AWARD OF ARBITRATOR

In the Matter of Interest Arbitration between Palos Fire Protection District and the Palos Professional Fire Fighters Association, Local 4480, IAFF	Opinion and Analysis, Findings of Fact, and Award by Arbitrator Peter Feuille in ILRB No. S-MA-11-007

Date of Award: May 9, 2011

APPEARANCES

For the Employer:

Mr. Nick Cetwinski, Attorney
Mr. Steve Carr, Chief

For the Union:

Ms. Lisa B. Moss, Carmell, Charone, Widmer, Moss & Barr, Attorney
Mr. Arthur Adams, Local 4480 President
Mr. Robert Knez, Assistant Fire Chief

INTRODUCTION AND BACKGROUND

The Palos Fire Protection District ("Employer," "District") and the Palos Professional Fire Fighters, Local 4480, IAFF ("Union") negotiated to generate a successor collective bargaining agreement ("CBA") to succeed the 2005-09 CBA that expired on April 30, 2009 (Union Exhibit 1, Tabs 3 and 4 ("UX 1-T3/4")). During their negotiations, which included mediation (UX 1-T8), the parties were not able to reach agreement. Accordingly, they invoked the interest arbitration procedure specified in Section 14 of the Illinois Public Labor Relations

Act ("Section 14," "Act"). The parties selected the undersigned as Arbitrator, waived the tripartite arbitration panel format and agreed that I would serve as the sole Arbitrator, and in August 2010 the Illinois Labor Relations Board ("Board") appointed me as the interest arbitrator in this matter.

Additionally, the parties waived the Act's requirement in Section 14(d) that the hearing in this matter must commence within 15 days of the Arbitrator's appointment, and the parties agreed to waive/extend Section 14(d)'s hearing and other timelines to accommodate the scheduling needs of the participants in this matter. In particular, the parties agreed I would have up to 60 days from the close of the record to issue the instant Award (Transcript, page 210 ("Tr. 210")). I am most grateful for the parties' willingness to waive/modify the arbitration process timelines contained in Section 14.

By mutual agreement, prior to the hearing the parties (1) identified each issue that each party would put on the arbitral agenda, and (2) exchanged their final offers on each unresolved issue with each other (UX 1, T12-18). Also by mutual agreement, the parties held an arbitration hearing on December 20, 2010 in Palos Park, IL. This December 20 hearing was stenographically recorded and a transcript produced. The parties waived oral closing arguments at the hearing and instead submitted post-hearing briefs. With the Arbitrator's final receipt of these briefs and other post-hearing materials on March 27, 2011 the record in this matter was closed.

THE ISSUES

The record shows that the parties submitted a total of 12 proposals (two from the Union, ten from the Employer) for determination by arbitration. Some of these proposals addressed the same issue, and some of these proposals were resolved during the arbitration process (UX 1-T12-17). The record indicates that the following unresolved issues remain on the arbitral agenda:

1. Term of Agreement (Article 1, Section 1.4)
2. Wages (Article 9, Section 9.1 and Appendix B)
3. Longevity Pay (Article 9, Section 9.1 and Appendix B)
4. Voluntary Call Back (Article 9, Section 9.3)
5. Comp Time (Article 9, Section 9.9)
6. Medical Insurance (Article 17, Section 17.1)

The parties agreed that all of these issues are "economic issues" within the meaning of Section 14(g) of the Act (UX 1-T18).

In particular, the record indicates that three issues on the arbitral agenda at the start of the December 20, 2010 hearing are no longer on the agenda. During the hearing the District agreed to accept the Union's final offers on two minimum manning issues that the District had placed on the arbitral agenda (Article 8, Section 8.7A and Section 8.7B; Tr. 170-172). Because these minimum manning issues have been resolved by the parties, there is no need to delve into their particulars in this Award. Further, in its post-hearing brief the Employer withdrew its proposed issue of "Health Insurance Need to Negotiate Premium Increases" (Article 17, Section 17.1), which means the affected part of Section 17.1 will continue unchanged into the successor

CBA (Employer Brief, page 14 ("Er.Br. 14")). Accordingly, these three issues will not be discussed further.

Additionally, the parties agreed that, because the contract duration and wage issues are intertwined, I will select either the Union's final offers on contract duration and wages, or the Employer's final offers on contract duration and wages (Tr. 195-196).

STATUTORY DECISION CRITERIA

Section 14(g) of the Act mandates that interest arbitrators "shall adopt the last offer of settlement [on each economic issue] which, in the opinion of the arbitration panel, more nearly complies with the applicable factors prescribed in subsection (h)."

Section 14(h) of the Act requires that an interest arbitrator base his or her decision upon the following Section 14(h) criteria or "factors," as applicable. These factors, in their entirety, are:

(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, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

The Act does not require that all of these factors or criteria be applied to each unresolved item; instead, only those that are "applicable." In addition, the Act does not attach weights to these decision factors, and therefore it is the Arbitrator's responsibility to decide how each of these criteria should be weighed. We will use the applicable criteria to make decisions on the issues presented in this proceeding.

ANALYSIS, OPINION, AND FINDINGS OF FACT

The Parties

District. The District provides fire protection/suppression and emergency medical services in Palos Township located in southwest Cook County. The District operates two fire stations serving the District’s 24,000 residents (UX 4) who live in Palos Park, part of the City of Palos Heights, part of the Village of Orland Park, and in the unincorporated area of Palos Township south of the Cal-Sag Channel. The District is governed by a

Board of Trustees (UX 1-T1). As of the date of the hearing in this matter, the District employed a total of 29 full-time employees and eight part-time employees.

Union/Bargaining Unit. The Union is the exclusive bargaining representative for a bargaining unit of 27 full-time employees, including one Assistant Chief, three Captains, six Lieutenants, and 17 Firefighter/Paramedics (UX 1-T7). Among the full-time employees, only the Chief and his administrative assistant are not in the bargaining unit (Tr. 140).

The instant bargaining unit also does not include any of the District's eight part-time firefighters, who are exclusively represented by NAGE/SEIU Local 630 in a separate bargaining unit and covered by a different CBA (Tr. 11; UX 1-T19).

Comparability

As noted above, the Section 14(h)(4) decision factor or criterion states that arbitrators may use comparisons of the employment terms of unit members with employment terms of similar employees in comparable communities. This criterion is customarily referred to as the "comparability" factor. Consistent with the vast majority of Section 14 interest arbitrations, both parties have submitted external comparability evidence into the record. As will be seen later in this Award, this comparability evidence was submitted and extensively relied upon in support of the parties' offers on various issues.

In particular, the Union's external comparability group includes the following organizations:

Bensenville Fire Protection District
Glenside Fire Protection District
North Maine Fire Protection District
North Palos Fire Protection District
Norwood Park Fire Protection District
Palos Heights Fire Protection District
Wood Dale Fire Protection District (UX 4)

The Union argues that its comparison group is superior to the Employer's comparison group on many dimensions and therefore should be used. The Union emphasizes that all of its comparables are other fire protection districts ("FPDs"), meaning they are far more similar organizations to the District than the municipalities the Employer has included in its comparability group (more on this below). In addition, all of the Union's comparables are located within a 30 mile radius of this District, and all of them are similar to this District on at least seven of the nine factors that arbitrators generally have considered when deciding which communities are comparable (see these criteria in UX 4). The Union provided an extensive analysis of its proposed comparable communities and the District's proposed comparable communities to support its request that I should accept the Union's comparables and reject most of the Employer's comparables (Union Brief, pages 13-31 ("Un.Br. 13-21")).

The District's external comparability group includes the following organizations:

Alsip
Chicago Ridge
Mokena Fire Protection District
North Maine Fire Protection District
North Palos Fire Protection District
Palos Heights Fire Protection District
Pleasantview Fire Protection District (Er.Br. 7-11)

The Employer argues that its comparison group is superior to the Union's comparison group and should therefore be used. In particular, the Employer emphasizes that both parties have relied upon the North Maine, Palos Heights, and North Palos FPDs as comparable communities. In addition, the Employer argues that its analysis shows that the Bensenville, Wood Dale, Norwood Park, and Glenside FPDs proposed by the Union are not comparable to this District and therefore should not be used. Moreover, the Employer argues that the municipalities of Alsip and Chicago Ridge, and also the Mokena FPD and Pleasantview FPD, are comparable and should be used (Er.Br. 7-11).[1]

Each party has vigorously argued that I should select and use its comparability group and not use the other party's comparison communities. I find that it is neither necessary nor desirable to make an all-or-nothing choice between the two comparability groups submitted by the parties, nor is it necessary or desirable to engage in an extended analysis of each of the comparable communities submitted by the parties. Certainly the three communities that both parties agree are comparable (North Maine, North Palos, and Palos Heights FPDs) will be used to make comparisons. In addition, we will use other submitted comparables from either party or both parties as

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1. At the hearing the Employer also included as comparables the Homer Fire Protection District and the Village of Oak Lawn. The record should reflect that in its post-hearing brief the Employer withdrew from its comparability group the Homer FPD and Oak Lawn (Er.Br. 8), and as a result the District's comparables include only the seven communities listed in the text above.

appropriate when considering specific issues on the arbitral agenda. We turn to those issues.

1. Term of Agreement (Article 1, Section 1.4)

The expiring CBA had essentially a four-year term from June 1, 2005 through April 30, 2009 (UX 1-T4; Employer Exhibit 1, Tab F ("EX 1-TF")). The record shows that this CBA was the first formal CBA between these parties (Tr. 12).

Union Proposal. The Union proposes that the successor CBA have a four-year duration, from May 1, 2009 through April 30, 2013 (with wage and health insurance contribution reopeners effective May 1, 2012, as shown below in the Union's wage and health insurance offers). The Union supports its proposal with a variety of evidence and arguments. First, the Union notes that its duration offer is the only offer that offers the parties a respite from the process of bargaining and arbitration. The Union points out that the parties began bargaining in January 2009 (Tr. 127), and since then have engaged in negotiations, mediation, and the instant arbitration proceeding for a total of more than two years. The Union argues that this bargaining history is particularly relevant in light of the fact that the District has proposed a two-year contract duration which would produce a new CBA in effect from May 1, 2009 through April 30, 2011. In other words, the selection of the District's duration offer would require the parties to immediately begin bargaining over the terms of a CBA that would follow the CBA that will emerge from the instant proceeding. The Union argues that this

nonstop bargaining serves neither party's interests and detracts from the stability of the parties' bargaining relationship.

In contrast, the Union's four-year duration offer allows the parties the opportunity to step away from the bargaining table and assess the impact of this Award, and then negotiate their next CBA on a more informed basis. Expressed another way, the Union's proposed longer duration would produce more stability in the parties' bargaining relationship than the Employer's proposal of a contract duration that will require the immediate resumption of bargaining for the next contract.

The Union also points out that the comparability evidence supports its duration offer. Examining the duration of the CBAs in effect in its seven comparable communities, the Union points out that two FPDs have four-year contracts (North Maine and Wood Dale), four FPDs have three-year contracts (Glenside, Bensenville, North Palos, and Norwood Park), and only one FPD has a two-year contract (Palos Heights) (UXs 13, 14). In short, the Union says the comparability evidence provides much more support for the Union's contract duration offer than for the District's duration offer.

District Proposal. The District proposes that the successor CBA have a two-year duration, from May 1, 2009 through April 30, 2011. The District supports its proposal with a variety of evidence and arguments. First, the District argues that it is in dire financial straits, which will be examined in more detail later in this Award. As a result of the District's shaky finances, the Employer says it would be very imprudent to make

long-term financial commitments beyond the two-year contract term it has proposed.

Second, the Employer insists that there is no "negotiation fatigue" between the parties that warrants some sort of respite from bargaining. On the contrary, given the uncertain state of the District's financial health, an immediate return to the bargaining table is warranted so that the parties may address the fiscal measures necessary to return the District to sound financial footing.

Third, the District points to both parties' comparables and notes that very few comparison employers have four-year contracts. In the District's comparable communities, only one community (North Maine FPD) has a four-year CBA in effect (EX 1-TD/7). In the Union's comparable communities, only two communities (North Maine and Wood Dale FPDs) have four-year contracts (UX 13). In other words, only a total of two other employers among all the 11 total comparable employers presented in this proceeding have adopted four-year contracts. All the other comparable employers have either three-year or two-year contracts (EX 1-TD/7; UX 13). As a result, the Employer says the comparability evidence when combined with the District's economic uncertainty evidence provides more support for the District's two-year duration offer than for the Union's four-year offer.

Fourth, the District points out that prior to 2005 and the adoption of the expiring 2005-2009 CBA, the parties engaged in informal collective bargaining, in that they negotiated wages and benefits on a recurring basis. As the Union's evidence shows,

during the period 1997-2005, the parties regularly negotiated one-year wage and benefit terms, with one two-year term during 1998-2000 (UX 1-T2; Tr. 11-12). This bargaining history evidence supports the adoption of the Employer's duration offer.

Analysis. Both parties have presented good evidence in support of their contract duration final offers. The combined evidence, particularly the comparability evidence, and arguments of the parties persuade me that the most appropriate contract term would be a three-year duration. However, a three-year contract is not possible, as I have absolutely no authority to modify either final offer to suit my preferences. Instead, I must choose between a two-year and a four-year term.

I find that a four-year term is more appropriate when the applicable statutory decision criteria are applied to the relevant evidence. On the Section 14(h)(4) comparability dimension, the combined comparability evidence does not provide strong support for either offer, but on balance in provides more support for the Union's offer than for the District's offer. Among all the comparison CBAs offered by both parties, the vast majority of these communities have either three-year or four-year contracts in effect (UXs 13, 14; EX 1-TI).

Turning to the parties' bargaining history under Section 14(h)(8)'s "other factors," the parties adopted a four-year duration in the predecessor CBA covering 2005-2009. That stands in marked contrast to the customary one-year terms for their informal wage and benefit agreements during the several years prior to their adoption of formal collective bargaining. Even

though the parties' experience during their informal negotiation period was to routinely adopt one-year terms (UX 1-T2), when they transitioned to formal collective bargaining they adopted a four-year CBA. This mutually agreed-upon change from their prior negotiating behavior is noteworthy. As a result, the bargaining history evidence provides more support for the Union's duration offer than the Employer's offer.

This bargaining history factor assessment is reinforced by the fact that the Union's offer includes a wage reopener for the fourth contract year (2012-2013). This reopener means the parties can return to the bargaining table in early 2012 to address their largest single cost item.

Turning to the "negotiation fatigue" factor under Section 14(h)(8) "other factors," I understand, appreciate, and accept the District's insistence that there is no negotiation fatigue between the parties as a result of the lengthy bargaining and arbitration process that is only now drawing to a close.

However, the old adage that actions speak louder than words applies here. During their negotiations for the successor CBA, the parties held numerous negotiation sessions, and during these sessions they did not reach agreement on *any* new contract terms (Tr. 23-25; Un.Br. 21-22). I believe that the District is correct that what we have here is not a case of "negotiation fatigue." Instead, what we have is a case of negotiation failure. Specifically, if the parties could not reach agreement on anything at the bargaining table during 2009-2010, I cannot understand what useful purpose is served by adopting a two-year

contract duration that mandates the parties to return immediately to the bargaining table. This 2009-2010 negotiation track record indicates that the parties need to adopt another approach than immediately resuming more of the same. The bargaining for the successor CBA was a complete failure (as measured by the absence of any agreed-upon-at-the-bargaining-table terms), yet the District's duration proposal would require the parties to immediately resume this unsuccessful process.

I find that both parties are better served by implementing a successor CBA of longer duration, observing and measuring its impact, and then returning to the bargaining table in early 2013 to negotiate their next CBA armed with this additional information.

Finding. I find, for the reasons explained above, that the Union's four-year contract duration final offer more nearly complies with the applicable Section 14(h) decision factors than does the District's two-year contract duration final offer. Accordingly, I select the Union's last offer of settlement to resolve the contract duration issue.

2. Wages (Article 9, Section 9.1 and Appendix B)

It is tempting to simply select the Union's final offer on the wage issue because I have selected the Union's contract duration offer. However, resolving the wage issue in this selection-by-default manner would do the parties, and particularly the Section 14 interest arbitration process, a disservice. Each party devoted considerable time and energy to

formulating and presenting a final offer on the wage issue, each party gathered a large amount of supporting evidence to support its final offers, and each party relied upon its evidence to argue vigorously for the selection of its offers. The parties' efforts deserve to be analyzed.

Before doing that, it is necessary to understand the parties' salary structure. Each unit member receives a total annual salary that includes (1) a base annual salary based on rank (firefighter, lieutenant, or captain), (2) incentive pay upon attainment of various certifications (e.g., FireFighter III, Engineer, Paramedic, etc.), and (c) seniority raises or longevity pay based upon (1) and (2). All unit members are required to become an Engineer and a Paramedic within a short period of time after their date of hire, so all unit members receive incentive stipends for those two certifications (EX 1-TC). It should be noted that the lieutenant and captain salaries are composed of the firefighter base salary plus an experience-adjusted additional salary for being an officer (UX 1-T4, App. B, UX 1-T5; Un.Br. 26-28). Historically the salaries of lieutenants and captains have increased by the same percentage as firefighter salaries. However, Engineer and Paramedic stipends are in flat dollar amounts and do not increase along with base salaries unless those dollar amounts are separately negotiated upward (Tr. 51-58).

Longevity pay, which begins after the completion of ten years of service and increases thereafter in five-year service intervals, is a percentage of all of the components of an

employee's pay, and when longevity pay is added to these other components the result is the employee's total salary for a given year. UX 1-T5 presents an example, using 2008 wage rates, of how an employee's total salary is calculated.

The parties will note that in "The Issues" section above, I listed "wages" and "longevity pay" as two separate issues. I did so because the Employer presented separate final offers on wages and on longevity pay. Accordingly, what follows in this analysis of the wage issue does not include an examination of the parties' longevity pay offers and supporting evidence. Instead, I will examine the longevity pay issue in the next section of this Award.[2]

Union Proposal. The Union proposes the following wage offer (UX 1-T13). First, Article 9, Section 9.1 will have the following added as a new second paragraph:

"Wages shall be retroactive to May 1, 2009 hour for hour for all paid hours. For those individuals who have voluntarily left the payroll, retroactive wages shall be paid pro-rata from May 1, 2009 until the employee's last date of employment."

Second, the actual wage rates are not contained in Article 9 but in Appendix B. The Union's proposal calls for the 2008-2009 salary rates in Appendix B to be increased as follows:

2. The Union disagrees with the Employer's bifurcated approach to wages and longevity on the grounds that Section 9.1 and Appendix B address wages and longevity pay, and therefore wages and longevity pay should be examined together (Un.Br. 25). I agree with the Union's analysis of the content of Section 9.1 and Appendix B. Nevertheless, in fall 2010 the Employer presented wages and longevity pay as separate issues for arbitration, and then submitted separate final offers on these two issues (UX 1-T14/15), all without objection from the Union. As a result, the longevity pay issue will be analyzed as a separate issue.

Effective May 1, 2009	1 percent
Effective May 1, 2010	2 percent
Effective May 1, 2011	3.5 percent
Effective May 1, 2012	Wage Reopener

Third, the Union's proposal calls for the retention of the same salary setting process that has existed for several years between the parties. This third element in the Union's wage offer is better addressed as part of the longevity pay issue, which is examined in the next section.

The Union supports its wage offer with a variety of evidence. The Union places great emphasis on its comparability evidence. On the internal comparability dimension, the District employs part-time firefighters, who are in a separate bargaining unit represented by NAGE/SEIU Local 630 ("Local 630"). The District and Local 630 agreed to a CBA covering the period November 3, 2009 through May 31, 2011 (EX 1-TF). The District agreed to a wage increase of three percent effective April 30, 2010 and another three percent increase effective May 1, 2010 (Local 630 CBA). This amounts to a six percent wage increase over two days. The Union says this part-timer wage increase amounts to far more than the three percent increase proposed by the Union for the first two years of the new CBA in the instant unit, and almost equals the 6.5 percent increase proposed by the Union for the first three years of the new CBA.

Turning to its external comparables, the Union notes that the bargaining units in its seven comparable communities received an average increase of 4.18 percent during 2009 (UX 8). That is much higher than the one percent increase the Union proposes for this unit for that year. For 2010, these same comparable

communities agreed to an average increase of 2.96 percent. Again, that amount is significantly higher than the two percent the Union proposes for this unit for that year. For 2011, five of the comparable communities have agreed to wage increases averaging 2.90 percent (two of these communities have not yet determined their 2011 wage rates; UX 8). Only in the third contract year does the Union's proposal of a 3.5 percent increase exceed the average increase adopted in the comparable communities (UX 8).

For the three-year period 2009 through 2011, the Union notes that among the comparable communities that have adopted pay increases for each of those three years, the total average increase across this period is 10.04 percent, which is an annual average increase of 3.35 percent (UX 8). In contrast, the Union seeks only a 6.5 percent increase across this three-year period, which is an annual average increase of only 2.17 percent.

The Union also points out that its comparable communities did not agree to the wage increases presented in UX 8 during the flush economic times that existed prior to the economic meltdown that hit the country starting in fall 2008. Only the Wood Dale FPD, which agreed to a new CBA in September 2008, adopted an agreement prior to the start of this period of economic adversity.

The Union notes that during 2008 unit members enjoyed the number one pay ranking among its seven comparable communities at each measured year of service except for starting pay (UX 7, p. 1). The Union notes that if its wage offer is selected, some of

its most junior unit members will no longer be the highest paid among the Union's comparison group, but during the heavy majority of their careers most of this unit's members will continue to maintain their number one pay ranking (UX 7, p.7). The Union notes that its offer seeks only to approximately maintain its relative pay standing among its comparable peer group. In contrast, the Union argues that the District's wage proposal would reduce the bargaining unit's relative pay standing among its comparable communities (UX 7). The Union says the District has offered no persuasive justification to explain why unit members should see their relative pay standing reduced.

Turning to increases in the cost of living under the Section 14(h)(5) decision factor, as measured by the Consumer Price Index ("CPI"), the Union argues that CPI data provide much more justification for the selection of its offer than the District's offer. The Union's revised UX 9 ("UX 9R") shows that the CPI increased 2.98 percent from May 1, 2009 through January 31, 2011. The Union has proposed a three percent increase during this period, but the District has proposed only a two percent increase. The Union's offer is the only offer that allows unit members' pay to keep pace with increases in the cost of living.

In response to the District's inability to pay argument pursuant to the Section 14(h)(3) decision factor, the Union argues that the District has failed to meet its burden of proving that it cannot afford to fund the Union's wage offer. The Union notes that over the years Section 14 interest arbitrators have established that employers advancing an inability to pay claim

face a very heavy burden of proving it (Un.Br. 38-39). The Union argues that the District has not come close to meeting its burden in this instance. For starters, the Union notes that during the first two contract years at issue here, the District has proposed a two percent pay increase and the Union has proposed a three percent pay increase. However, the District has made no effort to explain how it can afford to fund its own offer for those two years but not the Union's slightly larger offer, particularly in light of its claims that the District is heading toward insolvency.

The Union says the District's multi-year deficit claims deserve close scrutiny. The District presented evidence showing that for the three years 2008-2010, it accumulated $1,834,680 in deficits due to its expenditures exceeding its revenues by that cumulative amount during those three years (EX 3-T1). The Union says the District failed to note that its "personnel expenditures," which increased sharply in 2009 from 2008, increased substantially because the District hired six new firefighters from March through May of that year as a direct result of its federally funded SAFER grant (UX 1-T6, the SAFER grant will be discussed in more detail below).

The Union also notes that the District did not include among its listed revenue the SAFER grant funds of $234,000 it received during the 2009-10 year (UX 10; Tr. 99). In addition, the District failed to mention the $384,000 in ambulance fees it estimated it would collect during that same year (UX 10).

The Union points out that the only revenue source presented by the District in its financial analyses is its property tax receipts received through 2010 (EX 3-T1). The Union says the District not only has not presented any other sources of revenue, it has not listed the increase in property taxes it will collect as the result of a passage of referendum in April 2009 that will generate an additional $354,000 per year increase in its property tax revenues (Tr. 98-101). This referendum approval occurred early in 2009, but the increased taxes did not begin to flow into the District until late 2010 (Tr. 99-100). In addition to increased property taxes, the District has projected a substantial increase in ambulance fees for the 2010-2011 year (UX 11), additional SAFER grant funds for 2010-2011 (UX 11), and an overall improvement in its revenue situation for 2010-2011 compared with 2009-2010. The District's total estimated receipts for 2009-2010 were $4,534,665 (UX 10). The District's estimated total receipts for 2010-2011 are $5,202,690 (UX 11), which is a substantial year-over-year revenue increase.

Under the Section 14(h)(7) decision factor of "changes in any of the foregoing [the Section 14(h) decision factors] during the pendency of the arbitration proceedings," the Union submits UX 19, which is a copy of the District's Board of Trustees' February 8, 2011 meeting. The Union notes that these minutes refer to the fact that the Shadow Ridge Subdivision was erroneously omitted from the District's property tax when the property was sold to a private developer. The Union notes that the District is taking action to correct this error and collect

taxes from Shadow Ridge property owners, including collecting back taxes for prior years (UX 19). The Union says that the inclusion of Shadow Ridge property taxes in the District's revenue stream will provide the District with additional tax revenues beyond those discussed above.

In short, the Union says that a careful look into the District's finances reveals that the District is financially healthier than the District's evidence and arguments indicate. The District incurred deficits in 2008 and 2009 (EX 3-T1), but it provided substantial wage increases during those two years (UX 1-T5). Further, the District's 2010 deficit was a great deal smaller than its 2009 deficit, and its 2011 deficit (if any) should be significantly smaller than in 2010 due to the inflow of increased tax, fee, and grant revenues. Accordingly, the Union argues that the District can afford to fund the Union's wage offer.

For these reasons, the Union says that its wage offer should be selected.

District Proposal. The District's wage offer actually consists of two separate wage offers, one for each year of the two-year contract duration period the District proposed (one proposal for 2009-2010, and a second proposal for 2010-2011). First, for the 2009-2010 year, the District proposes a wage freeze, which means that the wage rates in effect during the 2008-2009 year would continue unchanged for the 2009-2010 year. Second, for the 2010-2011 year, the District proposes that the base salaries in Appendix B would be increased by two percent (EX

1-TB). However, for expository convenience we will refer to these combined Employer wage offers as one "offer" or "proposal."

The District supports its wage offer primarily by an inability to pay, or "affordability," argument pursuant to Section 14(h)(3). To begin, the District disputes the Union's reliance on the budget figures presented in UXs 10 and 11. The District emphasizes that budgets are only estimates of expenditures and revenues for the fiscal years in question. The budget figures in these two Union exhibits do not present actual revenues and expenditures. Instead, the figures that matter most are the revenue and expenditure amounts shown in the District's annual audits, which are presented in EX 3-T2-6. These audit figures show the actual revenues received by the District and the actual District expenditures for each of the 2006 through 2010 fiscal years. The District says that these audits show that the District is heading straight for financial insolvency unless corrective action is taken immediately. Specifically, the District emphasizes that its audits show that during the most recent three fiscal years (2008, 2009, 2010) for which audits are available, the District accumulated a total of $1,834,680 in deficits (EX 1-T1). This works out to an annual average deficit during those years of $611,560. Hand-in-hand with the increased accumulated deficit, the District's net assets at fiscal year-end have declined from $5,722,295 on April 30, 2007 to $3,589,007 on April 30, 2010, which is a total decrease in net assets of $2,133,287. This works out to an annual average decrease in net assets during these three years of $711,096 (EX 3, T1). The

District also says it is sound fiscal policy to have at least six months of the District's annual expenditures in the year-end fund balance to cover unanticipated costs/expenses that may arise. On April 30, 2010, the District's ending fund balance was $2,129,115, which failed to meet this target (EX 3-T6).

As noted, the District emphasizes that these audited figures portray the District's actual financial condition far more accurately than do budget projections. The District also emphasizes that after 2007 the District has operated in a sea of red ink, in that expenditures have far exceeded revenues during each of the past three fiscal years, with the result that the District's net assets and ending fund balances have drastically declined during this period. Additional evidence of the imbalance between revenues and expenditures is seen by the fact that personnel expenditures have exceeded property tax receipts for each of the past three years, which means that property taxes no longer cover even the District's labor costs, let alone any of the District's other costs (EX 3-T1).

The District says that the audited financial information in the record shows that the District is inexorably headed toward financial insolvency unless significant action is taken to cut the District's costs. The District says that its wage offer is only a first step in that direction and should be selected. The District says the selection of the Union's wage offer would exacerbate the District's financial woes and move the District closer to insolvency.

The District also says that, pursuant to Section 14(h)(4), employee salaries in its comparable communities support the selection of its offer. For instance, when the District compares its employees' 2008 wage-freeze salaries with the 2009 salaries of employees in its comparable communities, its employees still rank very high through various years of experience, and will continue to be in first place during the 10, 15, and 20 year experience marks (EX 1-TE). In other words, during the new contract's first year with a wage freeze, District employees will remain among the highest paid employees in the District's comparable communities.

The District also says that its wage offer is supported by cost of living data. In particular, the District points to the Consumer Price Index for All Urban Consumers ("CPI-U") that was released in November 2010. The CPI-U for the Chicago area increased only 0.4 percent during the November 2009 to November 2010 period (EX 1-TE). This period covers part of the new contract's 2009-2010 year and part of the contract's 2010-2011 year. The District's two percent wage increase offer for the 2010-2011 year more than covers this tiny increase in the cost of living during this period.

For these reasons, especially the District's financial condition, the District says that its wage offer should be selected.

Analysis. Looking first at the *comparability* evidence under Section 14(h)(4), we examine the *internal comparables*. The only point of comparison in the record is with the District's part-

time employees, whose pair of three percent increases in April/May 2010 the Union used to justify its wage offer (Tr. 133-134). The Employer responded that this comparison was highly inappropriate (Tr. 1334-135). I emphatically agree with the Employer. I do so not because of any differences in employee duties across these two groups. In fact, I fully agree with the Union that the part-timers "perform work of a similar nature" to the full-timers (Un.Br. 32).

Instead, I agree that this comparison is inappropriate because the District deliberately created its part-time positions to be positions which receive a much lower wage rate than the full-time positions, and which receive no monetary fringe benefits, in stark contrast to the compensation package for full-time positions. The evidence shows that the District's eight part-time employees are paid about $15.00 per hour, and they receive no monetary fringe benefits (EX 1-TC; EX 1-TF). In contrast, the average salary among full-time employees is about $77,000 (EX 1-TC), and they receive a generous package of fringe benefits (e.g., see the expiring CBA). These two employee groups may perform the same kind of work, but the wage and benefit structures for the District's part-timers and full-timers are so dramatically different they are in separate compensation solar systems. As a result, I find that any attempt to justify wage increases for the full-time employees by using the percentage wage increases the District adopted with its part-time employees in 2010 is a complete nonstarter. There simply are no worthwhile wage increase comparisons that can be made between the District's

very modestly paid part-timers and the District's very well paid full-timers. As a result, the internal comparability evidence will not be considered further.

Turning to the *external comparables*, we first look at *annual dollar pay rates*. The evidence shows that unit members' annual 2008 salaries rank very high among comparable communities, and that high ranking holds when either the Union's comparables are used or the Employer's comparables are used (UX 7; EX 1-TE). In fact, at experience levels beyond the employees' first few years, unit members rank in the top spot in these external comparisons (UX 7; EX 1-TE).

The Union's analysis shows that, regardless of which wage offer is selected, unit members will continue to enjoy their lofty salary ranking at most experience levels among the comparable communities in the record (UX 7). It is certainly true, as the Union points out, that the unit members' percentage pay advantage over their peers in these comparable communities will shrink if the Employer's 2.0 percent wage increase offer is selected compared to the selection of the Union's 6.5 percent wage increase offer (UX 7).

The Union also argues that this unit's pay advantage, which it measures as "DFA" – "difference from [salary] average" among its comparable communities – should be maintained as near the pre-dispute status quo as possible. I understand the Union's desire to maintain the size of the pre-dispute DFA. However, the Union's evidence shows that unit members' DFA advantage during 2009 and 2010 remains significantly positive regardless of whose

offer is selected, and the size of the DFA difference between the two offers is very modest during those two years. In 2011, when the Union proposes a 3.5 percent increase and the District does not have a wage increase proposal, does the unit members' DFA grow significantly and become very similar to the same size as the DFA that existed in 2008 (UX 7). In other words, this unit's wage DFA remains very substantial throughout the 2009-2011 period (UX 7).

Pulling all of this annual salary rate information together, this part of the comparability evidence provides support for the selection of either offer, for under either offer most unit members clearly will remain the highest paid employees in both comparability groups.

Turning to the comparison of *percentage pay increases* in comparable communities during the relevant contract years in this proceeding, the evidence shows that the Union's comparable communities have agreed to wage increases that average about 10 percent (10.04 percent, to be precise) across the 2009, 2010, and 2011 contract years (UX 8). The Employer did not submit any evidence about percentage wage increases in its comparability group, so we must rely upon the Union's evidence on this dimension. This percentage wage increase evidence provides strong support for the selection of the Union's proposed 6.5 percent total increase across these three years and no support for the selection of the Employer's proposed 2.0 percent total increase across the first two of these three years.

Looking next at the *cost of living* evidence under Section 14(h)(5), the Employer says its offer is large enough to cover any COL increase during one year that spans parts of both the 2009-2010 and 2010-2011 contract years (EX 1-TE). In contrast, the Union says that only its offer provides a wage increase that enables unit members to keep up with CPI increases during most of the 2009-2011 years (UX 9). Neither party submitted any evidence showing how forecasted COL increases during the 2011-2012 year compare with the Union's proposed 2011-2012 3.5 percent wage increase offer. Taken together, I find that the combined CPI data submitted by the parties is not particularly helpful in making a decision between these two wage offers (EX 1-TE; rev. UX 9). As a result, the cost of living evidence will not be considered further.

Turning to what is easily the most contentious body of evidence regarding pay rates, we come to the *ability to pay* evidence under Section 14(h)(3). There is no question that the District has experienced a very substantial decline in the strength of its balance sheet during the past three years. During this period it has spent considerably more money each year than it has received, with the result that there has been a significant decline in its ending fund balance and in its net assets over these years (EX 3-T1).

The District says that it is in a financial crisis and its fiscal solvency is at stake. The Union demurs and argues that the District's finances are healthier than the District has portrayed. I find that there is some merit in each of these

assessments. For instance, it is clear that if the District continues to spend an average of $600,000 more than it receives in revenue each year, the District in fact will become insolvent in a few more years. At the same time, the District is experiencing substantial growth in its revenues.

Why has the District generated so much red ink during the past three years? The obvious answer is that it has increased its expenditures faster than its revenues. But why has that happened? The key to this answer lies in the 2008, 2009, and 2010 fiscal years. During those years the District spent $1,834,680 more than it took in (EX 3-T1/2). And the worst of these years was 2009, when the District spent $1,115,377 more than it received (EX 3-T1/2). What caused this large amount of deficit spending?

The three most visible answers are (1) the District hired six new employees near the end of the 2009 year under the SAFER grant it obtained from the federal government (EX 1-T1);[3] (2) the SAFER grant provided income to cover only about 25 percent of the new employees' compensation, with the District obligated to pick up the balance of the cost of employing these new hires (UX 2); (3) as discussed in the next paragraph, the District hired additional non-SAFER grant employees (EX-TC/1); and (4) the District paid its unit members much higher salaries during the

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3. "SAFER" is an acronym for Staffing for Adequate Fire and Emergency Response grants. These grants are awarded by the Federal Emergency Management Administration's National Preparedness Directorate in the Department of Homeland Security (UX 2).

2008-2009 year of the predecessor CBA than it did during the 2007-2008 year (UX 1-T4/App.B).

As noted, the hiring of new employees was not limited to hiring the six employees with SAFER grant funds. The record shows that when we examine the longer period September 1, 2006 through May 1, 2010 the District added a net of 14 new employees to the bargaining unit roster (EX 1-TC; this includes Dennis Wokurka, who resigned shortly before the hearing). This represents a doubling of the size of the bargaining unit during these four years (EX 1-TC). As a result, it is hardly surprising that "personnel expenditures" and "total expenditures" increased dramatically during this period. In fact, the District's evidence shows that from the 2006FY through the 2009FY the District's personnel expenditures increased by a bit more than one million dollars (EX 3-T1/5; from $3.029M to $4.034M). I realize that figure includes non-unit employees, but the lion's share of this increase went to unit members. Similarly, during that same period the District's total expenditures increased by about $940,000 (EX 3-T1/2; from $4.024M to $4.965M).

In addition to hiring many more unit members during this period, during the 2008-2009FY the base salary rates paid to unit members increased by an average of about 25 percent on May 1, 2008 over the base salary rates paid during the 2007-2008FY (EX 3-T1/2), at least according to my calculations based on the base

salary figures in Appendix B in the 2005-2009 CBA.[4] We cannot calculate how much this May 1, 2008 increase in Appendix B salary rates increased the total salaries paid to unit members during the 2008-2009FY, for the record does not tell us what the total unit salaries were during the 2007-2008FY. However, with this outsized increase in salary rates taking effect on May 1, 2008, combined with the hiring of several new employees during this period, it is not at all surprising that the $1.6M in total salaries paid to unit members during 2008-2009 will continue to increase regardless of whose offer is selected (UX 12R).

At the same time, it is important to note that the District's dramatically increased salary rates, combined with the hiring of many new unit members, are the primary drivers of the District's very large run-up in personnel expenditures and total expenditures (EX 3-T1). It is even more important to note that the District decided to undertake these actions. There is not a scrap of evidence to indicate that these District decisions were mandated by higher governmental authority or were forced upon the District against its will or were otherwise involuntary District decisions.

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4. Using the numbers in the "base salary" boxes at the top of the page in CBA Appendix B, my calculations show that the base salary in May 2008 increased by 27.9 percent for a starting firefighter, by 26.6 percent for a 1st year firefighter, by 25 percent for a 2nd year firefighter, by 23.9 percent for a 3rd year firefighter, and by 22.5 percent for a 4th year firefighter, over the comparable rates in effect during the 2007-08 year (UX 4, App. B). There is nothing in the record that explains why the parties agreed to these unusually large one-year increases in unit members' base salaries.

Turning to the revenue side of the District's finances, the evidence indicates the District's revenue status improved significantly during 2010 compared with 2009, and will again improve significantly in 2011 compared with 2010. The District's FY2010 audit report shows that total revenues increased by $684,000 in 2010 over 2009, and that total revenues were $4,523,335 (EX 3-T6/vii). This $4,523,335 audited total revenue amount is very close – within one-half of one percent – to the District's year-earlier estimate that it would collect $4,546,666 in 2010 total revenues (UX 10, p. 2).

The District has estimated that during FY 2011 its property tax revenues will increase by $480,000 over 2010, its ambulance fees will increase by $146,000 over 2010, and that its total revenues will be $5,202,690 (UXs 10, 11). This means the District believes it will collect $679,355 more revenue in 2011 than in 2010 (UXs 10, 11). I agree with the District that estimated or forecasted amounts may not prove to be precisely accurate (Er.Br. 12). At the same time, as shown above, the District was very accurate in forecasting its total 2010 revenues (UX 10; EX3-T6). Further, it is hard to believe that the District would officially certify this 2011 revenue forecast to the Office of the Cook County Clerk unless the District's Board believed that this forecast was generally on target. In sum, this combination of actual revenues received for 2009 and 2010 and forecasted revenues for 2011 shows that the District's revenues will increase from $3,849,771 in FY2009 to about $5,202,690 in FY2011, an increase of about $1.35 million during

this three-year period. This is a very hefty two-year revenue increase and will help the District maintain a closer connection between annual revenues and expenditures going forward.

Further, the combined revenue and expenditure evidence shows that the District's financial situation worsened because the District's revenue increases lagged behind the District's expenditure increases by one year (EX 3-T1; UXs 10, 11). Expressed another way, the District has significantly increased its expenditures one year ahead of the significant increases in its revenues. The resulting deficit spending during the 2008-2010 period is the not-surprising result.

Turning back to the expenditure side, the District estimated it would spend a total of $5,085,293.28 during 2010 (UX 10). In fact, its actual (audited) total expenditures were either $4,934,677 (EX 3-T1) or $5,033,532 (EX 3-T6/vii/2). In other words, the District's 2010 estimated expenditure was generally accurate, and the District over-estimated its 2010 expenditures by a modest amount.

For 2011, the District forecast its total expenditures at $5,624,890 (UX 11). The District's 2011 fiscal year just concluded on April 30, 2011, so we do not yet have an audit report for 2011, and therefore we don't know what the District's actual 2011 expenditures were. However, there is no reason to doubt that the District's 2011 expenditures will be larger than its 2011 revenues, in spite of substantial revenue growth during 2011.

We are most concerned about how much the District will spend on bargaining unit costs, and in particular bargaining unit wages. The District's evidence does not include any expenditures limited to bargaining unit wages. The closest District figures are its estimates for "fulltime wages," which includes two employees who are not in the bargaining unit. The District has estimated it will spend a total of $2,750,000 for "fulltime wages" in its corporate (fire protection) fund, its ambulance fund, and its rescue fund during 2011 (UX 11). For 2010, the District forecasted it would spend $2,536,440 for "fulltime wages" in its corporate fund and ambulance fund (UX 10; there is no rescue fund included in the 2010 budget). This is an estimated increase of $213,560, or 8.4 percent more, in wages paid to fulltime employees during 2011 compared with 2010. We know that the lion's share of this money will be paid to bargaining unit members.

For its part, the Union calculates that for fiscal 2009, the total cost of its wage offer will be $18,308 more than the District's offer (UX 12R, p. 5). For fiscal 2010, the Union calculates that the total cost of its offer will be $31,668 more than the cost of the District's offer (UX 12R, p. 7). For fiscal 2011, the Union calculates that the total cost of its wage offer for the bargaining unit will be $2,347,502 (UX 12R, p.9). Because the District did not present a 2011 wage offer, it is not possible to calculate the cost difference between the Union and District offers for that year. However, this Union-calculated 2011 amount represents a $160,970 increase over the cost of the

Union's 2010 wage offer (UX 12R, pp. 7, 9). In addition, this Union-calculated amount is about $400,000 less than the District's forecasted expenditure of $2,750,000 for fulltime wages in 2011 (UX 11; again, the "fulltime wages" figure includes wages paid to two non-unit employees).

Pulling this together, the evidence in the record shows that the declines in the District's ending fund balances and net assets are a direct result of the spending decisions the District made during the 2006-2011 period, and particularly during the 2008-2011 period. During the 2008-2011 period the District substantially pushed up its expenditures by (1) agreeing to an outsized wage increase for 2008-2009, and (2) hiring eight new employees during 2009 and early 2010. My point is most emphatically *not* that the District made mistakes or bad choices in any of its expenditure decisions. On the contrary, I am certain that the District is better able to serve the needs of the District's residents now than in 2008.

Instead, my point is that, after the District decided to spend a great deal of money in the manner described above, which resulted in the District spending more than its revenues in 2008, 2009, and 2010, and almost certainly again in 2011, the District's plea of "financial crisis" in this proceeding comes across as "we've spent ourselves into the red and now we need to be rescued from our prior spending decisions with an unusually modest wage increase." In other words, the District seeks to have unit members bear a significant share of the cost of the District's spending decisions.

The District's finances, particularly its estimated FY2011 ending fund balance, indicate that the District can afford to fund either of the wage offers in the record (UX 11). There is no question that the District's more modest wage offer will increase costs less than the Union's larger wage offer, and thus the District's wage offer will fit more comfortably in the District's budget for the contract years in dispute. But we have seen above that the District's revenues increased significantly during 2010 over 2009, and the forecasted 2011 revenue increase also is quite substantial (UXs 10, 11). In addition, there is no evidence in the record to indicate that the sharp spike in total costs the District experienced in 2009 will be repeated during any of the other years in dispute here.

As a result, I find that the ability to pay evidence provides more support for the District's offer than for the Union's offer. At the same time, the District's finances indicate that the District can afford to fund either offer.

This latter conclusion is reinforced by the fact that the Union's four-year wage offer calls for a wage reopener effective May 1, 2012. This wage reopener will give both parties the opportunity to address the District's largest cost item at the bargaining table starting in early 2012.

Finding. I find, for the reasons explained above, that the Union's four-year wage final offer more nearly complies with the applicable Section 14(h) decision factors than does the District's two-year wage final offer. Accordingly, I select the Union's last offer of settlement to resolve the wage issue.

I note that both parties agree that retroactive wages shall be paid on a pro-rata basis to those former employees who voluntarily left the payroll after May 1, 2009, with such payments covering the period from May 1, 2009 until the former employee's last day of employment. At the hearing the parties agreed that there is only one former employee who is eligible for such an increase – Dennis Wokurka. The record shows he was hired on May 1, 2010 and his last day of employment was December 15, 2010 (EX 1-TC; Tr. 38). As a result, Mr. Wokurka will receive a three percent increase in his pay for the period May 1, 2010 to December 15, 2010 (the one percent increase effective May 1, 2009, plus the two percent increase effective May 1, 2010, plus the compounding effect included).

Neither party's wage offer says anything about how the retroactive pay process will be handled (when and how will unit members will be paid their retroactive pay?). As a result, I must leave the details of this retroactive payment process in the parties' hands to be worked out and implemented. I am confident that they can agree on a reasonable retroactive payment process. If there are any problems implementing the retroactive payment process, I am available to assist the parties in resolving any such problems.

3. Longevity Pay (Article 9, Section 9.1 and Appendix B)

The parties' salary-setting method, based on the dollar amounts in Appendix B, is explained in UX 1-T5. Appendix B contains firefighter base salaries for the first five years of

experience (starting, first, second, third, and fourth years). Appendix B also contains an Engineer stipend and a Paramedic stipend, which each unit member receives because each unit member is required to be certified as both an Engineer and a Paramedic. It also contains a variety of other stipends that are paid when a unit member is certified in other specialties. Additionally, it contains lieutenant base salaries and captain base salaries which are experience-based (start, after five years as a lieutenant or captain, after ten years as an officer, etc.). However, the officer base salaries are not inclusive (i.e., from zero). Instead, they are increments that are added to the highest firefighter base salary. For instance, in 2008 the highest firefighter base salary was $76,089.36. A lieutenant with five years' experience as a lieutenant that year was paid $5,889.08 plus the firefighter top base salary of $76,089.36 plus the Engineer stipend (of $1,750 regardless of experience) plus the Paramedic stipend (which varies from $1,750 to $5,000 depending on experience).

Then, unit members receive longevity pay which is calculated as a percentage of all of the above components according to an experience schedule. The longevity amounts are three percent after ten years' experience, two percent more after 15 years' experience, three percent more after 20 years' experience, and so on. As this indicates, this longevity amounts are compounded and cumulative (three percent plus another two percent plus another three percent, etc. at each of the five-year longevity milestones, to a maximum of 13 percent after 30 years' service).

District Proposal. The District proposes to change the manner in which longevity pay is calculated. Specifically, the District proposes that Section 9.1 in Article 9, effective May 1, 2010, be modified to read (the new language is underlined):

Section 9.1 Wage Schedule

Employees will be compensated according to the current wage, incentive, and longevity schedule as stated in Appendix B. ***However, longevity percentages are to be calculated solely upon the 'base salary' and no other pay adjustments provided for within Appendix B****.*

The District says that its proposal would base longevity pay increases for officers (lieutenants and captains) only on the base salary specified in Appendix B and would exclude their officer pay increments and their certification stipends. The District says its proposal would affect only nine unit members and generate $9,625 in present cost savings (EX 1-T12).

The District says that officers in the unit get a "quadruple dip" in the longevity pool as follows: their first dip is based upon their years of service as an officer, their second dip is based upon their total years of service in the District, their third dip is based on length of time they have held their paramedic stipend, and their fourth dip is based upon their engineer stipend. The result is that the existing longevity pay method automatically increases each stipend and increment above the contractually stated amount. The result is that long-service officers receive thousands of dollars per year in longevity pay over and above their accumulated base pay and certification stipends.

The District emphasizes that it is not proposing to do away with any of the five-year increments in the longevity pay schedule, nor is it proposing to reduce any of the percentage increases at any point in the longevity pay schedule. Rather, it is merely attempting to rein in what are clearly some runaway longevity pay-generated costs.

Union Proposal. The Union proposes that the longevity pay status quo continue unchanged into the successor CBA.

The Union points out that during the period when the parties engaged in informal bargaining over wages and benefits, the parties determined salaries by the same method that they adopted in their 2005-2009 CBA. As a result, for the past 12 years the parties adopted and used the same wage-setting structure (UX 1-T2/4; Tr. 57-58). In other words, the Union says the parties' bargaining history provides very strong support for the retention of the existing wage-setting structure and no support for the District's proposal to substantially revise how longevity pay increases are calculated. The Union's examples of the adoption and implementation of this District proposal show that it would reduce most employees' total annual salary by hundreds of dollars (Un.Br. 28-29).

The Union also is critical of the District's longevity pay proposal on the grounds that it will reduce the historical pay differentials of officers – lieutenants and captains – over firefighters. Over time the exclusion of the officer portion of the officers' salaries from the longevity pay calculations would steadily erode this officer pay differential. The Union says

there is no evidence in the record to justify why the historical practice of providing the same percentage pay increases to officers as to firefighters should be terminated as proposed by the District.

Analysis. By far the most compelling decision factor on this longevity pay issue is the parties' bargaining history, under Section 14(h)(8)'s "other factors." The parties' bargaining history shows that since 1997 the parties have used the same pay-setting method (UX 1-T2/4). In particular, in their expiring 2005-2009 CBA the parties formally adopted the same wage-setting structure that they had used during several years of informal bargaining. This method included the calculation of longevity pay increases in a manner that is the same for officers and firefighters (see UX 1-T5).

In light of the parties' long-term mutual agreement on this pay-setting method, the District has not offered persuasive justification for why the officers' longevity pay increases should be calculated in a manner that is different and less generous than how the longevity pay increases are calculated for firefighters. I agree with the District that the existing longevity pay calculation method adds several thousand dollars to the District's labor costs each year (Er.Br. 27-29). However, this fact is not sufficient to adopt a revised longevity pay calculation method that will subject the officers to invidious compensation treatment compared to the firefighters.

In contrast, the Union proposal to continue the historical longevity pay calculation method unchanged for all unit members

is strongly supported by the parties' bargaining history, as explained above.

Finding. I find, for the reasons explained above, that the Union's longevity pay offer more nearly complies with the applicable Section 14(h) decision factors than does the District's longevity pay offer. Accordingly, I select the Union's last offer of settlement to resolve the longevity pay issue.

4. Voluntary Call Back (Article 9, Section 9.3)

Under existing voluntary callback procedures, the District notifies off-duty employees of an alarm, or call-out, by alerting them via a pager (Tr. 176). If an off-duty employee is within a reasonable distance of the station, the employee may on his own initiative decide to report to the station and be available to respond to a call for service that may come in while the regularly assigned crew is out responding to the initial call. The employee also may respond to a general alarm, which often involves a structural fire, by reporting to the station, putting on his fire protective gear, and then reporting to the fire scene (Tr. 176-177, 182). Employees who reside closer to the District's stations, not surprisingly, generally respond more frequently to callbacks than other employees (Tr. 184-185). Assistant Chief Robert Knez estimated that 25 to 30 percent of employees consistently respond to callbacks (Tr. 184-185).

Employees who respond to general alarms receive a minimum of one hour's overtime pay. Employees who respond to other alarms receive overtime pay in half hour increments.

District Proposal. The District proposes that Section 9.3 in Article 9 would be revised to read as follows:

Section 9.3 Voluntary Call Back

Employees may ***not*** *return to the station for voluntary call backs for the purpose of manning the station and apparatus* ~~*except for emergency minor alarms.*~~ ***Callback of employees shall be subject to the discretion of the Officer in Charge of the shift.*** *Employees will be compensated at a minimum of* ~~*one*~~ ***two (2) hours*** ~~*hour for General Alarms and at half hour increments for all other allowable alarms*~~ ***any such callbacks.***

The District supports its proposal with the following. Currently any employee may respond to any callback opportunity, which typically are generated when apparatus leave the station with on-duty employees, thereby leaving the station understaffed in case one or more subsequent calls for service should come in while the first apparatus is occupied at the scene of the initial call. In other words, callbacks are designed to provide the staffing necessary to enable the District to handle multiple calls simultaneously. As the District acknowledges, "callbacks are an inherent necessity in providing firefighting and paramedic services to the community" (Er.Br. 19). However, the District emphasizes that the existing voluntary nature of callbacks allows any employees who want to respond to callback opportunities to do so.

The District's says that during the past four full years (2006-2009) it has spent, on average, about half a million dollars on total overtime costs each year (EX 1-TD). The

District further says that callback overtime is a significant part of its total overtime costs. For instance, during the 18-month period from May 1, 2009 through October 31, 2010 the District spent $224,004 on voluntary callback overtime (EX 1-TD/6). In this proposal the District seeks only to cut down on the total cost of callback overtime.

The District emphasizes that its proposal will not eliminate callbacks and callback overtime. Instead, its proposal seeks only to transfer the locus of callback decision-making from each employee to the shift commander (Officer in Charge). Under the District's proposed language, the shift commander would have the discretion to decide how many employees to call back to the station when the need arises. In turn, the District anticipates that this change would result in fewer callbacks than under the present voluntary callback system, which in turn would generate a lower amount of callback overtime each year.

Additionally, the District points out that its proposal sweetens the pay for each callback opportunity. Currently, employees who voluntarily respond to general alarms are guaranteed a minimum of one hour's pay, and those who respond to other alarms are guaranteed a minimum of one-half hour's pay. Under the District's proposal, each employee who is called back would receive a minimum of two hours pay.

The District emphasizes that the external comparability evidence provides very strong support for its offer. Of the seven communities that the District has used as comparables (after deleting Homer PFD and Oak Lawn from its comparables,

Er.Br. 8), the District notes that none of these seven communities have voluntary callbacks. Instead, callbacks are a discretionary decision of management in all seven comparable communities (EX 1-TD6). In addition, four of these seven communities provide at least a two-hour minimum pay guarantee for each callback (EX 1-TD6).

The District noted that the Assistant Chief testified that he did not want to have this discretionary authority to exercise during a fire scene, for he said it would impact safety. The District notes that such discretionary authority is part of the inherent duty of being a supervisor. In addition, the District argues that its seven comparable communities would not have reserved callback decisions to the discretionary authority of management if this practice was unsafe.

Union Proposal. The Union proposes that Section 9.3 be continued unchanged into the successor CBA.

The Union supports its proposal by arguing that the District's proposed change would actually increase the District's callback overtime costs. The District's proposal calls for more money, via a more expensive minimum guarantee, to be paid to each called back employee compared to the status quo. In addition, Assistant Chief Knez said it is imperative to call back as many employees as necessary in order to maintain adequate staffing levels and response times, and thereby not compromise safety. He testified that, for these reasons, he would routinely call back personnel if he was given the discretion to do so as shift commander (Tr. 190-191). As a result, the Union points out that

the number of callbacks would remain unchanged, but the amount of overtime pay per callback would increase (to two guaranteed hours for each called-back employee), and the net result would be that the District's annual callback overtime cost would increase rather than decrease.

In addition, Knez testified that requiring an officer in charge of a fire scene to decide whether to call back personnel creates a possible safety risk by distracting that officer's attention from his firefighting duties (Tr. 189). The Union notes that Knez has been a fire officer for 22 years and holds numerous firefighting certificates (Tr. 181). The Union says that his testimony should be credited.

Analysis. Looking first at the cost savings to be generated by this proposal, I believe the District is overly optimistic about how much callback overtime expenses will be reduced if this proposal is adopted. At the same time, I believe the Union is overly pessimistic about the financial impact of this District proposal. The Union says that the District's proposal will increase the cost of each callback, and the number of callbacks will remain unchanged, thereby increasing the total cost of callback overtime if this proposal is adopted.

The fact is that neither side can know with any degree of certainty what the financial impact of this proposal will be, for there is no evidence that District shift commanders have ever had the discretion to decide how many employees should be called back when an understaffing situation exists. And the key to any cost savings that may emerge from this proposal is if the number of

employees called back is reduced compared to the status quo of employees deciding for themselves to respond to the callback overtime opportunities they receive on their pagers. There certainly is no reason to expect that the number of employees responding to callback overtime opportunities will be reduced if employees can continue to decide for themselves if they will or will not respond to callback opportunities (i.e., if the Union's offer is adopted). However, if the District's proposal is adopted the number of employees called back to work overtime may be reduced if shift commanders call back fewer employees to cover understaffing situations. Moreover, the number of employees called back may be reduced by a large enough amount to more than make up for the fact that the minimum callback pay guarantee will increase, which in turn would generate net callback overtime savings during a year.

Should shift commanders be given this callback decision discretion? Assistant Chief Knez says they should not, for having to decide on callbacks while overseeing the work done at fire scenes would be a distraction that would detract from the proper performance of the Shift Commander's firefighting duties, which in turn could compromise safety (Tr. 189). Knez mentioned a specific example of having to monitor two different channels on his radio at a fire scene if he also must communicate with dispatch about whether or not to call back employees, and he said doing so "compromises my attention to the fire scene" (Tr. 189). It is not at all clear how Knez knows that safety would be compromised under the District's proposal in light of the fact

that District shift commanders have never previously had this callback authority. It also is not at all clear why shift commanders somehow cannot monitor two different radio channels while at a fire scene. Accordingly, I find that Knez's testimony on this issue is not persuasive.

Further, the District's external comparability evidence under Section 14(h)(4) strongly supports the District's argument that making callback decisions is "an inherent duty of a supervisor" (Er.Br. 19). As noted above, all seven of the District's comparable communities provide for management to make callback decisions, and none of them allow employees to decide for themselves if they will respond to callback overtime opportunities (EX 1-TD6). It stretches credulity beyond the breaking point to conclude that these other communities would use this supervisory callback decision process if it compromised safety.

An "other factor" under Section 14(h)(8) is callback data. UX 17 is a printout of callback overtime information for the first week of the month for each of the months of the July-December 2010 period (Tr. 183-187). UX 17 includes the type of call (fire, EMS/Medical, etc.), the names of employees who responded to the callback, and the amount of time they worked on each callback. The number of employees responding to each callback varied widely during this period. Many callbacks had two employees who responded (UX 17). At the same time, some callbacks had a large number of employees responding. For instance, incident 10-0001266 on July 6, 2010, a fire call,

resulted in nine employees coming in and working the callback (UX 17, numbered pp. 1-2). Incident 10-0001430 on July 30, 2010, also a fire call, resulted in seven employees coming in and working the callback (UX 17, numbered p. 7). Incident 10-0001485 on August 4, 2010, likewise a fire call, resulted in eight employees responding and working the callback (UX 17).

Did these three specific callback situations generate an operational need for seven, eight, or nine employees to come in and work callback overtime to replace the on-duty employees who were called out? Perhaps, perhaps not. If shift commanders had the authority to decide how many employees to call back, would they have called back seven, eight, or nine employees in these three situations? Perhaps they would, perhaps they would not. The point is that UX 17 shows that significant numbers of employees decide on their own initiative to respond and work callback overtime. Further, UX 17 suggests that some of these callbacks may result in more employees responding than is operationally necessary for adequate staffing at the affected station.

The evidence shows that the District spends close to a half million dollars a year, on average, on total overtime costs (EX 1-TD6, Er.Br. 17). This District proposal is a reasonable attempt to try and reduce the cost of only one type of overtime – callback overtime – which constitutes a significant share of the District's overtime costs (EX 1-TD6, Er.Br. 18-19). The only way to learn if the proposed change in deciding how employees will be selected to work callback overtime will result in reduced

callback overtime costs is to adopt the proposal and monitor what happens.

In other words, the District has demonstrated that a callback overtime cost problem exists, it has not been able to remedy this matter at the bargaining table, and the available evidence supports the District's proposal.

Finding. I find, for the reasons explained above, that the District's callback overtime offer more nearly complies with the applicable Section 14(h) decision factors than does the Union's callback overtime offer. Accordingly, I select the District's last offer of settlement to resolve the callback overtime issue.

5. Comp Time (Article 9, Section 9.9)

Section 9.9 is titled "Comp Time" and reads (in its entirety) as follows: "There shall be no comp time issued in lieu of regular compensation."

District Proposal. The District proposes to delete the existing language and substitute the following new language:

"Section 9.9 Compensatory Time in Lieu of Overtime Payment

"Employees covered by the terms of this Agreement may, in lieu of payment for overtime hours actually worked as described within this Article, choose an alternative payment in Compensatory Time which may be accrued and used subject to the following provisions:

(a) The maximum amount of Compensatory Time an employee may accumulate and use within the calendar year shall be ***one hundred twenty (120) hours.*** *Such time cannot be taken in increments other than either twelve (12) or twenty-four (24) hours.*

(b) Every effort shall be made to accommodate the individual employee's desire to take accumulated Compensatory Time. However, the employee and the Chief or his/her designee must agree on a time off schedule that will not impede the manpower needs of the Department. However, under no circumstance shall

there be more than one (1) employee off per shift. However, the Fire Chief or his/her designee may, at his/her sole discretion without the right of filing a grievance herein, allow more than one (1) person per shift off due to what he/she deems to be extenuating circumstances. Such "emergency" time, at the Fire Chief's discretion, is not required to be taken in twelve (12) hour increments.

(c) Compensatory Time shall be paid at the rate of one and one-half (11/2) hour for each hour actually worked for those overtime hours. Such Compensatory Time may be scheduled and used upon sole and exclusive approval by the Chief or his/her designee.

(d) During the first payroll period of each December, the employee shall receive payment for any and all compensatory time remaining of record as of October 31st of that year, payable at the rate within which it was earned. Employees shall start each November with a zero balance. There shall be no carryover of compensatory time nor forfeiture."

The District supports its proposal for essentially the same reasons it offered in support of its callback overtime proposal. The District's data indicates that during the 4.5 years from 2006 through the first half of 2010 the District spent an average of almost $495,000 per year on overtime costs each year (EX 1-TD3, Er.Br. 17). This amount constituted a large percentage of total wages each year. In addition, some employees earn a substantial amount of overtime pay each year (EX 1-TD3).

If this District proposal is adopted, the employees could generate overtime cost savings by electing to take some of their overtime pay in the form of compensatory time off instead of money. The District emphasizes that its proposal calls for the decision to take compensatory time instead of money for some portion of their overtime work to be made by each employee. In addition, employees who are not able to use all of their accrued compensatory time would be paid in early December for all unused

comp time on the books each October 31st. This provision guarantees that employees will be timely paid, in full, for all of their overtime work each year. The Employer argues that this is a "win-win" proposal for the parties.

The District points out that it is not a pioneer with its comp time proposal. Of the District's seven comparable communities, four have a compensatory time provision (EX 1-TD3). The adoption of the District's proposal would mean that the District would be joining the majority of its comparable peers by offering employees the choice to take compensatory time for overtime.

Union Proposal. The Union proposes that Section 9.9 continue unchanged into the successor CBA.

The Union's opposition to the District's proposal is based primarily on the Union's view that this proposal will not generate any meaningful overtime cost savings. The key reason for this is the District's minimum manning requirements that mandate a minimum number of full-time employees to be on duty (the minimum number required to be on duty varies with the total size of the full-time workforce; see CBA Section 8.7). The Union notes that District counsel admitted at the hearing that the District sometimes operates with more than minimum manning, but it is "not often" that this occurs (Tr. 164). District counsel also stated that the only time an employee would be able to take compensatory time off is if such comp time does not generate any replacement overtime (i.e., calling in another employee to replace the employee taking the time off, with the replacement

employee being paid overtime for such work; Tr. 164). With minimum manning in place most of the time, this means that employees will not be allowed to use any accumulated comp time, because such usage would cause manning to fall below the required minimum and any replacement employee would be paid overtime. When all of these dimensions are pulled together, the Union argues that the District's proposal will not produce overtime cost savings, and therefore should not be adopted.

Analysis. In theory, allowing employees to choose between being paid money or compensatory time off for working overtime has a strong appeal. Employees who work overtime to increase their dollar earnings can exercise their preference to take their overtime "pay" as cash; employees who work overtime to generate more paid time off can exercise their preference to take their overtime "pay" as additional time off.

However, this District proposal is not about providing employees with more opportunities to exercise their money-or-time-off preferences. Instead, this proposal is designed to produce overtime cost savings. It is telling that this proposal has elicited a negative response from unit members, at least as that response can be measured via the Union's opposition to this proposal. The Union's rationale for opposing this District proposal is strongly grounded in the facts (1) that most of the time the District operates with minimum manning, and (2) the District will not allow employees to take any compensatory time off whenever such comp time use would require replacement employees to be called into work on an overtime basis (Tr. 164).

The Union argues that the combination of these two facts means that employees will not be allowed to use their comp time. And if somehow the District did allow employees to use comp time when such use required a replacement employee to be called in on an overtime basis, no overtime cost savings would be produced.

In contrast to the evidence and arguments supporting the District's callback overtime proposal, and pursuant to the "other [decision] factors" in Section 14(h)(8), I am persuaded by the Union's arguments that this compensatory time off proposal will not generate any meaningful overtime cost savings for the reasons identified above. As a result, there is no persuasive reason to adopt it.

Going further, if this proposal was adopted and some employees accumulated significant comp time when they worked overtime, the evidence indicates that most (or all) of their requests to take compensatory time off would be denied because the replacement employees would need to be paid overtime, and the District said it will not permit comp time to be used in such circumstances. As a result, it is highly likely that a series of District refusals to allow employees to use their comp time will generate resentment among those unit members who want to take comp time.

Finding. I find, for the reasons explained above, that the Union's compensatory time offer more nearly complies with the applicable Section 14(h) decision factors than does the District's compensatory time offer. Accordingly, I select the

Union's last offer of settlement to resolve the compensatory overtime issue.

6. Medical Insurance (Article 17, Section 17.1)

Section 17.1 currently contains three paragraphs, and the first sentence in the first paragraph calls for the District to pay 100 percent of the premium costs for health insurance for employees and their dependents.

District Proposal. The District proposes that Section 17.1 be revised as follows. The existing first, second, and third paragraphs in Section 17.1 will continue unchanged. However, a new second paragraph will be inserted into Section 17.1, in its entirety, as follows:

However, any other provision to the contrary notwithstanding, effective the first fiscal year wherein employees are issued a wage increase, employees shall reimburse the District the following monthly amounts for hospitalization premium costs: single coverage ($75.00 monthly); employee + spouse ($100.00 monthly); family ($125.00 monthly).

The existing second paragraph will become the third paragraph, and the existing third paragraph will become the fourth paragraph, in this section.

The District supports its proposal by saying that its proposal is the first time the District has sought to have employees contribute toward their health insurance premiums. The District points out that unit members are the highest paid firefighters in both parties' comparability groups. As a result, having unit members contribute toward their insurance premiums would not present any hardship to employees but would generate significant cost savings for the District. The District

calculates that based on current health insurance enrollment, the adoption of its proposal will produce $41,000 in annual insurance cost savings. This represents nine percent of the District's total annual $459,036 in health insurance premium costs (EX 1-TC/D).

More specifically, the District says the annual cost to the employee of its proposal ranges from $900 for single coverage to $1,500 for family coverage. The District says that unit members' average wage is $77,128 ($2,137,157 total annual unit salary cost divided by 27 unit members). The District calculates that employees would be contributing only 1.2 to 1.9 percent of this average salary toward their health insurance costs.

The District notes that the Union also has proposed that employees contribute toward their health insurance premiums, but at a significantly lower level: $25.00 monthly for single coverage, $50.00 monthly for employee plus one dependent, and $75.00 monthly for family coverage. The District says that the adoption of the Union's proposal will produce only a $21,900 in annual insurance cost savings (Er.Br. 16).

The Employer notes that among its seven comparable communities, only one (North Palos FPD) provides that the employer will pay 100 percent of the premium costs. All of the other comparables require some level of contribution from employees (EX 1-TD1).

Union Proposal. The Union proposes to add to Section 17.1 a new third paragraph that reads (in its entirety) as follows:

"Effective May 1, 2011, employees shall make contributions as follows:

Single Coverage	$25.00 per month
Employee plus 1	$50.00 per month
Family Coverage	$75.00 per month

Effective May 1, 2012, re-opener on insurance contributions only.

Contributions shall be made via payroll deductions. The District shall maintain an IRC Section 125 Plan to enable employees to make their insurance contributions on a pre-tax basis."

The Union supports its proposal with a variety of arguments. The Union says the District is the primary moving party on this issue, so the District should carry the burden of proving that its proposal is more appropriate than the Union's proposal.

The Union does not dispute that the general trend is for employees to contribute to the cost of their health insurance coverage. However, the Union argues the evidence in the record shows that the District has overreached with its insurance proposal and seeks too large an increase. As a result, the Union argues that its insurance proposal is the more reasonable of the two.

The Union notes that the District has presented no evidence of significant increases in its insurance costs. In fact, the District's premium costs in 2009 actually declined from 2008 (Tr. 142). For the policy period beginning October 1, 2010, the District's health insurance premiums increased by eight percent, which is relatively moderate compared with employers hit with double-digit increases in premiums (Tr. 141-143).

Similarly, the District already has made changes in the insurance plan that have increased the employees' cost burden. For instance, employees pay more for prescription drug benefits,

for visits to specialist doctors, and for emergency room visits (Tr. 143-145). These changes mean that employees bear more out-of-pocket insurance expenses now than they did in 2009. As a result of the District's good premium history and the employees' existing out-of-pocket insurance expenses, the employees should be requested to make a more modest contribution to the cost of insurance premiums than the amounts proposed by the District.

The Union also points to evidence from its comparable communities. According to the data available from five of these communities, employees pay an average monthly premium of $37.75 per month, and employees with family coverage pay an average monthly premium of $100.61 (UX 15; no information is presented about contributions for employee plus one dependent coverage). The Union says that the average amounts paid by employees in these comparable communities fall between the amounts proposed by the District and by the Union. However, the amounts proposed by the District will be among the highest contribution amounts in its comparability group (UX 15). In contrast, the amounts proposed by the Union will be within the range of what employees are paying in these comparable communities and more similar to the average amounts these other employees are paying.

Looking at the three FPDs that are in both comparability groups (North Maine, North Palos, and Palos Heights), the Union notes that the evidence from these three comparable employers show employee premium contribution amounts that are much closer to the amounts contained in the Union proposal and significantly below the larger amounts sought by the District.

The Union also argues that the proposed wage increases should be taken into account when selecting the insurance contribution final offer. The Union notes that the District has proposed a wage freeze for 2009 and a two percent increase for 2010. If the District's insurance offer is selected, the new insurance contributions will take effect on May 1, 2010, and thereby take away from the net value of the District's proposed wage increase. In fact, the 16 unit members with family coverage would see almost nothing in the way of a net pay increase for 2010, for their two percent pay increase will be almost entirely consumed by their $1,500 contribution toward their health insurance premiums (UX 16).

In contrast, under the Union's wage and insurance proposals, unit members will receive a one percent increase in 2009 and a two percent increase in 2010, both very modest increases, and the net value of these increases will not be diminished by employee insurance contributions. In 2011, employees will receive a 3.5 percent wage increase. However, in 2011 the net value of this increase will be reduced by the amounts employees will be paying toward their health insurance coverage. For the 16 unit members with family coverage, this 3.5 percent increase will be partly offset by the $900 they must contribute toward their insurance premiums, which will reduce the net value of their 2011 pay increase from 3.5 percent to 2.35 percent (UX 16).

Further, the Union notes that its proposal calls for the establishment of an IRC Section 125 plan through which employees can contribute towards their insurance premiums from their pre-

tax wages. In contrast, the District's proposal does not provide for a Section 125 plan. This means that employees must pay for their insurance contributions with post-tax or net wages, which increases the actual cost to them compared to paying from their pre-tax or gross wages.

Finally, the Union says that its proposal provides for an insurance reopener effective May 1, 2012 for the 2012-2013 year. At the hearing the District stated "under no circumstances can anybody in their right mind today obligate themselves to pay health insurance premium increases without the need to renegotiate them for the duration" (Tr. 153). The Union says its 2012 insurance reopener provision provides exactly what the District asked for.

Analysis. Each of these two health insurance contribution proposals has its strengths and weaknesses, which explains why this is the most difficult selection decision in this proceeding. Overall, neither proposal is unreasonable, in that each proposes that employees pay a significant but not excessive amount toward the cost of their health insurance premiums. As a result, the selection of either proposal could be justified by the evidence in the record.

It is the differences between these two offers that will drive this selection decision, so we turn our attention to these differences. First, the effective dates differ by two years, with the District's proposal taking effect on May 1, 2009 and the Union's proposal taking effect on May 1, 2011. At the hearing the District stated its insurance proposal would take effect on

May 1, 2010, for that is the first year employees would receive a pay increase under the District wage proposal. However, the actual wording of the Employer's insurance offer says it becomes "effective the first fiscal year wherein employees are issued a wage increase" (EX 1-TB). Earlier in this Award we did not select the Employer wage offer. Instead, we selected the Union wage proposal, which calls for a one percent wage increase effective May 1, 2009. As a result, the fiscal year beginning May 1, 2009 is the "first fiscal year wherein employees are issued a wage increase," so the District's offer calls for employees to begin making contributions toward their health insurance premiums on May 1, 2009. In addition, earlier in this Award we also selected the Union's four-year contract duration. As a result, the District's proposal calls for unit members to contribute toward their premiums for all four years of the successor CBA, while the Union's offer calls for them to contribute during the final two years of the CBA (2011-2012 and 2012-2013).[5]

Second, the District's proposed contribution amounts are significantly larger than the Union's proposed contribution amounts ($75/100/125 per month vs. $25/50/75 per month, respectively, for the three types of coverage). When we compare

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5. This assumes, of course, that if the Union's insurance proposal with its 2012 insurance reopener is adopted, the parties will not agree during reopener negotiations to return to the days of no employee contributions toward health insurance premiums. I believe that the probability of such a development is essentially zero.

these proposed amounts with the employee health insurance contribution amounts in the parties' comparable communities, we see (1) the District's proposed amounts are larger, on average, than the amounts paid by employees in these comparable communities, and (2) the Union's proposed amounts are smaller, on average, than the amounts paid by employees in these comparable communities (UX 15; EX 1-TD1).

Third, and flowing directly from this second difference, the amount of cost savings to the District are, according to the District's calculations, about twice as large per year if the District's offer is selected compared to the selection of the Union's offer (Er.Br. 15-16).

Fourth, the Union's offer calls for the establishment of an IRC Section 125 plan that would allow employees to make their contributions from pre-tax wages. In contrast, the District's offer contains no such provision, which means that employees must pay their contributions from post-tax wages if the District's proposal is adopted.

Which offer more nearly complies with the applicable decision factors under Section 14(h()?

When we look at the overall compensation presently received by employees under Section 14(h)(6), we see that unit members are paid very high salaries, earn significant amounts of overtime, and receive a generous package of fringe benefits. In particular, District unit members are paid significantly higher salaries than their peers in both parties' comparability groups (UX 7; EX 1-TE). This high level of total compensation means

that unit members, compared with their peers in comparable communities, can more easily afford to pay the higher premium contributions sought by the District. As a result, this decision factor supports the selection of the District offer.

When we look at the Employer's ability to pay under Section 14(h)(3), as shown above in the wage issue analysis we see that the District's finances have deteriorated during 2009 and 2010 and almost certainly will continue to do so during 2011, meaning the District's ending fund balance and net assets will continue to decrease during 2011. Some of this pressure on the Employer's balance sheet will occur because of the selection of the Union's wage offer and the Union's longevity offer. Because the District's insurance offer will generate about double the insurance cost savings than the Union's offer, this decision factor supports the selection of the District offer.

When we look at the comparison of employee health insurance contributions with comparable communities under Section 14(h)(4), we see, as noted above, that the District proposes that unit members pay more, on average, toward their health insurance premiums than their peers in comparable communities (EX 1-TD1). In contrast, the Union proposes that unit members pay less, on average, toward their health insurance premiums than their peers in comparable communities (UX 15). In particular, the Union's proposed $25 monthly contribution toward single coverage ranks near the bottom of what this unit's peers are paying for single coverage in the Union's comparables, and the Employer's proposed $75 single coverage monthly premium ties it for first place with

the Palos Heights FPD (UX 15). Similarly, the Union's proposed $75 monthly contribution for family coverage is clearly below average and ranks close to the bottom among its comparables, and the Employer's proposed $125 monthly contribution toward family coverage premiums is the second highest among the Union's comparability group (UX 15). With these peer group comparisons as close and as mixed as they are, the evidence pertinent under this decision factor supports the selection of either offer.

Turning to "other factors" under Section 14(h)(8), the Union's offer calls for the establishment of an IRC Section 125 Plan to enable employees to make their contributions on a pre-tax basis. Aside from some minimal start-up costs, the costs of operating a Section 125 plan are essentially zero. At the same time, such a plan enables employees to get an income tax break by paying their contributions from pre-tax wages. In contrast, the District's proposal contains no such provision, which means that employees must pay their contributions from their post-tax wages. In other words, a Section 125 plan costs the Employer essentially nothing while providing employees a tax break courtesy of the Internal Revenue Code. The application of this decision factor provides more support for the selection of the Union's offer.

Turning to another "other factor" under Section 14(h)(8), the selection of the Union's wage offer means that unit members are scheduled to receive a total wage increase of 6.5 percent during the three-year 2009-2011 period (or 6.6 percent including compounding). This is an average wage increase of 2.2 percent per year. We saw above that percentage wage increases of this

magnitude trail the percentage wage increases that have been recently and currently received by their peers, at least in the Union's comparable communities (UX 8). With the addition of the employee contributions toward their insurance premiums, the net compensation increase received by unit members will be reduced. This effect will be most noticeable for the majority of the bargaining unit that carries family health insurance coverage. The net reduction in employee compensation will be quite substantial if the District's insurance offer is selected, particularly among firefighters with family coverage (see UX 16). It will be noticeable but less burdensome if the Union's insurance proposal is adopted. The application of this decision factor provides more support for the selection of the Union's offer.

Pulling all of these decision factors together, my first choice would be to fashion my own health insurance proposal and adopt it. My proposal would take the best parts of both parties' proposals and produce a health insurance contribution arrangement that is more evenly balanced and more equitable for both parties than either of the two offers before me. However, I do not have the authority to do this, and instead must select one or the other offer without alteration.

In light of the final offer selection constraint, I find that the evidence provides more support for the Union's insurance offer than for the Employer's insurance offer. By far the most important reason for this conclusion is the magnitude of the impact that the District's proposed premium contributions will

have on the wage increases unit members will receive during the 2009-2012 three-year period, especially during the first two contract years. This combination can be best seen by using a particular example, as seen in Table 1:

TABLE 1

MICHAEL PATTI	(1) 2008-09 Total Salary	(2) 2009-10 Total Salary (+1.0%)	(3) 2010-11 Total Salary (+2.0%)	(4) 2011-12 Total Salary (+3.5%)	(5) 2009-12 Total Salary Increase ($/%)
Annual Salary	$83,264.54	$84,048.26	$85,631.38	$88,457.23	
Annual Salary Increase	--	783.12	1,583.12	2,825.85	$5,192.09 (6.2%)
Proposed District insurance contribution	Combined impact (pay inc. + ins. contrib.)	Combined impact	Combined impact	Combined impact	2009-12 Total Net Salary Increase ($/%)
Employee-only ($900/yr)	--	-116.28 (783.12 – 900.00)	683.12 (1583.12 – 900.00)	1,925.85 (2,825.85 – 900.00)	$2,792.29 (3.0%)
Employee + 1 ($1,200/yr)	--	-416.28 (783.12 – 1,200)	383.12 (1,583 – 1,200)	1,625.85 (2,825.85 – 1,200)	1,592.69 (1.9%)
Family ($1,500/yr)	--	-716.88 (783.12 – 1,599.00)	83.12 1,583.12 – 1,500)	1,325.85 (2,825.85 – 1,500)	692.09 (0.8%)

Sources: UX 12; EX 1-TC.

I have used the example of Michal Patti, for he is the most senior firefighter, and his salary is above the unit average (UX 12; EX 1-TC). Using his pay in Table 1 allows us to calculate and see how the combination of salary increases plus the District's proposed insurance premium contributions would affect the net salary received by unit members during the first three years of the successor contract period. It is important to note that, as used here, "net salary" does not refer to take-home pay.

Instead, it refers to gross total salary minus the amounts deducted for insurance premium contributions if the District's offer is selected. Patti has family coverage (EX 1-TD1), but in the table I included the financial impact of all three insurance coverages on his salary for the three years in question to illustrate the financial impacts across all unit members.

As the information in Table 1 indicates, the selection of the District's insurance offer would dramatically reduce the net effect of the salary increases called for in the Union's salary offer selected above. The degree of reduction would depend on which insurance premium category each employee is in, but the effect will be substantial for all unit members. Not surprisingly, unit members with family coverage would fare worst. My calculations indicate that unit members at or near Patti's salary level would net less than a one percent salary increase (eight-tenths of one percent) for the first three contract years (not 0.8 percent increase per year, but an 0.8 percent increase over three years). Unit members at this salary level with employee-only coverage would fare better, as they would receive a three percent salary increase for this three-year period (2.99 percent, to be precise). Unit members at this salary level with employee-plus-one coverage would receive almost a two percent increase (1.9 percent) for this three-year period.

Naturally, these proposed insurance contributions would have a less negative impact on the higher-paid unit members, and they would have a more negative impact on the lower-paid members.

However, they would have a substantial effect on all unit members during the life of the successor CBA.

We saw above in our analysis of the wage evidence that the awarded wage increases for the 2009-2012 period are, on average, significantly smaller than the percentage wage increases adopted in the Union's comparable communities (UX 8). The adoption of the District's insurance contribution proposal would greatly reduce the net wage increases that unit members would actually receive. As a result, the data in Table 1 are consistent with the Union's assessment that "the District overreaches with its [insurance] proposal" (Un.Br. 46). In short, the selection of the District's insurance offer would result in a re-direction of a very substantial share of the awarded wage increases from the employees to the District.

Does the evidence indicate that unit members could and should pay larger insurance premium contributions than the Union has proposed? Yes (see UX 15). Does the evidence indicate that unit members should have their 2009-12 wage increases eviscerated as proposed by the Employer and illustrated in Table 1? No.

Finding. I find, for the reasons explained above, that the Union's health insurance contribution offer more nearly complies with the applicable Section 14(h) decision factors than does the District's health insurance offer. Accordingly, I select the Union's last offer of settlement to resolve the health insurance contribution issue.

Status Quo and Other Provisions

As noted above, the parties resolved a few issues during the instant arbitration proceeding. In addition, the parties agreed that all the provisions in the expiring CBA that are not encompassed in this arbitration will carry forward unchanged into the successor CBA as "status quo" items. I hereby incorporate into this Award all of these other resolved issues and status quo provisions by reference.

AWARD

Under the authority granted to me by Section 14(g) of the Illinois Public Labor Relations Act, I find that the following outcomes more nearly comply with the applicable decision factors prescribed in Section 14(h) of the Act. Accordingly, I select and award these outcomes on the issues on the arbitral agenda:

1. Term of Agreement (Article 1, Section 1.4)

   The Union's offer is selected.

2. Wages (Article 9, Section 9.1 and Appendix B)

   The Union's offer is selected.

3. Longevity Pay (Article 9, Section 9.1 and Appendix B)

   The Union's offer is selected.

4. Voluntary Call Back (Article 9, Section 9.3)

   The Employer's offer is selected.

5. Comp Time (Article 9, Section 9.9)

   The Union's offer is selected.

6. Medical Insurance (Article 17, Section 17.1)

   The Union's offer is selected.

It is so ordered.

Respectfully submitted,

Peter Feuille

_____
Peter Feuille
Arbitrator

Champaign, IL
May 9, 2011