restore its rank among the external comparables. The Union also argues the difference from the average supports the Union's proposal. The Union says its proposal through 2013 allows it to move closer to the average wages among the comparables whereas the City's proposal continues to increase the difference from the average.

The Union asserts that overall compensation among the comparables supports the Union's proposal. The Union claims it has experienced a decrease in total compensation, inclusive of holiday compensation, paid vacation, premium pay, and total annual hours worked, as compared to the comparable communities.

According to the Union, internal parity was broken and should not be given controlling weight. The Union explains that since 1992 the internal parity regarding percentage wage increases between firefighters and police has been broken at least six times.

The Union claims that even unreliable Consumer Price Index data support its proposal. Its says that cumulative Consumer Price Index data support its proposal.

d. Analysis

In 2012 the mean salary increase of the comparables was 1.93%, and the median increase was 2.00%. The City's wage proposal of 2.0% equals the median and exceeds the mean. The Union's wage proposal of 2.50% with a 3.0% lift exceeds both the mean and the median.

In 2013 the mean salary increase was 2.44%, and the median was 2.375%. The City's wage proposal of 2.50% exceeds both the median and the mean. The Union's wage proposal of 2.75% with a 3.00% lift exceeds both the mean and the mean by a greater amount.

Under the City's proposal, there will be no change in 2012 in the historical ranking of the City's firefighter-paramedics with respect to the salary schedule of the comparables with the exception of the 15-year step where the City drops one place. Under the City's proposal, in 2012 the salary schedule of the firefighters improves by one position after 10 years and after 25 years. There is no change in start, after five years, and after 20 years. The City loses one place at 15 years.

Both wage proposals will allow the firefighters' wages to keep up with the 2012 and 2013 Consumer Price Index. Neither offer requires the employees to absorb reductions in their real compensation.

Under the City's proposal, there will be no change in the total compensation ranking when voluntary overtime is included in the compensation. Under the Union's proposal, the total compensation ranking will move up two positions when voluntary overtime is included in the compensation.

The City's economic condition does not support an above-market wage increase. Furthermore, the recruitment and retention data support the City's wage proposal.

For these reasons, the City's final offer is selected.

9. Article 9. Wages, Section d. Longevity Pay

a. Introduction

In the 2004 collective bargaining agreement, the parties added three longevity steps—employees received longevity pay for 10-15 years of service,

15-20 years of service, and 20 or more years of service. The parties later converted longevity from a fixed dollar amount to a percentage of Firefighter Step VI salary. At the time of the hearing, there were nine firefighters with at least twenty-five years of service employed by the City.

The Union has proposed changing the longevity schedule effective January 1, 2013, by adding a new longevity step to the contract. The new longevity step would increase the wages for employees who have worked for the City for 24 years or more.

With respect to the internal comparable, the police officers' agreement includes the same three longevity steps as those in the current collective bargaining agreement with the firefighters. The new public works agreement includes a 25-year longevity step of \$1,000 beginning on January 1, 2014. The firefighters' current 20-year longevity benefit is valued at \$1,947.51.

Four of the eight external comparables do not have a 25-year longevity step.

b. The City

In light of the long-standing history of having only three longevity steps at 10, 15, and 20 years, the City argues the Union bears a heavy burden of proving there is a need to change the *status quo* longevity language by adding an additional longevity step at 25 years of service. The City says the Union has not shown there is any need to change the *status quo* longevity benefit.

c. The Union

The Union asserts that the external comparables support the 25-year longevity increase. It notes that four of the comparables have twenty-five year longevity steps. It also notes that two of the comparables that do not have twenty-five year longevity steps had twenty-five year longevity steps exceeding the value of the Union's proposed twenty-five year longevity step.

d. Analysis

The Union has not shown a compelling reason for changing the contract language. Further, only four of the external comparables have 25-year longevity steps. Accordingly, the City's final offer is selected.

10. Article 10. Firefighter/Paramedic, Lieutenant/Paramedics, Mechanic, and Driver Engineer, Section d. Mechanic Pay

Following the Labor Board's issue of the Declaratory Ruling in Case No. S-DR-13-003, the Union withdrew its proposal in favor of current language.

11. Article 10. Firefighter/Paramedic, Lieutenant/Paramedics, Mechanic, and Driver Engineer, Section e. Assigned Driver Engineer Pay

Following the Labor Board's issue of the Declaratory Ruling in Case No. S-DR-13-003, the Union withdrew its proposal in favor of current language.

12. Article 11. Hours of Work and Overtime. Section b. Normal Work Period, Section e. Computation of Straight Time Hourly Rate of Pay and Article 15. Sick Leave, Section a. Accrual

Both parties withdrew their respective proposals in favor of current contract language.

13. Article 11. Hours of Work and Overtime. New Section m. Minimum Manning

This issue is the subject matter of two cases pending before the Illinois Labor Relations Board. The parties have asked the Arbitrator to retain jurisdiction over the issue pending the outcome of the Board's decisions.

14. Article 14. Vacation, Section d. Scheduling

- a. *Introduction*

The current agreement specifies that three firefighters can use vacation time on any duty day. It also specifies that if all three vacation slots have been picked for the entire year, then a fourth slot will be made available.

Three of the external comparables give management complete discretion to determine the number of employees who can request time off. With respect to internal comparables, the Police Chief has the discretion to grant or deny time-off requests. Public Works has a minimum of two people per day.

The Union proposes that the number of vacation slots be doubled to a total of six slots per day for Firefighters, Lieutenants, and Captains. The City proposes no change in the current language.

b. The City

The City argues that the effect of the Union's proposal is to change the scheduling practices and increase the number of time-off slots. The City says its proposal simply codifies the *status quo* scheduling practices. The City contends the Union has not introduced any evidence showing the current vacation slot allotment is inadequate. The City points out it introduced evidence showing that between 30% and 40% of the time, there are extra, unused vacation slots available.

According to the City, the Union has not offered any quid pro quo for its proposed change to the scheduling benefits. Because the Union has not shown a need to increase the number of time-off slots or offered a quid pro quo to offset the additional overtime costs that would be created by its proposals, the City claims the Union's proposal must be rejected.

c. The Union

The Union says its proposal is necessary to accommodate the Captains in the bargaining unit and should be awarded over the City's proposal decreasing time off. The Union claims arbitrators apply a lower burden of proof in situations where a party, while seeking an improvement in contractual benefits, does not seek to obtain a breakthrough in its contract. Because the Captains' vacation scheduling system has historically been an informal practice, the Union says its proposed changes do not warrant a typical *status quo* analysis.

According to the Union, the comparables support its proposal. It notes that two of the external comparable communities use similar vacation scheduling systems, allowing for up to six vacation slots for bargaining unit employees. The Union says that internal comparability is irrelevant here because none of the City's other employees work the 24/48 firefighter schedule.

d. Analysis

The Union has failed to show a compelling reason for changing vacation scheduling. The internal and external comparables do not support the Union's proposal. Accordingly, the City's final offer is selected.

15. **Article 24. Fireman's Disciplinary Act**

a. Introduction

The Union proposes modifying the collective bargaining agreement to specifically incorporate the Illinois Firemen's Disciplinary Act (50 ILCS 745/1 through 745/7) by reference. The City proposes no change to the contract language.

Only one comparable community (Aurora) specifically incorporates the Act by reference in its collective bargaining agreement. Three of the eight comparables (Arlington Heights, Joliet, and Oak Park) do not include any reference to the Act in their collective bargaining agreements. Two communities (Des Plaines and Waukegan) include reference to the Act but are silent regarding incorporation. Skokie's contract contains an alternative disciplinary process that is not based on the Act.

The collective bargaining agreement with the City's police union does not incorporate the Peace Officer's Disciplinary Act in its collective bargaining agreement.

b. The City

The City argues that the Union has not shown there is any need to change the current contract language. It claims that the Gomez interrogation does not demonstrate a need for incorporating the Act by reference.

c. The Union

The Union asserts that its proposal is simply to incorporate the Act by reference to give every assurance that the employees' statutory rights under the Act are protected. The Union argues that the questioning of Firefighter Gomez demonstrates the Act should be incorporated by reference into the collective bargaining agreement.

The Union claims the current system is broken and the Union's proposal is necessary to protect firefighters' statutory rights. It states that violations of the Act are arbitrable. The Union says the comparability evidence supports its proposal, noting that six contracts reference the Act and three of those provide greater protection than the Union currently enjoys here.

d. Analysis

Although it claims that one questioning of a firefighter may have violated the Act, the Union has not shown a compelling reason for its proposal.

The Act contemplates that enforcement of its provisions are not dependent upon incorporation of the Act into a collective bargaining agreement. *Cf.* 50 ILCS 745/6 (“The provisions of this Act apply only to the extent there is no collective bargaining agreement currently in effect dealing with the subject matter of this Act.”). Accordingly, the City’s final offer is selected.

16. Article 29. Promotions, Section c. Rating Factors and Weights. New Section f. Monitors and New Section g. Right to Review. The Union contends that these sections are a single issue and the City contends these are three separate issues.

The parties’ tentative agreement, which the parties agreed shall be incorporated into the arbitration award, was read into the record:

With respect to promotions, Section C, rating factors and rates shall remain *status quo*, except that paragraph 2 would provide that after the term Fire Officer 1 there would be a parenthetical, “or provisional,” end parenthetical. Below — that is below the “lieutenant.”

And under the “captains” where Fire Officer 2 is noted, there would be a parenthetical, again, “or provisional,” end parenthetical next to Fire Officer 2 allowing for provisional Fire Officers 1 and 2 to also obtain the 25 points.

We would amend Article 29 to include the statement, “Any employee who does not complete any portion of the promotional process will be excluded from the remainder of the promotional process.”

And finally, the Union has agreed to drop its proposal, “New Section F, monitors,” with the understanding based on the discussion of the parties that the parties are entitled to monitors in accordance with the Fire Department Promotion Act.

...

And the Union at the top of page 9 of 14 is also dropping its proposal for “New Section G, Right to Review,” with the understanding that it or any affected employee does have the right to file a grievance over a violation of this provision of the collective bargaining agreement and has in the past, including a violation of the Fire Department Promotion Act.

...

[T]he remaining *status quo* language of Article 29 would be as is.

17. Article 30. Miscellaneous, Section g. Station /Shift/Vehicle Assignment Bidding

a. Introduction

The Union proposes adding language to the contract allowing firefighters and Captains to bid on which station, shift, and vehicle they would like to work. The proposal would require the Fire Chief to produce a written application for any station, shift, and vehicle assignments. The Union's proposal introduces a requirement that the City must announce all assignments within 30 days of completion of the bidding process. The City proposes no changes to the collective bargaining agreement.

The current practice with respect to Captains is that the City informally asks the Captains whether they are happy with their current assignments. Currently, Lieutenants are allowed to bid on their shifts, vehicle, and station assignments.

Five of the comparable communities have Captains with union representation. None of those five communities allow Captains to bid on stations, shifts, or vehicles.

b. The City

The City argues that the Union has failed to show the current language needs to be fixed. It says the Union has not made any showing that there have ever been any problems with the current contract language justifying at of the changes. The City asserts that external comparability strongly supports the City's proposal.

c. The Union

The Union claims it has proposed modest changes to the current station/shift/vehicle assignment bidding process to equalize the process among the ranks by expanding the contractual bidding process to the Captains and firefighters. The Union says it is seeking only a modest expansion of the existing bidding process. According to the Union, its proposal does not burden the City in any way. The Union also says external comparability supports the Union's proposal.

d. Analysis

The Union has not shown a compelling reason for changing the current contract language. There is no evidence of problems with the current contract language justifying the change. Additionally, the external comparables support the City's proposal. Accordingly, the City's final offer is selected.

18. **Article 31. Entire Agreement**

a. Introduction

The Union proposes rewriting the second paragraph of the Entire Agreement clause. It adds language that provides there would be no right to bargain over any matter that could have been raised by the parties for the duration of the agreement. The City proposes adding a sentence stating that the paragraph does not waive the Union's right to impact/effect bargaining.

b. The City

The City argues that there is no need to make the broad change to eliminate mid-term bargaining. It says there is no evidence the parties are endlessly engaged in mid-term negotiations because of needlessly proposed changes.

c. The Union

The Union acknowledges that during negotiations for the expired, current contract, it agreed to waive its right to effects bargaining—which is statutorily protected Illinois law. Now, the Union says it wishes to close bargaining entirely, with the agreed upon and statutorily protected exception of effects bargaining, for the duration of the new contract.

The Union states its proposal is supported by the comparables, and it has shown strong reasons and a proven need for the change. According to the Union, if a party failed to raise an issue during bargaining, the party should be precluded raising it following the execution of a successor contract.

With respect to the comparable communities, the Union notes that Evanston's contract contains similar language. It says the City's contract with the police contains language mirroring the Union's proposal in this proceeding.

d. Analysis

The Union has not shown a compelling reason for changing the current contract language. There is no evidence of problems with the current contract language justifying at of the changes. Accordingly, the City's final offer is selected.

19. **Article 35. Term**

a. Introduction

The Union has proposed a three-year contract expiring on December 31, 2014, and the City has proposed a two-year contract expiring on December 31, 2013.

b. The City

The City argues that the Union's proposal suffers from a fatal flaw—there is no data supporting a three-year contract. In order to award a three-year contract, the City says the Arbitrator would be forced to hazard a complete guess as to what an appropriate wage increase would be for calendar year 2014. It notes that none of the comparable communities have negotiated wage increases for calendar year 2014. In addition, the City points out there is no internal comparability data to support the Union's position.

c. The Union

The Union says that bargaining fatigue requires adoption of a three-year contract term. The Union notes that the parties began interest arbitration with 46 outstanding issues and approximately 20 issues are pending before the Arbitrator. It also asserts that the Union's contract history and the comparables support the Union's proposal.

d. Analysis

The record does not support a three-year contract. It is difficult to predict the 2014 economic situation. Additionally, internal and external comparables do not support the Union's proposal. Accordingly, the City's final offer is selected.

20. **Article 9. Wages, Section a. Ranges**

See Issue No. 8.

21. Article 11. Hours of Work and Overtime, Section b. Normal Work Period

Both parties withdrew their respective proposals in favor of current contract language.

22. Article 11. Hours of Work and Overtime, Section c. Regular Overtime Pay and Section d. FLSA Overtime and Work Period.

Both parties withdrew their respective proposals in favor of current contract language.

23. Article 11. Hours of Work and Overtime, Section e. Computation of Straight Time Hourly Rate of Pay

Both parties withdrew their respective proposals in favor of current contract language.

24. Article 11. Hours of Work and Overtime, Section f. Time Off Scheduling

a. Introduction

This issue addresses the number of days off the City's supervisory employees, including Lieutenants and Captains, can take off. Under the current contract, no more than five lieutenants can be off at any time for any combination of vacation days, Kelly days, Kelly trades, duty trades, or sick time conversion.

With the addition of the Captains to the bargaining unit, the City proposes updating this section to reflect the practice that no more than one captain may be off at a time, or two captains if there is a battalion chief on duty. The Union has not proposed any change to the language.

b. The City

Because the Union has not shown a need to increase the number of time-off slots or offered a quid pro quo to offset the additional overtime costs that would be created by its proposal, the City claims the Union's proposal must be rejected. The City stresses that it wants to make sure it has adequate staffing of management; it wants its department leaders there to ensure adequate staffing for Captains and Battalion Chiefs. The City argues it is not in the interests and welfare of the public for the contract to include a

clause that could result in days when the City has no Captains or Battalion Chiefs on duty.

c. The Union

The Union says its proposal is necessary to accommodate the Captains in the bargaining unit and should be awarded over the City's proposal decreasing time off. The Union claims arbitrators apply a lower burden of proof in situations where a party, while seeking an improvement in contractual benefits, does not seek to obtain a breakthrough in its contract. Because the Captains' vacation scheduling system has historically been an informal practice, the Union says its proposed changes do not warrant a typical *status quo* analysis. According to the Union, the City's time-off scheduling seeks to impose greater restrictions on employees and requires a high degree of proof.

d. Analysis

The Union has not shown a need to increase the number of time-off slots or offered a quid pro quo to offset the additional overtime costs that would be created by its proposal. The present contract language is intended to ensure the City has adequate staffing of Captains and Battalion Chiefs. For these reasons, the City's final offer is selected.

25. Article 11. Hours of Work and Overtime, Section h. Call Back

The City withdrew its proposal in favor of current contract language.

26. Article 11. Hours of Work and Overtime, Section k. Light Duty Pool

The City withdrew its proposal in favor of current contract language.

27. Article 11. Hours of Work and Overtime, Section I. Shift Hold-Over

The City withdrew its proposal in favor of current contract language.

28. Article 13. Holiday Pay, Section a. Holiday Pay. The parties do not agree as to whether the City or the Union is the moving party on this issue.

See Issue No. 1.

29. **Article 14. Vacation, Section a. Accrual.** The parties do not agree as to whether the City or the Union is the moving party on this issue.

a. Introduction

A City ordinance caps the amount of vacation time employees can carry from one year to the next. The City has historically applied this ordinance to bargaining unit and nonrepresented employees. In 2009, the Union successfully arbitrated a grievance contending the rollover caps did not apply to bargaining unit employees. Since the arbitration award, the City's other bargaining units have added contract language explicitly incorporating the ordinance.

The City proposes that the practice be restored and the vacation caps contained in the ordinance be applied to the City's firefighters. The Union proposes that the employees be allowed to accrue an unlimited amount of unused vacation time.

With respect to internal comparables, the City notes that all other represented employees are now covered by the vacation rollover caps listed in the ordinance. Half of the external comparable communities do not allow any vacation time to be rolled over.

At the hearing, the City stated on the record:

The City can accept Union Issue No. 2 which is the Union's proposal on vacation pay for captains. And that resolves City Proposal No. 29, vacation for Captains. So those are resolved.

Later, the City stated that Issue No. 29 remained open. The City stated:

So 29 remains open. And I apologize if there was any confusion about that.

b. The City

The City argues it should not be required to provide quid pro quo for this proposal because it is merely seeking to restore what had been the *status quo* for more than 20 years. Regardless of whether quid pro quo is required, the City contends it has shown there is a need to fix the current contract language and restore the vacation rollover benefit to the benefit that had been in place until the 2009 arbitration award.

According to the City, the purpose of the vacation-time benefit is not to allow firefighters to create a savings account automatically earning hefty interest every time the firefighters receive a cost of living adjustment, longevity increase, step adjustment or promotion. The City says its proposal encourages firefighters to use vacation for the purpose it was designed to achieve—rest and recovery.

c. The Union

The Union points out that firefighters have enjoyed unlimited vacation accrual since 1980. It also notes that Captains have enjoyed unlimited vacation accrual since at least 1999. Accordingly, the Union says the City cannot meet its burden of proving a needed change to the *status quo*.

d. Analysis

The City has not met its burden of showing the need to change the *status quo*. Accordingly, the Union's final offer is selected.

30. **Article 15. Sick Leave - Captains Bank.**

The City withdrew its proposal and accepted the Union's proposal.

31. **Article 15. Sick Leave - New Hires**

The City withdrew its proposal in favor of current contract language.

32. **Article 15. Sick Leave** - The Union contends that the City's proposals regarding sick leave proof, monitoring usage and Section d. Conversion are three separate issues. The City contends that this is a single issue.

a. Introduction

The record discloses that from January 1, 2011, to August 16, 2012, bargaining unit employees coupled use of sick leave with some other form of benefit time 181 times. There were 103 times when firefighters used sick leave right before or right after taking a Kelly Day; 48 times when firefighters used sick leave right before or right after a vacation day; 31 times when they used sick leave coupled with a duty trade. During this same time period, there were 65 occasions when employees were too sick to report to work, but then recovered and were able to work an overtime shift before their next scheduled shift. From 2008 to 2011, sick leave usage tripled from 2007, when the City only paid 3,815 hours. In 2011 the City paid 11,308 hours of sick leave—the equivalent of 4.3 absent employees every day.

The City has proposed four changes to the collective bargaining agreement:

1. Adding a new sick leave abuse and monitoring program in Article 15 of the bargaining agreement tracking the program currently in place in the police department. As part of this change, the City has offered a new benefit—a more favorable sick leave buyback benefit upon separation from service.
2. Changing the sick leave accrual calculation so that using sick leave does not count as “hours worked” towards the 50.15 hours that must be paid in order to accrue additional sick leave.
3. Deleting the current sick leave incentive recognition program.
4. Adding an outside employment program specifying that employees who abuse sick leave are not eligible for secondary employment.

The Union has not proposed any changes to the contract.

Five of the comparable communities include specific contractual provisions allowing them to prevent, monitor, and correct sick leave abuse. Many of those contracts give the employer the right to audit sick leave the first time it is used.

b. The City

The City claims it has shown that it has a problem with sick leave abuse. The City argues that employers should not be expected to pay a *quid pro quo* to get employees to stop abusing sick leave. Nonetheless, the City says it has offered a generous *quid pro quo* for its proposed changes.

The City explains that under its proposal the collective bargaining agreement will be amended to include the same sick leave monitoring program that is currently in place in the police department. Under this program, employees who use more than 48 consecutive hours of shift leave, and employees who have repetitive absences or patterns of sick leave abuse are placed on a sick leave monitoring program. When employees are on the sick leave monitoring program, they must submit a doctor’s note for future absences.

The City argues that internal comparability supports its sick leave proposals. The City points out that its sick leave monitoring program matches the same language that appears in the police officer agreement. The City says that external comparability also supports its position.

It is the City's position that there is a strong public interest in making sure that public employees who are paid to work, actually work. It says that sick leave abuse is nothing short of theft of taxpayer dollars. The City asserts it should be given a full arsenal of tools to root out and stop sick leave abuse.

c. The Union

The Union asserts that an employer seeking to implement new procedures must demonstrate the old system has not worked as anticipated, the existing system has created operational hardships for the employer, and the party seeking to maintain the *status quo* has resisted attempts at the bargaining table to address these problems. It says that some interest arbitrators have adopted a *quid pro quo* standard when analyzing changes in the *status quo* requiring the party seeking a change to offer the other party a *quid pro quo* of sufficient value to "buy out" the change.

The Union declares that the current system is not broken. It says that current contract language provides an adequate method for monitoring sick leave use and punishing abusers. It points out that the record shows that the Employer has contractual authority to monitor sick leave abuse. The Union also notes that sick leave use went down for 2011.

The Union contends the City has not proven a sick leave abuse problem. The Union says the City's evidence does not distinguish between sick leave used for personal illness, off-duty injury, or caring for family. It also says the City evidence does not recognize that, given their 24/48 shift schedule, there are very few days firefighters can use sick leave without unintentionally coupling such leave with other time off.

It is the Union's position that the City's proposal is unnecessarily burdensome, contains illegal provisions, and will create unnecessary litigation. The Union asserts the City's proposal places the full burden on the employee requesting use of sick leave to obtain the requisite proof by forcing the employee to pay for the required doctor's visit.

According to the Union, the City's proposal violates arbitral precedent, federal and state laws, and public policy. It says that placing the burden of proof on an employee accused of sick leave abuse goes against the traditional notions of arbitral justice.

d. Analysis

The City has not demonstrated the old system has not worked as anticipated, the existing system has created operational hardships for the employer. The record suggests the current contract language provides an adequate

method for monitoring sick leave use and punishing abusers. The record shows that the City has contractual authority to monitor sick leave abuse. Accordingly, the Union's final offer is selected.

33. **Article 15. Sick Leave, Section a. Accrual.** The parties do not agree as to whether the City or the Union is the moving party on this issue.

a. Introduction

The City proposes to amend the collective bargaining agreement to provide that employees must work or receive holiday pay, vacation pay, worker's compensation, or be on an authorized leave without pay for at least 50.15 hours in order to accrue sick leave. It proposes that using sick leave not count towards the 50.15 hour threshold.

See Issue No. 32.

b. The City

The City explains that its proposal means that in a 30-day month, a firefighter must work or receive pay other than sick leave for a total of 2.09 days of 10 scheduled work days in order to accrue additional sick leave.

c. The Union

The Union says the comparables and contractual history support the retention of the *status quo*. It points out that the firefighters' ability to accrue vacation during sick leave, as well as other times of paid leave, has been a part of the parties' contractual language governing sick leave since at least 1978.

The Union says that of the eight external comparable communities, none provide for a blanket disallowance of sick leave accrual, and only two restrict accrual during excessive amounts of sick leave. The Union asserts that internal comparability supports the *status quo* as the current police contract allows for accrual of sick leave during periods of sick leave.

d. Analysis

The comparables and contract history support the retention of the *status quo*. The firefighters' ability to accrue vacation during sick leave, as well as other times of paid leave, has been a part of the parties' contractual language governing sick leave since at least 1978. Accordingly, the Union's final offer is selected.

34. **Article 15. Sick Leave, Section e. Sick Leave Incentive Recognition**

a. Introduction

The City proposes to eliminate the annual sick leave incentive valued at \$0 to \$85 per year.

See Issue No. 32.

b. The City

The City contends that, if an employee receives the maximum incentive in every year of his 25-year career (meaning the employee used no sick leave during his or her whole career), that incentive would be worth a total of \$2,125. It says the City's *quid pro quo* is valued at almost \$7,000 per employee.

c. The Union

The Union says the City's proposal alters the historic sick leave conversion language and completely deletes the sick leave incentive benefit. The Union asserts that an employer seeking to implement new procedures must demonstrate the old system has not worked as anticipated, the existing system has created operational hardships for the employer, and the party seeking to maintain the *status quo* has resisted attempts at the bargaining table to address these problems. It says that some interest arbitrators have adopted a *quid pro quo* standard when analyzing changes in the *status quo* requiring the party seeking a change to offer the other party a *quid pro quo* of sufficient value to "buy out" the change.

d. Analysis

The City has failed to show compelling reasons for changing the *status quo*. Accordingly, the Union's final offer is selected.

35. **Article 16. Group Hospitalization and Life Insurance, Introduction, Section a. Medical Insurance (PPO) and Section b. Health Maintenance Organization (HMO)**

a. Introduction

The parties disagree on the health insurance premium allocation. The proposals can be summarized as follows:

| <u>DATE</u> | <u>CITY PROPOSAL</u> | <u>UNION PROPOSAL</u> |
|--|-----------------------------|-----------------------------|
| 1/1/2012 to 2/28/2013 (all employees) | Employees contribute 10% | Employees contribute 10% |
| 3/1/2013 to end of contract term, employees hired before 7/1/2012 | Employees contribute 12% | Employees contribute 10% |
| 3/1/2013 to end of contract term, employees hired on or after 7/1/2012 | Employees contribute 20% | Employees contribute 10% |

From 2009 to the present, the firefighters paid the same amount for their health insurance premiums as City's police officers paid. The City's proposal matches the recent settlements reached in the City with the police officers and with SEIU.

With respect to the external comparables, under the City's proposal, the firefighters would pay the same or less for PPO coverage as the average premium contribution in the comparables. Under the Union's proposal, firefighters would pay a smaller portion of the most expensive PPO coverage than the average of the comparable communities. Under the Union's proposal, firefighters with HMO Family and HMO Single coverage would pay a slightly higher than average contribution.

b. The City

Acknowledging that employees hired on or after July 1, 2012, will pay more than the average contribution in the comparable communities, the City argues that its proposal reflects a growing national trend. The City says that the two-tier approach is a reasonable approach to address the problem of rising health insurance premiums.

c. The Union

The Union argues that the City's failure to provide relevant evidence to enable the Arbitrator to evaluate its proposal supports maintaining the *status quo*. The Union asserts that external comparability is insufficient to award the City's proposal. The Union also claims the internal comparability is insufficient to alter the *status quo*. The Union contends interest arbitration

is not the appropriate method for obtaining a two-tier benefit system. According to the Union, the City's two-tier evidence is inaccurate.

The Union asserts that the City's proposal requires unreasonable retroactive payment by new hires. The Union explains that the language of the City's proposal provides that employee contributions by new hires is effective July 1, 2012. The Union also asserts that the City's evidence regarding cost is insufficient to change the *status quo*. The Union notes the City has some level of control over its cost for employee health insurance because it retains the right to change providers or implement other changes to cut costs. The Union says the cost of the City's proposal is uncertain, and the proposal's effect on overall compensation is damaging.

d. Analysis

The City's proposal matches the recent settlements reached in the City with the police officers and with SEIU. It also brings the City in line with the comparable communities. Accordingly, the City's final offer is selected.

36. **Article 16. Group Hospitalization and Life Insurance, Section d. Life Insurance.**

The City withdrew its proposal and accepted the Union's proposal.

37. **Article 16. Group Hospitalization and Life Insurance. New Section - Subsidized Retiree Insurance**

a. Introduction

Although the current collective bargaining agreement does not require the City to pay any portion of a retiree's health insurance, the City pays a portion of employees' retiree health insurance under City Ordinance G70-02. The ordinance provides that City employees who retire with twenty or more years of service at age sixty or older are allowed to participate in the City's health insurance plan at no cost to the retiree for a maximum of twenty-four months or until they reach age 65, whichever occurs first. After 24 months, retirees must pay 50% of the cost of their insurance coverage until they reach 65. Once the retiree is Medicare-eligible, the retiree pays 100% of the premium if the employee chooses to continue to participate in the City's insurance plan. In 2011, the retiree health insurance program cost the City approximately \$2 million.

The City proposes phasing out the retiree health insurance subsidy. Under the City's proposal, all employees who were hired before July 1, 2012,

will continue to receive the subsidy upon retirement. employees hired after that date will not receive the insurance subsidy.

The other City bargaining units have agreed to this. The Union has proposed no change to the agreement. Six of the eight external comparables provide no retiree health insurance subsidies. A seven comparable provides a subsidy but is phasing out the subsidy.

b. The City

The City asserts that under its retiree insurance proposal the firefighters will be treated exactly the same as all other City employees. It argues that there is no reason why the firefighters should be treated any differently than other City employees in this respect.

c. The Union

The Union says the retiree subsidy is a historical benefit and the City's proposal will negatively impact four current employees. It states that the cost and the comparables are insufficient to change the *status quo*. The Union stresses that the City's proposal allows the City to unilaterally reduce or do away with the benefit simply by amending its ordinance.

d. Analysis

The City's proposal matches the recent settlements reached in the City with the police officers and with SEIU. It also brings the City in line with the comparable communities. Additionally, the retiree supplement is provided for by ordinance and is not a bargained-for benefit in the collective bargaining agreement. The City's final offer is selected.

38. **Article 16. Group Hospitalization and Life Insurance, New Section - Health Club Membership**

a. Introduction

A city ordinance provides that employees are entitled to reimbursement for health club memberships. The collective bargaining agreement does not contain a provision for health club membership reimbursement.

The City operates a health club—the Centre of Elgin. The Centre includes a large aquatic center, free weights, machine weights, a rock climbing wall, meeting space, dance and exercise rooms, basketball courts, racquetball courts, a track, locker rooms, and a child care center.

The City proposes specifying in the collective bargaining agreement that the health club membership provided by ordinance can only be used at the Centre of Elgin. The Union proposes no changes to the current contract language.

After the Centre of Elgin opened, all City employees other than the firefighters have been required to use the Centre if they want to take advantage of the free health club membership. The police officers and public works employees voluntarily agreed to language in their collective bargaining agreements specifying that this fringe benefit can only be used at The Centre.

In the comparable communities, Aurora is the only community providing any health club benefits. The remaining seven communities provide no health club benefits.

b. The City

The City asserts that the Elgin taxpayers made a huge investment to open The Centre. Now that The Centre is open, the City says it makes no sense to use taxpayer dollars to pay the firefighters to join different health clubs.

The City claims the Union did not introduce any evidence that would show how many members live “too far” from Elgin to use The Centre. Additionally, it says the Union did not introduce any evidence that the employees who supposedly live too far from Elgin actually use the current health club benefit. Regardless, the City argues nothing would prevent those employees from using The Centre when they get off work, or before they report for duty. Furthermore, the City contends that those employees who supposedly live too far from The Centre are still able to use the exercise equipment available in each of the fire stations.

c. The Union

The Union declares that the health club reimbursement is a historical benefit, and the City’s proposal will negatively impact bargaining unit employees. The Union says the City’s comparability evidence is insufficient to change the *status quo*.

d. Analysis

The City’s proposal matches the recent settlements reached in the City with the police officers and with SEIU. Additionally, the health club benefit is provided for by ordinance and is not a bargained-for benefit in the collective bargaining agreement. It seems foolish to require the City to subsidize em-

ployees' use of health clubs other than the health facility operated by the City. The City's final offer is selected.

39. **Article 21. Discipline**, Subparagraph 4, (expungement)

a. Introduction

The Union proposes to retain the existing contract language relating to retention of disciplinary records. The City proposes that oral reprimands be retained for three years; written reprimands, four years; and suspensions, permanently retained. The City also proposes that discipline for violations of the City's harassment or discrimination policy be retained permanently. Under the City's proposal, the City's legal department would be allowed to maintain expunged discipline.

In the comparable communities, six have no restriction whatsoever on the employer's right to retain and use prior disciplinary records. Skokie says that discipline may not be used after 24 months if there was no repeat misconduct, but does not say that the disciplinary record must be removed from the personnel file. Aurora is the only comparable allowing discipline to be expunged after 24 months. Seven of the eight comparable communities recognize the importance of maintaining a copy of discipline so that the employer can defend itself against frivolous litigation.

In the City, the police and public works employees have agreed to contracts providing for the permanent retention of suspensions and for permanent retention of all disciplinary records related to violations of the City's harassment and discrimination policies.

b. The City

The City notes that the current contract language was considered the *status quo* only for the life of the contract. The City argues it must be allowed to retain employee disciplinary records because they are used as the foundation for future employment actions, including determining the level of discipline that is reasonable for a given offense. The City says that management depends on an employee's prior record in assigning a different penalty for the same misconduct.

According to the City, allegations of disparate treatment in employment matters has the potential of substantial liability to the City. The City explains that disparate treatment might not only be a violation of just cause, but might violate state and federal statutes, including Title VII of the Civil Rights Act, the Illinois Human Rights Act, the Age Discrimination in Employment Act, the Illinois Labor Relations Act, the Equal Pay Act, and the

Americans with Disabilities Act. Therefore, the City claims it is in the best interest of the public that the City has every potential tool available to help defend itself against allegations of disparate treatment.

Under the Union’s proposal, the City contends it would not be able to adequately defend itself against allegations of disparate treatment. All records of verbal and written warnings would simply be destroyed after two years, and all suspensions would be destroyed after three years. If the City were sued by an employee who alleged he or she was the only person suspended for a particular rule violation, the City says it would be restricted in its ability to show that other employees have been suspended for the same rule violation.

c. The Union

The Union argues that, in a situation where one party seeks to implement significant changes, the party seeking those changes bears the burden of proving a need for its breakthrough proposal. The Union claims the City cannot show that the current system is broken and in need of a change, and it has not offered a *quid pro quo*.

According to the Union, the City has provided no evidence that its drastic proposal is needed, its proposal is unduly burdensome to the bargaining unit employees, and the comparables do not support the City’s proposed language. It says none of the comparables’ contract contains the “burdensome” language the City has proposed.

d. Analysis

The City has not provided sufficient evidence that its proposal is needed. In addition, the comparables do not support the City’s proposed language. Accordingly, the Union’s final offer is selected.

40. **Article 21. Discipline**, Subparagraph 5, (investigations)

a. Introduction

The City proposes modifying Article 21 of the collective bargaining agreement to remove administrative burdens that are currently applied to minor disciplinary decisions. Under the current bargaining agreement, before the City can issue a firefighter discipline as minor as a verbal warning, the City is required to provide the following:

1. A notification to the employee of the contemplated disciplinary action;

2. A meeting to inform the employee of the reasons for the disciplinary action;
3. A statement of charges;
4. Copies of a written disciplinary recommendation from the Chief; and
5. Copies of the employee's relevant discipline.

The City proposes eliminating this process for minor discipline. Under the City's proposal, these requirements will still apply to all major discipline, including all proposed suspensions or terminations. The Union proposes that these requirements must be applied to all discipline.

None of the external comparables include formal, written notice requirements prior to the issuance of verbal or written warnings. Nor do any of the City's other bargaining units have any formal notice requirements applicable to minor discipline.

b. The City

The City argues that the collective bargaining agreement provision specifying that "disciplinary actions instituted by the Employer shall be for just cause" grants employees all the protection they could possibly need. At the same time, it says the just cause principal is flexible enough to recognize that a formal, written statement of charges, accompanied by a copy of all prior, related discipline, is not required every time the employer contemplates issuing a verbal or written warning.

While the City's proposal will remove unnecessary red tape from the process of issuing minor discipline, the City claims the firefighters will still enjoy protections above and beyond the just cause standard of review. It says that bargaining unit employees will still be entitled to *Weingarten* rights and *Garrity* warnings. It also asserts that employees will still be entitled to request a copy of their personnel file, as permitted under the Illinois Personnel Records Review Act.

According to the City, Illinois policy recognizes that formal notice requirements should not be required for minor discipline. It says the Firemen's Disciplinary Act provides firefighters with specific due process rights during certain types of disciplinary investigations but specifically excludes minor

discipline, such as verbal warnings and written warnings from the Act's coverage.

The City argues that imposing administrative red tape for minor disciplinary matters consumes the time and energy of the Department's command staff and does nothing to improve citizen safety.

c. The Union

The Union claims the City failed to present any evidence to demonstrate a need for its proposed changes. The Union says the proposal conflicts with current contract language and violates State law.

According to the Union, the City conflates the process it follows for suspension and discharge proceedings, arguing it should not have to go through the formal notice of interrogation and obtain a court reporter for minor discipline. The Union states that contract language does not require the City to proceed through a formal interrogation, including the hiring of a court reporter for minor discipline such as written reprimands.

The Union says the contract history and comparability support the *status quo*. The Union says its proposal retains the language the parties have voluntarily negotiated and that has remained unchanged since 2004.

d. Analysis

The evidence does not demonstrate a need for the City's proposed changes. In addition, comparability supports maintaining the *status quo*. Accordingly, the Union's final offer is selected.

41. **Article 25. Drug and Alcohol Testing**

The City withdrew its proposal in favor of current contract language.

42. **Article 30. Miscellaneous, Section e. Non-City Employment**

a. Introduction

The record suggests that at least one employee has used sick leave in order to work a second job for another employer. The City has proposed that the contract be amended to include the same secondary employment policy already in effect for the police department. The Union has not proposed any changes.

Three of the comparable communities specifically limit a firefighter's ability to engage in secondary employment that will result in a conflict of interest or impair the firefighter's ability to perform fire department duties. Arlington Heights gives the Fire Chief discretion to approve all requests for secondary employment, so long as the Chief does not arbitrarily or unreasonably withhold his approval. All the remaining communities grant the employer the right to make reasonable work rules.

b. The City

The City argues that its proposal tracks with the policy that is already in place in the City's police department. The City contends the Union did not present any evidence that this secondary employment policy has created any hardships for the police officers. Because the secondary employment policy is already in place and working well in the police department, and because internal comparability is given great weight with respect to fringe benefits, the City asserts this factor strongly favors adoption of the City's proposal.

According to the City, external comparability also supports its proposal. It asserts that all of the comparable communities have either the explicit contractual right to restrict secondary employment or the ability to implement rules that restricting secondary employment.

c. The Union

Pointing out that the *status quo* has been in place since 1991, the Union argues that the City has not shown that the current system is broken. The Union says the City's proposal is invasive and unnecessarily restrictive. The Union claims the City's proposal would not only unduly burden employees, but some of the City's proposed provisions conflict with current contractual language. Finally, the Union asserts that the City has not offered a *quid pro quo* for eliminating the *status quo*.

d. Analysis

The evidence does not demonstrate a need for the City's proposed changes. As discussed above, the City has contractual authority to discipline employees for misuse of sick leave. In addition, comparability supports maintaining the *status quo*. Accordingly, the Union's final offer is accepted.

43. **Article 35. Term**

See Issue No. 19.

44. **Side Letter – Subcontracting**

See Issue No. 6.

45. **Side Letter—Retirement Incentive**

The City withdrew its proposal in favor of current contract language.

46. **June 2010 Addendum to Contract**

a. *Introduction*

Captains were added to the bargaining unit in 2010. The parties have not reached an agreement on the holiday pay benefits for the captains or on whether the paragraph in the addendum addressing the maintenance of *status quo* benefits for the Captains should be removed from the collective bargaining agreement.

The City proposes removing a paragraph from the Addendum regarding the maintenance of the *status quo* for the Captains. The Union proposes that the Addendum be deleted in its entirety provided the Union's proposals with respect to Captains are awarded and a Side Letter of Agreement is entered into providing as follows:

Except as otherwise provided in the parties' 2012-20__ Agreement, the parties agree to maintain the *status quo* with respect to the terms and conditions of employment and past practices for the Captains that existed prior to Local #439, IAFF becoming the Captain's certified bargaining representative.

Otherwise, the Union proposes to maintain the June 2010 Addendum to the contract.

b. *The City*

The City contends that keeping the *status quo* paragraph in the addendum can only create confusion. It notes that both parties have proposed an Entire Agreement clause specifically stating that the collective bargaining agreement supersedes all prior practice and agreement. If the collective bargaining agreement supersedes all past practices, the City says it makes no sense for the Addendum to include language that says all past practices with respect to the Captains survive execution of the collective bargaining agreement.

c. *The Union*

The Union stresses that the Addendum does not include a termination date or other reference to a successor agreement. The Union says the reference in the parties' tentative agreement dated February 2, 2012, regarding Article 9, Section 3 references the Addendum, which both necessitates retention of the Addendum and indicates the intent to retain the Addendum.

d. *Analysis*

The City's contention that keeping the *status quo* paragraph in the addendum can only create confusion is plausible. If the collective bargaining agreement supersedes all past practices, it makes little sense for the Addendum to include language that says all past practices with respect to the Captains survive execution of the collective bargaining agreement. The City's offer is selected.

X. AWARD

Having considered the applicable statutory criteria, all the relevant evidence and the arguments of the parties, the Arbitrator makes the following award:

Issue 1. Art. 13, Holiday Pay, § a, Holiday Pay for All Employees Except Captains, and § b, Holiday Day Pay for Captains: The City's final offer is selected.

Issue 8. Art. 9, Wages, § a, Ranges, and § b, Retroactivity: The City's final offer is selected with respect to Ranges is selected. The parties reached agreement with respect to retroactivity.

Issue 9. Art. 9, Wages, § d, Longevity Pay: The City's final offer is selected.

Issue 14, Art. 14, Vacation, § d, Scheduling: The City's final offer is selected.

Issue 15. Art. 24, Fireman's Disciplinary Act: The City's final offer is selected.

Issue 17. Art. 30, Miscellaneous, § g, Station/Shift/Vehicle Assignment Bidding: The City's final offer is selected.

Issue 18. Art. 31, Entire Agreement: The City's final offer is selected.

Issue 19. Term, Art. 35, Term: The City's final offer is selected.

Issue 20. Art. 9, Wages, § a, Ranges: The City's final offer is selected.

Issue 24. Art. 11, Hours of Work and Overtime, §f, Time Off Scheduling: The City's final offer is selected.

Issue 28. Art. 13, Holiday Pay, § a, Holiday Pay: The City's final offer is selected.

Issue 29. Art. 14, Vacation, § a, Accrual: The Union's final offer is selected.

Issue 32. Art. 15, Sick Leave: The Union's final offer is selected.

Issue 33. Art. 15, § a, Accrual: The Union's final offer is selected.

Issue 34. Art. 15, § e, Sick Leave Incentive Recognition: The Union's final offer is selected.

Issue 35. Art. 16, Group Hospitalization and Life Insurance, § a, Medical Insurance (PPO) and Section b, Health Maintenance Organization: The City's final offer is selected.

Issue 37. Art. 16, Group Hospitalization and Life Insurance, New Section, Subsidized Retiree Insurance: The City's final offer is selected.

Issue 38. Art. 16, Group Hospitalization and Life Insurance, New Section, Health Club Membership: The City's final offer is selected.

Issue 39. Art. 21, Discipline, subpar. 4 (expungement): The Union's final offer is selected.

Issue 40. Art. 21, Discipline, subpar. 5 (investigations): The Union's final offer is selected.

Issues 42. Art. 30, Miscellaneous, § e, Non-City Employment: The Union's final offer is selected.

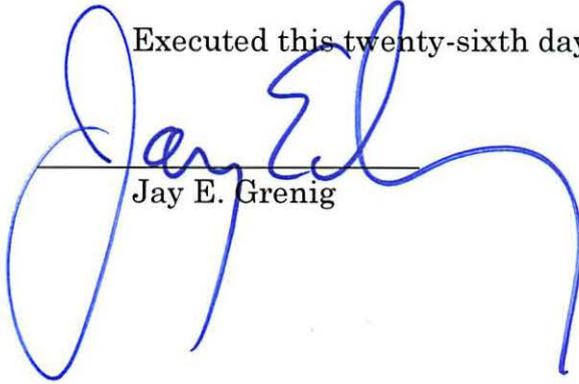
Issue 43. Article 35, Term: The City's final offer is selected.

Issue 46. June 2010 Addendum to Contract: The City's final offer is selected.

The following issues were settled, withdrawn, or are otherwise not currently before the Arbitrator: Issues 2, 3, 4, 5, 6, 7, 10, 11, 12, 13, 16, 21, 22, 23, 25, 26, 27, 30, 31, 36, 41, 44, and 45.

The Arbitrator retains jurisdiction in accordance with the parties' stipulation.

Executed this twenty-sixth day of June, 2013.



Jay E. Grenig

APPENDIX A

CITY'S PROPOSED CONTRACT LANGUAGE

The City's proposed additions to the original contract language are shown in double underlining. The City's proposed deletions from the original contract language are shown in ~~strike through~~.

Issue Nos. 1 and 28. Article 13. Holiday Pay.

Employees shall receive holiday compensation at their straight time hourly rate on an hour-to-hour basis for all hours worked on the actual holiday in addition to their regular pay. Employees who are not scheduled to work on a holiday and who are called back to work on a holiday shall receive holiday compensation of their straight time hourly rate on an hour-to-hour basis for all hours actually worked in addition to the callback provisions of Article 11, Section h. of this Agreement. For the purposes of this section, the holidays shall be the following: New Year's Day; Martin Luther King's Birthday; President's Day, Easter Sunday; Memorial Day; Independence Day; Labor Day; Veteran's Day; Thanksgiving Day; Christmas Day; Christmas Eve (1/2 Day); and New Year's Eve (1/2 Day).

For the purpose of Holiday Pay on Christmas Eve, the hours of 00:00 (midnight) to 12:00 (noon) on December 24 are considered holiday hours.

Holiday pay for the Christmas Eve and Christmas Day shall be distributed among the three shifts as follows:

- (a) The shift working December 23 (24 hours, 07:00 a.m. to 07:00 a.m.) shall receive seven (7) hours holiday pay from midnight to 07:00 a.m.
- (b) The shift working December 24 (24 hours, 07:00 a.m. to 07:00 a.m.) shall receive twelve (12) hours holiday pay from 07:00 a.m. to 12:00 p.m. (5 hours) and from midnight to 07:00 a.m. (7 hours).
- (c) The shift working December 25 (24 hours, 07:00 a.m. to 07:00 a.m.) shall receive seventeen (17) hours holiday pay from 07:00 a.m. to midnight.

For the purpose of holiday pay on New Year's Eve, the hours of 00:00 (midnight) to 12:00 (noon) on December 31 are considered holiday hours.

Holiday pay for the New Year's Eve and New Year's Day shall be distributed among the three shifts as follows:

- (a) The shift working December 30 (24 hours, 07:00 a.m. to 07:00 a.m.) shall receive seven (7) hours holiday pay from midnight to 07:00 a.m.
- (b) The shift working December 31 (24 hours, 07:00 a.m. to 07:00 a.m.) shall receive twelve (12) hours holiday pay from 07:00 a.m. to 12:00 p.m. (5 hours) and from midnight to 07:00 a.m. (7 hours).
- (c) The shift working January 1 (24 hours, 07:00 a.m. to 07:00 a.m.) shall receive seventeen (17) hours holiday pay from 07:00 am. to midnight.

Issue No. 2. Article 14. Vacation.

Employees covered by this Agreement shall be eligible for paid vacation as follows:

| <u>Years of Continuous Service</u> | <u>Vacation Time Off</u> |
|--|--------------------------|
| From the completion of one (1) year to the seventh (7th) anniversary date. | Five (5) shifts |
| After seven (7) years to the fourteenth (14th) anniversary date | Seven (7) shifts |
| After fourteen (14) years to the twenty-second (22nd) anniversary date | Ten (10) shifts |
| After twenty-two (22) years and over | Twelve (12) shifts |

The employee's anniversary date of employment from the last day of hire as a full-time employee shall be the basis of determining length of continuous service.

Issue Nos. 3 and 30. Article 15. Sick Leave.

Employees covered by this Agreement shall earn sick leave by accumulating the equivalent of one (1) 12-hour sick day for each full month of continuous service. Employees may accumulate sick leave up to a total maximum accrual of 240 sick days, which is the equivalent of 2880 hours of sick leave.

Sick leave is an insurance-type benefit that should be used by the employee only when needed and may be charged for the following reasons:

- personal illness or injury
- Illness or death of a member of the immediate family necessitating the absence of the employee from his work. (Members of the immediate family shall include wife, husband, children, mother, father, sister, brother, mother-in-law or father-in-law).
- Funeral of a close friend or relative. Such leave shall be limited to travel time and necessary attendance at the funeral.

The City retains the right to monitor sick leave usage. The City will automatically require an employee to present appropriate documentation for each sick leave used after the use of in excess of forty-eight (48) consecutive shift hours of sick leave. Documentation will not normally be required when the absence is due to the death of a family member, close friend or relative.

Absence due to death of a family member or relative shall not count as a sick leave occurrence for the purposes of this paragraph.

Note: This language is only offered with respect to Issue No. 3 regarding the amount of sick leave given to Captains. It is offered without prejudice to the other issues regarding Article 15, Sick Leave.

Issue Nos. 4 and 36. Article 16. Group Hospitalization and Life Insurance, Section d. Life Insurance.

Life Insurance. The City shall provide each employee covered by this Agreement, who has been employed full-time for thirty (30) days or more, with a ~~\$50,000~~ \$70,000 group term life insurance policy (including accidental death and dismemberment).

It is agreed that the City's obligation under this item is limited solely to the payment of the cost of the insurance program provided thereunder, and employees and their beneficiaries shall be entitled to benefits only in accordance with and governed by the terms and conditions of the insurance policies issued to provide such benefits. Neither the City nor the Association shall themselves be obligated to pay any insurance benefit provided under this item directly to employees or their dependents or beneficiaries.

The City retains the right to change insurance carriers or otherwise provide for coverage (e.g., self insurance) as long as the level of benefits remains substantially the same.

Issue No. 5. Article 6. Duties of Employees, Section a. Duties.

Section a. Duties. Employees covered by the terms of this Agreement shall be required to perform those duties assigned to them as described in the applicable position description; provided, however, no bargaining unit employee shall be required to engage in work amounting to personal servitude for another employee, e.g., making beds and washing dishes.

Issue No. 6. Article 6. Duties of Employees, Section b. Subcontracting

Section b. Subcontracting. The City reserves the right to contract out any work it deems necessary in the interest of efficiency and economy, and in emergency situations, except to the extent prohibited by the Illinois Substitutes Law (65 ILCS 5/10-2.1-4). as maybe amended from time to time. No employee shall be laid off as a result of any decision by the City to subcontract any work performed by employees covered by this Agreement.

Issue No. 7. Article 8. Salary Range, Section b. Working Out of Class

Section b. Working Out of Class. Employees covered by this Agreement shall receive additional compensation for assigned work in a higher job classification. Compensation for such assigned responsibility shall be the difference between the straight time rate of: a) the top step of the Firefighter's salary range and the first step of the Fire Lieutenant's salary range when a Firefighter is so assigned, orb) the top step of the Fire Lieutenant's salary range and the first step of the Fire Captain's salary range when a Fire Lieutenant is so assigned.

Issue Nos. 8 and 20. Article 9. Section a. Ranges and Section b. Retroactivity

Section a. Ranges. Effective January 1, 2012, the monthly and yearly salary ranges for employees covered by this Agreement shall be:

| Position | I | II | III | IV | V | VI | VII |
|----------------|-----------------|-----------------|-----------------|------------------|------------------|-----------------|------------------|
| Firefighter | <u>\$4,948</u> | <u>\$5,274</u> | <u>\$5,605</u> | <u>\$5,935</u> | <u>\$6,266</u> | <u>\$6,595</u> | n/a |
| | <u>\$59,378</u> | <u>\$63,288</u> | <u>\$67,255</u> | <u>\$71,251</u> | <u>\$75,189</u> | <u>\$79,142</u> | n/a |
| | | | | | | | |
| Lieutenant | | | | <u>\$7,109</u> | <u>\$7,426</u> | <u>\$7,731</u> | n/a |
| | | | | <u>\$85,304</u> | <u>\$89,111</u> | <u>\$92,773</u> | n/a |
| | | | | | | | |
| <u>Captain</u> | | | | <u>\$8,420</u> | <u>\$8,841</u> | <u>\$9,283</u> | <u>\$9,747</u> |
| | | | | <u>\$101,041</u> | <u>\$106,092</u> | <u>\$7,731</u> | <u>\$116,967</u> |

The foregoing base monthly and yearly salary ranges for 2012 for ~~both~~ the ranks of Firefighter, Lieutenant, and Captain reflect an across-the-board increase of two percent (2.0%).

Effective January 1, 2013, the monthly and yearly salary ranges for employees covered by this Agreement:

| Position | I | II | III | IV | V | VI | VII |
|----------------|-----------------|-----------------|-----------------|------------------|------------------|------------------|------------------|
| Firefighter | <u>\$5,072</u> | <u>\$5,406</u> | <u>\$5,745</u> | <u>\$6,086</u> | <u>\$6,422</u> | <u>\$6,760</u> | <u>n/a</u> |
| | <u>\$60,863</u> | <u>\$64,870</u> | <u>\$68,936</u> | <u>\$73,032</u> | <u>\$77,069</u> | <u>\$81,120</u> | <u>n/a</u> |
| | | | | | | | |
| Lieutenant | | | | <u>\$6,086</u> | <u>\$6,422</u> | <u>\$6,760</u> | <u>n/a</u> |
| | | | | <u>\$87,436</u> | <u>\$91,339</u> | <u>\$95,092</u> | <u>n/a</u> |
| | | | | | | | |
| <u>Captain</u> | | | | <u>\$8,631</u> | <u>\$9,062</u> | <u>\$9,515</u> | <u>\$9,991</u> |
| | | | | <u>\$101,041</u> | <u>\$108,745</u> | <u>\$114,183</u> | <u>\$119,892</u> |

The foregoing base monthly and yearly salary ranges for 2013 for ~~both~~ the ranks of Firefighter, Lieutenant, and Captain reflect an across-the-board increase of two and one-half percent (2.5%). [Arbitrator's Note: There is an apparent typographical error in the monthly salary ranges for lieutenants in 2013, but the annual range and the statement regarding an across-the-board increase of two and one-half percent disclose the City's intent.]

The foregoing salary increases are in addition to all in-range step increases to which employees may be eligible for on their anniversary dates during the term of this Agreement.

Section b. Retroactivity. Employees covered by this Agreement who are still on the active payroll and employees who have retired, taken a disability pension and/or have disability pension applications pending shall be entitled to retroactive payment under this Agreement. Retroactive checks shall be issued no later than sixty (60) days from the date of the last execution by the parties to this Agreement or by a date agreed upon by the parties. Employees

who have not been involuntarily separated, resigned or were not eligible for a pension shall not be entitled to retroactive pay. Payment shall be on an hour-for-hour basis for all regular hours actually worked since January 1, 2012 including all hours of paid leave, holiday additional pay or overtime hours between January 1, 2012 and a date no later than sixty (60) days following the date of last execution by the parties hereto.

Issue No. 9. Article 9. Wages. Section d. Longevity Pay.

Section d. Longevity Pay. Employees with continuous service in the City in a position covered by this Agreement shall receive annual longevity pay in accordance with the following schedule:

~~Effective July 1, 2008~~

| <u>Years of Continuous Service</u> | <u>Amount of Longevity Pay</u> |
|--|--|
| 10 years but less than 15 years | 1.13% of Step VI of the yearly salary for the Firefighter Position |
| 15 years but less than 20 years | 1.7% of Step VI of the yearly salary for the Firefighter Position |
| 20 years or more | 2.25% of Step VI of the yearly salary for the Firefighter position. |

~~Effective January 1, 2009~~

| <u>Years of Continuous Service</u> | <u>Amount of Longevity Pay</u> |
|--|--|
| 10 years but less than 15 years | 1.56% of Step VI of the yearly salary for the Firefighter Position |
| 15 years but less than 20 years | 2.10% of Step VI of the yearly salary for the Firefighter Position |
| 20 years or more | 2.64% of Step VI of the yearly salary for the Firefighter position. |

~~Effective July 1, 2009~~

| <u>Years of Continuous Service</u> | <u>Amount of Longevity Pay</u> |
|--|---|
| 10 years but less than 15 years | 1.13% of Step VI of the yearly salary for the Firefighter Position |
| 15 years but less than 20 years | 1.7% of Step VI of the yearly salary for the Firefighter Position |

| | ry for the Firefighter Position |
|------------------------------------|--|
| 20 years or more | 2.25% of Step VI of the yearly salary for the Firefighter position. |
| <u>Years of Continuous Service</u> | <u>Amount of Longevity Pay</u> |
| 10 years but less than 15 years | 1.48% of Step VI of the yearly salary for the Firefighter Position |
| 15 years but less than 20 years | 2.0% of Step VI of the yearly salary for the Firefighter Position |
| 20 years or more | 2.51% of Step VI of the yearly salary for the Firefighter position. |

Issue No. 10. Article 10. Firefighter/Paramedic, Lieutenant/Paramedics, Mechanic, and Driver Engineer. Section d. Mechanic Pay.

Section d. Mechanic Pay. Effective January 1, 2012, Mechanics covered by this contract shall receive a monthly stipend of 0.15% of Step VI of the yearly salary for the Firefighter position in addition to their base pay. Mechanics shall be selected from voluntary applicants and application for the positions shall be accepted from all interested employees.

Issue No. 11. Article 10. Firefighter/Paramedic, Lieutenant/Paramedics, Mechanic, and Driver Engineer. Section e. Assigned Driver Engineer Pay.

Section e. Assigned Driver Engineer Pay. All Firefighters who are certified as Fire Apparatus Engineers and regularly assigned as drivers of engines and ladder trucks shall receive a monthly stipend in addition to their base pay as follows:

~~Effective July 1, 2008, 0.21% of Step VI of the yearly salary for the Firefighter Position.~~

~~Effective January 1, 2009, 0.20% of Step VI of the yearly salary for the Firefighter Position.~~

~~Effective July 1, 20009, 0.20% of Step VI of the yearly salary for the Firefighter Position.~~

Effective January 1, 2012, 0.29% of Step VI of the yearly salary for the Fire-fighter Position.

Issue No.12. Article 11. Hours of Work and Overtime, Section b. Normal Work Period, Section e. Computation of Straight Time Hourly Rate of Pay and Article 15.Sick Leave, Section a.Accrual.

Article 11

Section b. Normal Work Period. The normal hours of work shall be 24 consecutive hours of duty starting at 7:00 a.m. and ending the following 7:00 a.m., followed by 48 consecutive hours off duty. A Kelly Day (i.e., what would otherwise be a 24 hour duty day) shall be scheduled off every ninth duty day, thereby reducing the normal work week to an average of 50.15 hours.

Section e. Computation of Straight Time Hourly Rate of Pay. The straight time hourly rate of pay for employees shall be calculated by dividing the employee's annual base salary by the annual hours of duty. The annual hours of duty used to compute the regular straight time hourly rate of pay shall be 2,608.

Note: This language is only offered with respect to Issue No. 12 regarding the denominator used to calculate the hourly rate of pay. It is offered without prejudice to the other issues regarding Article 11, Hours of Work and Overtime.

Article 15

Employees covered by this Agreement shall earn sick leave by accumulating the equivalent of one (1) 12-hour sick day for each full month of continuous service. Employees may accumulate sick leave up to a total maximum accrual of 240 sick days, which is the equivalent of 2880 hours of sick leave. Sick leave is an insurance-type benefit that should be used by the employee only when needed and may be charged for the following reasons:

- personal illness or injury
- Illness or death of a member of the immediate family necessitating the absence of the employee from his work. (Members of the immediate family shall include wife, husband, children, mother, father, sister, brother, mother-in-law or father-in-law).

- Funeral of a close friend or relative. Such leave shall be limited to travel time and necessary attendance at the funeral.

The City retains the right to monitor sick leave usage. The City will automatically require an employee to present appropriate documentation for each sick leave used after the use of in excess of forty-eight (48) consecutive shift hours of sick leave. Documentation will not normally be required when the absence is due to the death of a family member, close friend or relative.

Absence due to death of a family member or relative shall not count as a sick leave occurrence for the purposes of this paragraph.

Note: This language is only offered with respect to Issue No. 12 regarding the denominator used to calculate the hourly rate of pay. It is offered without prejudice to the other issues regarding Article 15, Sick Leave.

Issue No. 13. Article 11. Hours of Work and Overtime, New Section m. Minimum Manning.

The City proposes no addition to the current contract language.

Issue No. 14. Article 14. Vacation, Section d. Scheduling.

Section d. Scheduling. Vacations shall be scheduled insofar as practicable at times most desired by each employee, in increments of one (I) shift or more, with the determination of preference being made on the basis of an employee's length of continuous service. In order to provide an even distribution of vacation picks over the course of an entire year, three (3) slots per shift per duty day shall be available for vacation picks by bargaining unit employees. After all three (3) vacation slots on all duty days per shift have been picked, which shall be completed by January 1, a fourth slot shall be made available for any remaining vacation picks. A vacation pick may "bridge" a scheduled Kelly day.

Issue No. 15. Article 24. Fireman's Disciplinary Act.

Nothing in this Agreement shall be construed to preclude the applicability of the Firemen's Disciplinary Act as set forth in 50 ILCS 745/1, et seq., but said Firemen's Disciplinary Act shall not be incorporated herein by reference.

Issue No. 16. Article 29. Promotions.

The City contends that the Union's proposal to modify sections c, f, and g, are three separate issues.

Section a. Section c. Rating Factors and Weights. All examinations shall be impartial and shall relate to those matters which will test the candidate's ability to discharge the duties of the position to be filled. The placement of employees on promotional lists shall be based on the points achieved by the employee on promotional examinations consisting of the following components weighted as specified:

- (1) Seniority 15%
- (2) Education Incentive 10%
- (3) Oral Assessment 25%
- (4) Written Assessment 40%
- (5) Department Points 10%

1. Seniority- Seniority points for Lieutenants testing shall start at ten (10) points at five (5) years of service to the Elgin Fire Department and have ten (10) points added for each year of service to a maximum of one hundred (100) points.

Seniority points for Captain or the next highest rank above Lieutenant shall start at ten (10) points at two (2) years in grade as a Lieutenant on the Elgin Fire Department and have ten (10) points added for each year in grade, after two (2) years, to a maximum of one hundred (100) points. Seniority points shall be calculated as of the date of the written examination.

2. Education Incentive Points - For the ranks of Lieutenant and Captain, educational points shall be given as follows:

| Lieutenant | | Captain | |
|---|--------|---|--------|
| | Points | | Points |
| Fire Officer 1 | 25 | Fire Officer II | 25 |
| Associate Degree or 60 hours | | Associate Degree or 60 hours | 25 |
| Bachelor's Degree (to be added to Associate Degree or 60 hour points) | | Bachelor's Degree (to be added to Associate Degree or 60 hour points) | 50 |

3. Oral Assessment - The assessment shall be conducted by an independent organization mutually agreed upon by the City and the Union. If both parties cannot agree upon an independent organization, a list of

three (3) organizations shall be presented to the Union. Starting with the City each side shall strike one (1) name from the list until an organization is selected. All such assessments and all components related thereto shall be job related and uniformly applied. Scores shall be made available to the candidates as soon as may be reasonably practicable.

4. Written Exam - The written exam shall be the last component given in the testing process. All reading materials that are to be used in the written exam shall be posted and made available in all fire stations not less than ninety (90) days prior to the applicable examination.
5. Department Points - The process of awarding departmental points shall be in accordance with the Act.

Section f. Monitors.

The City proposes no addition to the current contract language.

Section g. Right to Review.

The City proposes no addition to the current contract language.

Issue No.17. Article 30. Miscellaneous, Section g. Station/Shift /Vehicle Assignment Bidding.

Section g. Station/Shift/Vehicle Assignment Bidding. Lieutenants shall be permitted to bid for their shift, station and vehicle assignment (collectively "Assignments") on a bi-annual basis beginning in October 2007 to become effective January 1st of the following year. The procedure for such bidding shall be by seniority in the rank of Lieutenant (based on date of promotion) with each Lieutenant picking his/her shift, station and vehicle assignment at that station. The assignment at the particular station shall mean the vehicle assignment. The selection of Assignments will be determined by the Fire Chief based upon the bids as submitted by the Lieutenants taking into account the demonstrated operational needs of the department.

Notwithstanding any of the foregoing, the Fire Chief or his designee shall in his sole discretion have the right to transfer Lieutenants who have been assigned pursuant to the procedure described herein in order to meet a demonstrated operational need of the department. Operational needs of the department shall be deemed to include, but not be limited to, a balance of seniority at stations and on shifts.

The method of replacement for vacant Lieutenant positions that occur outside of the aforementioned bi-annual bidding period shall be determined exclusively by the Fire Chief.

Issue No.18. Entire Agreement.

This Agreement, upon ratification, supersedes all prior practices and agreements, whether written or oral, unless expressly stated to the contrary herein, constitutes the complete and entire agreement between the parties, and concludes collective bargaining for its term unless otherwise expressly provided herein.

The City and the Union, for the duration of this Agreement, each voluntarily and unqualifiedly waives the right, and each agrees that the other shall not be obligated, to bargain collectively with respect to any subject or matter referred to or covered in this Agreement ~~including the impact of the City's exercise of its rights as set forth herein on salaries, hours or terms and conditions of employment.~~ This paragraph does not waive the right to bargain over any subject or matter not referred to or covered in this Agreement which is a mandatory subject of bargaining and concerning which the City is considering a change during the term of this Agreement. This paragraph also does not waive the Union's right to impact/effects bargaining.

Issue Nos. 19 and 43. Term.

This Agreement shall be effective as of the 1st day of January, 2012, and shall remain in full force and effect until the 31st day of December, 2013. It shall be automatically renewed from year to year thereafter unless either party shall notify the other in writing sixty (60) days prior to the expiration date set forth above or each yearly period thereafter if applicable.

Notwithstanding the expiration date set forth above, this entire Agreement shall remain in full force and effect during the period of negotiations and until a successor agreement is ratified by both parties.

Issue No. 20. Article 9. Wages.

See Issue No. 8, above.

Issue No. 21. Article 11. Hours of Work and Overtime, Section b. Normal Work Period.

Section b. Normal Work Period. The normal hours of work shall be 24 consecutive hours of duty starting at 7:00 a.m. and ending the following 7:00 a.m., followed by 48 consecutive hours off duty. For employees hired before January 1, 2012, a Kelly Day (i.e., what would otherwise be a 24 hour duty day) shall be scheduled off every ninth duty day, thereby reducing the normal work week to an average of 50.15 hours.

For employees hired on or after January 1, 2012, a Kelly day (i.e. what would otherwise be a twenty-four hour duty day) shall be scheduled off every 18th duty day. thereby reducing the normal work week to an average of 53.38 hours.

Issue No. 22. Article 11. Hours of Work and Overtime, Section c. Regular Overtime Pay and Section d. FLSA Overtime and Work Period.

~~Section c. Regular Overtime Pay. Employees covered by this Agreement shall be paid one and one half times their regular straight time hourly rate of pay for all hours worked in excess of the normal 24-hour work shift.~~

Section c. FLSA Overtime and Work Period. The work period for purposes of Section 7(k) of the Fair Labor Standards Act (FLSA) shall be twenty-eight 28 consecutive days. An employee, in addition to regular compensation, shall be paid one-half (1/2) times his regular straight time hourly rate of pay for all hours of actual work ~~on his regularly scheduled shifts~~ in excess of 212 hours of actual work in any such twenty-eight regular 28 day work period.

Issue No. 23. Article 11. Hours of Work and Overtime, Section e. Computation of Straight Time Hourly Rate of Pay.

Section e. Computation of Straight Time Hourly Rate of Pay. The straight time hourly rate of pay for employees shall be calculated by dividing the employee's annual base salary by the annual hours of duty. For employees hired before January 1, 2012, the annual hours of duty used to compute the regular straight time hourly rate of pay shall be 2,608. For employees hired on or after January 1, 2012, the annual hours of duty used to compute the regular straight time hourly rate of pay shall be 2,776.

Issue No. 24. Article 11. Hours of Work and Overtime, Section f. Time Off Scheduling

Other provisions of this Agreement notwithstanding, at no time will more than ~~four (4) lieutenants (effective January 1, 2008,~~ five (5) lieutenants be scheduled off at the same time on a combination of vacation, Kelly Day, Kelly Trade, duty trade or sick time conversion. In addition, no more than one (1) captain (two (2) captains if a battalion chief is on duty for the shift) may be scheduled off at the same time on a combination of vacation, Kelly Day, Kelly Trade, duty trade or sick time conversion. This restriction shall not apply to sick leave or worker's compensation.

Issue No. 25. Article 11. Hours of Work and Overtime, Section h. Call Back.

Section h. Call Back. An employee called back to work while off duty after having completed his assigned work shall receive a minimum of two (2) hours compensation, or his actual time, whichever is greater ~~at one and one-half (1 1/2) times his straight time rate of pay.~~

Issue No. 26. Article 11. Hours of Work and Overtime, Section k. Light Duty Pool.

Section k. Light Duty Pool. The City may require an employee who is on worker's compensation leave (as opposed to disability pension) to return to work, on a 40-hour work week basis, in an available light duty assignment that the employee is qualified to perform in the department or elsewhere in the City. The assignment will be made after the City's physician has reasonably determined that the employee is physically able to perform the light duty assignment in question without significant risk that such return to work will aggravate any pre-existing injury and that there is a reasonable expectation that the employee will be able to assume full duties and responsibilities within six months. Light duty assignments shall not exceed and shall automatically expire in six months. Light duty assignments may be extended up ~~to an~~ in additional six month increments at the discretion of the City Manager. Employees assigned to the Light Duty Pool will be compensated at the regular rate of pay.

An employee on extended sick leave may request assignment to light duty if available. A pregnant Firefighter may also request assignment to light duty upon the determination of her physician that she can no longer safely perform regular Firefighter duties by virtue of her pregnancy.

The City will not assign a Firefighter to the Light Duty Pool elsewhere in the City if such assignment will violate the terms of another collective bargaining agreement the City has with another employee organization.

Nothing herein shall be construed to require the City to create light duty assignments for an employee. Employees will only be assigned to light duty assignments when the City determines that the need exists and only as long as such need exists.

Issue No. 27. Article 11. Hours of Work and Overtime, Section 1. Shift Hold-Over.

A hold over occurs when an employee is required to stay past his/her scheduled shift. An employee that is held over after his/her scheduled shift shall be paid for his/her actual time worked, ~~at the overtime rate of one and a half times his/her hourly rate,~~ rounded off to the nearest tenth of an hour.

Issue No. 28. Article 13. Holiday Pay, Section a. Holiday Pay.

See Issue No. 1, above.

Issue No. 29. Article 14. Vacation, Section a. Accrual.

Section a. Accrual. Vacation hours are accrued each bi-weekly pay period if the employee is paid for all his scheduled hours of work inclusive of vacation, sick leave, worker's compensation or authorized, leave "with pay." An employee does not accrue additional vacation hours while he is absent "without leave," on "leave without pay" or extending out accrued vacation hours upon retirement.

Employees shall be allowed to accumulate vacation according to the provisions of City Ordinance S11-09, providing for the accumulation of vacation leave, as the same may be amended from time to time by the City Council.

Issue No. 30. Article 15. Sick Leave - Captains Bank.

See Issue No. 3, above.

Issue No. 31. Article 15. Sick Leave-New Hires.

Employees covered by this Agreement who were hired before January 1, 2012 shall earn sick leave by accumulating the equivalent of one (1) 12-hour sick day for each full month of continuous service. Employees hired on or af-

ter January 1, 2012. shall earn sick leave by accumulating the equivalent of six hours of sick leave for each full month of continuous service. Employees may accumulate sick leave up to a total maximum accrual of 240 sick days, which is the equivalent of 2880 hours of sick leave. Sick leave is an insurance-type benefit that should be used by the employee only when needed and may be charged for the following reasons:

- personal illness or injury
- Illness or death of a member of the immediate family necessitating the absence of the employee from his work. (Members of the immediate family shall include wife, husband, children, mother, father, sister, brother, mother-in-law or father-in-law).
- Funeral of a close friend or relative. Such leave shall be limited to travel time and necessary attendance at the funeral.

The City retains the right to monitor sick leave usage. The City will automatically require an employee to present appropriate documentation for each sick leave used after the use of in excess of forty-eight (48) consecutive shift hours of sick leave. Documentation will not normally be required when the absence is due to the death of a family member, close friend or relative.

Absence due to death of a family member or relative shall not count as a sick leave occurrence for the purposes of this paragraph.

Note: This language is only offered with respect to Issue No. 31 regarding the amount of sick leave given to employees hired after January 1, 2012. It is offered without prejudice to the other issues regarding Article 15, Sick Leave.

Issue No. 32. Sick Leave proof, monitoring, and conversion.

1) Add the following paragraph to Article 15. Sick leave.

When absences chargeable to sick leave are in excess of forty-eight (48) consecutive shift hours or when repetitive absences occur, or when there is a pattern of sick leave absences, the Fire Chief may require that such absences be supported by the presentation of a written statement from a licensed practicing physician certifying the employee's inability to work while absent. For the purposes of this section, a pattern of sick leave absences shall include multiple instances in a calendar year where sick leave is taken: (1) in conjunction with other paid time off (i.e. Kelly days, vacation days, or duty-trades); (2) on weekends or holidays; (3) on the same day of the week; or (4)

on a day which was previously requested by the employee as a day off but not granted. In such instances of repetitive absences or when there is a pattern of sick leave absences, the Fire Chief shall notify the employee and the Association that the Fire Chief is considering placing the employee on the sick leave abuse program if repetitive absences or a pattern of sick leave absences by the employee continue. The employee and the Association shall have the opportunity to meet with the Fire Chief to discuss the employee's sick leave absences prior to the employee being placed upon the sick leave abuse program. In the event repetitive absences or a pattern of sick leave absences continue after the aforesaid notification from the Fire Chief, the Fire Chief shall notify the employee and the Association that the employee has been placed on the sick leave abuse program. For employees who have been placed on the sick leave abuse program, the City may also require the employee to undergo a physical examination(s) with a licensed practicing physician with a written report(s) on such physical examination(s) to be provided to the City. Such written report(s) shall identify whether the employee is incapable of working on the day in question due to personal illness or injury. At the City's direction, such physical examination(s) shall occur on the same day(s) of a sick leave absence. In the event the physician determines that the employee is incapable of working on the day in question due to personal illness or injury of the employee the sick leave absence shall be paid sick leave for such date. In the event the physician determines that the employee is capable of working on the day in question or in the event the employee fails to report for the required physical examination the sick leave absence shall be unpaid. At the employee's request, the City shall make available a physician for such a physical examination(s) required by the City at a time and location in the City of Elgin selected by the City. In the case of absences by employees on the sick leave abuse program due to care of a covered immediate family member, the employee shall obtain and provide a written statement from a licensed practicing physician certifying the need for the employee to care for the covered family member during the employee's absence. An employee on the sick leave abuse program shall in all instances (including, but not limited to, any grievance proceedings) have the burden of proof to establish that the use of sick leave was for an authorized reason. The required burden of proof shall be to a reasonable degree of medical certainty. Medical records of the employee shall be presumed admissible in grievance proceedings relating to such matters. For purposes of clarification the sick leave abuse program shall not apply to workers' compensation injuries. An employee on the sick leave abuse program who thereafter establishes regular attendance without repetitive absences or a pattern of sick leave abuse for a period of two (2) calendar years may submit a request to the Fire Chief to be removed from the sick leave abuse program and in such event the Fire Chief shall remove such employee from the sick leave abuse program.

2) Modify Article 15, Section d, as follows:

Section d. Conversion. In recognition of non-use of sick leave, employees may convert accumulated sick leave for additional vacation leave or for severance pay. Such conversion shall be at the rate of three (3) 12-hour days of sick leave for one (1) 12-hour period of vacation or one 12-hour period of severance pay.

- (1) Vacation leave conversion requires an accumulation of sick leave of over 60 accrued sick days which is the equivalent of 720 hours of sick leave. Such conversion is limited to a maximum of five (5) 12-hour periods of vacation leave in any one year.
- (2) ~~Retirement or severance pay is predicated on leaving the City's employment in good standing and requires an accumulation of sick leave of over 90 accrued sick days which is the equivalent of 1080 hours of sick leave. This type of conversion is limited to a maximum of twenty (20) 12-hour periods or 240 hours upon separation. In lieu of taking severance pay, an employee may elect to have an equivalent contribution made to a retirement health savings plan to be created by the City, provided that such plan is determined to be lawful, and provided such arrangement is revenue neutral to the City, if such plan is determined to be lawful, and provided such arrangement is revenue neutral to the City. If such plan is determined to be unlawful, the parties shall meet and discuss a mutually agreeable alternative to such plan.~~ Employees shall be eligible for severance sick leave conversion payment upon separation from employment. Such severance payment shall be equivalent to twenty-five percent (25%) of the value of the employee's accumulated unused sick leave as of the effective date of the employee's separation from employment, and shall be paid to the employee in a lump sum, minus any applicable deductions. For the purpose of this section, the employee's hourly wage shall be equivalent to the employee's hourly wage rate inclusive of annual longevity pay.
- ~~(3) In the process of converting sick leave to additional vacation or severance pay, the remaining balance of unused sick leave may not total less than the required base accumulations of 60 or 90 twelve (12) hour sick days.~~

Issue No. 33. Article 15. Sick Leave, Section a. Accrual.

Section a. Accrual. Sick hours are accrued each payroll period if the employee is paid a minimum of 50.15 hours; inclusive of holidays; ~~personal days~~; vacation; ~~sick leave~~; worker's compensation; or authorized leave "with pay," but not including sick leave. An employee does not earn sick hours while he is on "leave without pay"; absent "without leave"; or extending out accrued vacation hours upon retirement; or when on sick leave.

Issue No. 34. Article 15. Sick Leave, Section e. Sick Leave Incentive Recognition.

~~Section e. Sick Leave Incentive Recognition. In recognition of the non-use of sick leave, all employees on the payroll for the full payroll year (actually working a minimum of 1,956 hours) shall be eligible for a sick leave incentive recognition bonus in accordance with the following schedule:~~

| <u>Sick Leave Hours Used in Payroll Year</u> | <u>Recognition</u> |
|--|--------------------|
| 0 | \$85.00 |
| 1 to 48 | \$55.00 |
| 49 to 96 | \$30.00 |

~~Following the end of the payroll year, payment will be made for any bonus recognition which an employee may be eligible.~~

Issue No. 35. Article 16. Group Hospitalization and Life Insurance, Section a. Medical Insurance (PPO) and Section b. Health Maintenance Organization (HMO).

Section a. Medical Insurance (PPO):

~~Up to March 1, 2010, the City will pay 91.5% of the specified premium for the coverage selected (i.e., single, single plus 1, or family) and the employee will pay via payroll deduction the remaining 8.5% of the specified premium.~~

~~Effective March 1, 2010, the City will pay 90% of the specified premium for the coverage selected (i.e., single, single plus 1, or family) and the employee will pay via payroll deduction the remaining 10% of the specified premium.~~

Up to March 1, 2013, for employees hired prior to July 1, 2012, the City will pay ninety percent (90%) of the specified premium for the coverage selected (i.e., single, single plus 1, or family) and the employee will pay via payroll deduction the remaining ten percent (10%) of the specified premium.

Effective March 1, 2013, for employees hired prior to July 1, 2012, the City will pay eighty-eight percent (88%) of the specified premium for the coverage selected (i.e., single, single plus 1, or family) and the employee will pay via payroll deduction the remaining twelve percent (12%) of the specified premium.

Effective July 1, 2012, for employees hired on or after July 1, 2012, the City shall pay eighty percent (80%) of the specified premium for the coverage selected (i.e., single, single plus 1, or family) and the employee will pay via payroll deduction the remaining twenty percent (20%) of the specified premium.

Section b. Health Maintenance Organization (HMO):

~~Up to March 1, 2010, the City will pay 91.5% of the specified premium for the coverage selected (i.e., single or family) and the employee will pay via payroll deduction the remaining 8.5% of the specified premium.~~

~~Effective March 1, 2010, the City will pay 90% of the specified premium for the coverage selected (i.e., single or family) and the employee will pay via payroll deduction the remaining 10% of the specified premium.~~

Up to March 1, 2013, for employees hired prior to July 1, 2012, the City will pay ninety percent (90%) of the specified premium for the coverage selected (i.e., single, single plus 1, or family) and the employee will pay via payroll deduction the remaining ten percent (10%) of the specified premium.

Effective March 1, 2013, for employees hired prior to July 1, 2012, the City will pay eighty-eight percent (88%) of the specified premium for the coverage selected (i.e., single, single plus 1, or family) and the employee will pay via payroll deduction the remaining twelve percent (12%) of the specified premium.

Effective July 1, 2012, for employees hired on or after July 1, 2012, the City shall pay eighty percent (80%) of the specified premium for the coverage selected (i.e., single, single plus 1, or family) and the employee will pay via payroll deduction the remaining twenty percent (20%) of the specified premium.

Issue No. 36. Article 16. Group Hospitalization and Life Insurance, Section d. Life Insurance.

See Issue No. 4 above.

Issue No. 37. Article 16. Group Hospitalization and Life Insurance, New Section - Subsidized Retiree Insurance.

Section e. Subsidized Retiree Participation.

Notwithstanding or anything to the contrary in Ordinance G70-02, as amended, employees hired on or after July 1, 2012, shall not be eligible for any retiree premium subsidy for the City's group health insurance plan pursuant to Ordinance G70-02, as amended. or otherwise.

Issue No. 38. Article 16. Group Hospitalization and Life Insurance, New Section - Health Club Membership.

Section f. Health Club Membership.

Notwithstanding any prior City ordinances to the contrary, beginning upon the adoption of the Arbitrator's award, the City shall agree to provide a health club membership benefit, applicable only at The Centre of Elgin. for all bargaining unit employees. The value of such membership shall be equal in amount to what is currently defined as the silver membership level. Should the City, during the term of this Agreement increase the cost of such silver membership. or its equivalent. the amount of benefit per covered bargaining unit member shall increase accordingly. The health club membership benefit provided in this section shall be the only health club membership benefit provided by the City to bargaining unit employees.

Issue No. 39. Article 21. Discipline, Subparagraph 4 (expungement).

~~4. Disciplinary actions record in an employee's personnel file shall not be used after twelve (12) months for oral and written reprimands and shall not be used after thirty-six (36) months for suspensions to justify subsequent disciplinary actions. All records of disciplinary actions in an employee's file shall be removed by the City upon request from an employee and given to the employee after the above time periods have elapsed. This provision shall take effect as of the date of the last ratification by the parties to this Agreement and shall be considered the *status quo* only for the duration of the Agreement.~~

In keeping with the parties' agreement that discipline is to be corrective, it is agreed that the employee's personnel file shall be expunged of any reference to his/her disciplinary history if there has been no reoccurrence of the type or kind of conduct giving rise to the discipline in accordance with the following:

- a. Oral reprimand - 3 years
- b. Written reprimand - 4 years
- c. Disciplinary suspension will remain permanently in the individual's personnel file
- d. Discipline involving a violation of the City's anti-harassment/nondiscrimination policy - no expungement

Any and all records pertaining to complaints, allegations or investigations against an employee that are not "sustained" shall be expunged from the employer's personnel file after three (3) years from the date of the investigation began. The burden of effectuating any expungement shall be on the employee.

Notwithstanding the foregoing, it is agreed and understood that the City may retain copies of all internal investigation files in the files maintained by the City's Legal Department.

Issue No. 40. Article 21. Discipline. Subparagraph 5 (investigations).

- 5. The Employer will conduct disciplinary investigations when it receives complaints or has reason to believe an employee has violated the rules and regulations of the Elgin Fire Department and/or just cause for disciplinary action exists.

In matters where the contemplated disciplinary action involves a suspension or the removal or discharge from employment with the City of a non-probationary employee covered by this Agreement, if practicable, after concluding any necessary investigation but prior to taking any final disciplinary action, the Employer shall notify the employee of the contemplated measure of the discipline to be imposed, and shall meet with the employee involved and inform him of the reasons for such contemplated disciplinary action. Copies of the following documents shall be given to the employee, if so requested in writing, at this notification and review meeting:

~~(a) Allegation of violations of the rules and regulations, and who made them.~~

(a) Statement of charges.

(b) Chief's disciplinary recommendation.

(c) Copies of the employee's relevant past discipline.

The Employee shall provide written acknowledgement of his receipt and review of the above-listed documents.

The employee shall be entitled to Union representation at such meeting if so requested prior to the meeting and shall be given the opportunity to rebut the reason for such proposed discipline.

It is agreed however that in no case shall the suspension or discharge of a probationary employee be subject to the grievance and arbitration procedure of this Agreement..

Issue No. 41. Article 25. Drug and Alcohol Testing.

The City may require an employee to submit to urine and/or blood tests (a) if the City determines there is reasonable suspicion for such testing; or (b) post-accident at the Chief's discretion; or (c) to the extent required by any level of EMT school for employees in such school. Upon request, the City shall provide any employee who is ordered to submit to any such test with a written statement of the basis for the City's reasonable suspicion within 48 hours of the request. There shall be no random testing.

The City shall use only licensed clinical laboratories for such testing and shall be responsible for maintaining a proper chain of custody. The taking of urine samples shall not be witnessed unless there is reasonable suspicion to believe that the employee is tampering with the testing procedure. If the first test results in a positive finding, a confirmatory test (GC/MS - or a scientifically accurate equivalent) shall be conducted. An initial positive test result shall not be submitted to the City unless the confirmatory test result is also positive as to the same sample. If the City, contrary to the foregoing, receives the results of a positive first test which is not confirmed as provided above, such information shall not be used in any manner adverse to the employee. Upon request, the City shall provide an employee with a copy of any test results which the City receives with respect to such employee.

A portion of the tested sample shall be retained by the laboratory so that the employee may arrange for another confirmatory test (GC/MS or a scientifically accurate equivalent) to be conducted by a licensed clinical laboratory of the employee's choosing and at the employee's expense.

Voluntary requests for assistance with drug and/or alcohol problems (i.e., where no test has been given pursuant to the foregoing provisions) shall be held strictly confidential by the Employee Assistance Program and the Fire Department shall not be informed of any such request or any treatment that may be given. Additionally, if an employee tests positive in the testing procedure as outlined herein, the employee may be advised and required to seek assistance through the Employee Assistance Program or, if the circumstances warrant, may be the recipient of appropriate disciplinary action, which may include discharge. If the same employee tests positive a second time, the test results shall be submitted to the City for appropriate disciplinary action, which may include discharge.

Use of proscribed drugs at any time while employed by the City, abuse of prescribed drugs, as well as being under the influence of alcohol or the consumption of alcohol while on duty, shall be cause for discipline, including termination. All other issues relating to the drug and alcohol testing process (e.g., whether there is reasonable suspicion for ordering an employee to undertake a test, whether a proper chain of custody has been maintained, etc.) may be grieved in accordance with the grievance and arbitration procedure set forth in this Agreement.

The City shall be authorized to conduct random drug/alcohol test sampling at its discretion. Such testing shall be conducted under the conditions that are established by the D.O.T. and further, such testing will be limited to no more than 25% of covered employees per calendar quarter. Testing will consist of a standard "5 panel" test and the City will assure that contracted personnel performing the testing do such testing in a manner that follows standard protocol confidentiality and chain of custody rules/regulations.

Covered employees who are selected for testing shall report to the testing center upon request. When tests are conducted during the employees' regular hours, time spent in testing shall be treated as normal work time, and duly compensated. In the event that a test is requested of an employee who would otherwise be "off duty," such time spent in testing will be considered overtime and compensated as such, to a maximum of two (2) hours pay.

In the event that an employee's name is randomly selected and that employee is on vacation, sick time, or not otherwise scheduled, that employee's name shall be re-entered into the random pool for subsequent re-drawing at a time that the employee is regularly scheduled to work.

Issue No. 42. Article 30. Miscellaneous, Section e. Non-City Employment.

Section e. Non-City Employment. Non-city employment of any employee shall not interfere with the duties and responsibilities of his City position nor restrict the performance of his assigned City work. Non-city employment shall be subject to the following conditions:

(a) Any injury during non-city employment resulting in time lost from the City, cannot be charged to accumulated sick leave nor shall there be any additional accrual of vacation and sick hours during such lost time. Eligibility for group medical insurance, life insurance and pension disability benefits will be determined by the respective carrier or agency.

(b) Such non-city employment shall not be incompatible or create a conflict of interest with City duties.

(c) Private business, non-city employment or activity shall not be performed or entered into during working hours or in City offices, buildings and facilities.

(d) 1. Prior to beginning employment with any other business, entity, firm, corporation or service, other than the City of Elgin., employees shall submit a written request to the Fire Chief and obtain written approval for such employment. The written request will contain the following information:

(i) Secondary employer's name, address, telephone number, and type of business.

(ii) A complete description of the type of work and duties to be performed.

(iii) The maximum number of days and hours to be worked within a single week.

(iv) Such other information as will be deemed necessary from time to time by the Fire Chief.

2. A Secondary Employment Form must be submitted to the Fire Chief prior to beginning any secondary employment. Requests shall be resubmitted to the Fire Chief in January of each year for renewal consideration and approval.
3. In order to be eligible for secondary employment, an employee must be in good standing with the Fire Department. Continued Fire Department approval of an employee's secondary employment is contingent upon the employee's acceptable work performance within the Fire Department, including attendance and productivity.
4. If an employee's performance is deemed unsatisfactory or requiring improvement, and the employee does not demonstrate improvement, the approval for secondary employment may be suspended or revoked by the Fire Chief.
5. Employees on medical or sick leave shall not be eligible for secondary employment except under special and unique circumstances when authorized by the Fire Chief.
6. Employees may work a maximum of twenty (20) hours per week performing secondary employment. No employee may work secondary employment within eight (8) hour prior to any scheduled shift with the Fire Department.
7. Work hours for secondary employment shall be scheduled solely upon the employee's availability based upon their work schedule with the Fire Department. No schedule changes or adjustments shall be made to accommodate an employee's secondary employment, and the needs of the Fire Department shall always take precedence.
8. Any employee in secondary employment is subject to callout by the Department in case of emergency.
9. Employees who abuse sick time will not be eligible for secondary employment.
10. Fire Department members are prohibited from soliciting any person, business, or other entity or secondary employment while on duty.

Issue No. 43. Article 35. Term.

See Issue No. 19, above.

Issue No. 44. Side Letter - Subcontracting.

~~SIDE LETTER BETWEEN THE
INTERNATIONAL ASSOCIATION OF FIREFIGHTERS LOCAL #439
AND THE CITY OF ELGIN~~

~~Notwithstanding the subcontracting provision of the parties' 2007-2010 collective bargaining agreement, the City hereby assures the Association that during the term of said Agreement, the City will only use "Automatic Aid Agreement" to provide any fire service that may be necessary as a supplement to, but not as a replacement for, existing services.~~

Issue No. 45. Side Letter - Retirement Incentive.

~~SIDE LETTER BETWEEN THE
INTERNATIONAL ASSOCIATION OF FIREFIGHTERS LOCAL #439
AND THE CITY OF ELGIN~~

~~— This side letter is intended to implement Paragraph 11 of the settlement agreement entered into by the parties hereto on September 27, 2007, relative to the collective bargaining agreement ("Agreement") between the parties hereto effective January 1, 2007 to December 31, 2010.~~

~~— The parties hereto agree that on a one time basis only, for all eligible employees who submit an irrevocable written notice to retire from active service with the Fire Department, such retirement to commence within ninety (90) days from the date of the last ratification by the parties, the City shall pay fifty percent (50%) of the premium cost for the health insurance coverage that the employee had at the time of retirement until age 60, or for a maximum of five years from the date of retirement, whichever occurs first. Such premium cost shall not exceed fifty percent (50%) of the amount paid for a "single plus one" at the time of separation. At age 60, such retirees shall be eligible for the City's retiree health insurance benefit in accordance with Article 16, Section (3) of the Agreement. The terms of this one time benefit shall be non-precedential. Individuals who are not eligible for pension (i.e., deferred retirements) shall not be eligible for this benefit.~~

Issue No. 46. June 2010 Addendum.

Delete the following paragraph from the June 2010 Addendum:

~~Except as stated in this Addendum, the parties agree to maintain the status quo with respect to the terms and conditions of employment and past practices for the Captains that existed prior to Local #439, IAFF becoming the Captain's certified bargaining representative.~~