

## BEFORE THE ARBITRATOR

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In the Matter of the Arbitration of a	:	Case 330
Dispute Between	:	No. 60514
	:	INT/ARB- 9429
TEAMSTERS LOCAL 75	:	
	:	
and	:	Dec. No. 30532-A
	:	
CITY OF GREEN BAY	:	
(DEPARTMENT OF PUBLIC	:	
WORKS)	:	

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### **Appearances:**

Previant, Goldberg, Uelmen, Gratz, Miller & Brueggeman, S.C., by Ms. Andrea F. Hoeschen, on behalf of the Union.  
Davis & Kuelthau, S.C., by Mr. James M. Kalny, on behalf of the City.

## **ARBITRATION AWARD**

The above-captioned parties, herein “Union” and “City,” selected the undersigned to issue a final and binding award pursuant to Sec. 111.70(4)(cm)6 of the Municipal Employment Relations Act (“MERA”). A hearing was held in Green Bay, Wisconsin, on April 3, 2003. The hearing was transcribed and the parties filed briefs and reply briefs that were received by June 30, 2003.

Based on the entire record and the arguments of the parties, I issue the following Award.

## **BACKGROUND**

The Union represents for collective bargaining purposes a unit of employees employed in the City’s Department of Public Works (“DPW”). The parties engaged in negotiations for a successor collective bargaining agreement to replace the prior agreement which expired on December 31, 2001, and the Union filed an interest arbitration petition on November 5, 2001, with the Wisconsin Employment Relations Commission (“WERC”). The WERC appointed Stuart Levitan to serve as an investigator and to conduct an investigation pursuant to Sec. 111.70(4)(cm)6(b) of MERA. The investigation was subsequently closed and the WERC on January 22, 2003, issued an Order appointing the undersigned to serve as the arbitrator.

## **FINAL OFFERS**

The parties have agreed to a number of tentative agreements which are not in dispute and which were enclosed with their final offers.

The Union has proposed the following final offer:

1. All items tentatively agreed (See attached).
2. ARTICLE 30 - DURATION OF AGREEMENT

January 1, 2002 thru and including December 31, 2003

3. SCHEDULES A AND B - WAGES

- All employees will receive \$300.00 effective January 1, 2002 with such amount to be calculated as an hourly figure and added to the base wage. Effective at the start of the fifth (5<sup>th</sup>) pay period all employees shall receive an additional 2.25% wage increase.
- January 1, 2003 increase all wage rates by 3% across the board.

The City has proposed the following final offer:

1. All items tentatively agreed (See attached).
2. Schedules A and B wages:

Wages 2002:

All employees will receive \$300 effective January 1, 2002 with such amount to be calculated as an hourly figure and added to the base wage. Effective at the start of the fifth pay period all employees shall receive an additional 2.25% wage increase.

Because the parties agree that the wage increase was supposed to represent a total base wage "lift" of 2.75% it is acknowledged that the base wage for bargaining a 2003 wage increase will be 2.75% above the base 2001 wage for all units affected.

Wages 2003:

The City offers the wage schedule set forth in the attached

exhibit. Such wages average 2.34% above the 2001 wages plus 2.75%, effective 1/1/03, and an additional 1% effective 7/1/03.

The following wage rates are attached to the City's proposal:

	Effective 1/1/03				Effective 7/1/03			
	<b>BASE</b>	<b>8 YR</b>	<b>12 YR</b>	<b>16 YR</b>	<b>BASE</b>	<b>8 YR</b>	<b>12 YR</b>	<b>16 YR</b>
G1	17.06	17.14	17.23	17.30	17.23	17.31	17.40	17.47
G2	17.34	17.45	17.53	17.60	17.51	17.62	17.71	17.78
G3	17.44	17.50	17.60	17.66	17.61	17.68	17.78	17.84
G4	17.49	17.58	17.66	17.74	17.68	17.76	17.84	17.92
G5	17.70	17.82	17.91	17.96	17.88	18.00	18.09	18.14
G6	17.93	18.00	18.11	18.19	18.11	18.18	18.29	18.37
G7	18.18	18.26	18.34	18.41	18.36	18.44	18.52	18.59
G8	18.32	18.39	18.50	18.56	18.50	18.57	18.69	18.75
G9	18.43	18.51	18.65	18.70	18.61	18.70	18.84	18.89
G10	18.82	18.90	19.02	19.07	19.01	19.09	19.21	19.26
TSM-LEADWORKER	18.06	18.19	18.27	18.34	18.24	18.37	18.45	18.52
TSM-OPERATOR	17.49	17.58	17.66	17.74	17.66	17.76	17.84	17.92
TSM-LABOR/LD WKR	17.34	17.45	17.53	17.60	17.51	17.62	17.71	17.78
TSM-LABORER	17.06	17.14	17.23	17.30	17.23	17.31	17.40	17.47

## STATUTORY CRITERIA

Section 111.70(4)(cm)7 of MERA reads in part:

7. 'Factor given greatest weight.' In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall consider and shall give the greatest weight to any state law or directive lawfully issued by a state legislative or administrative officer, body or agency which places limitations on expenditures that may be made or revenues that may be collected by a municipal employer. The arbitrator or arbitration panel shall give an accounting of the consideration of this factor in the arbitrator's or panel's decision.
- 7g. 'Factor given greater weight.' In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall consider and shall give greater weight to economic conditions in the jurisdiction of the municipal employer than to any of the factors specified in subd. 7r.
- 7r. 'Other factors considered.' In making any decision under the arbitration procedures authorized by this paragraph, the arbitrator or arbitration panel shall also give weight to the following factors:
  - a. The lawful authority of the municipal employer.

- b. Stipulations of the parties.
- c. The interests and welfare of the public and the financial ability of the unit of government to meet the costs of any proposed settlement.
- d. Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees performing similar services.
- e. Comparison of the wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees generally in public employment in the same community and in comparable communities.
- f. Comparison of the wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees in private employment in the same community and in comparable communities.
- g. The average consumer prices for goods and services, commonly known as the cost of living.
- h. The overall compensation presently received by the municipal employees, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- i. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- j. 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.

## **POSITIONS OF THE PARTIES**

The Union argues that external comparables support its offer; that the “alleged reductions in state aid do not justify the City’s offer;” and that the “internal comparables do not justify the City’s offer.” The Union thus maintains that “The Green Bay DPW does not have established, historical comparables;” that the bargaining unit’s benefits and the prior difficulties over health insurance do not justify the City’s lower wage package; that the City’s economic health is no different from the economic health of other cities who have settled upon higher wages; and that because there are no internal settlements for 2003, it “is pure speculation . . . for the City to claim that other bargaining units understand and agree to its convoluted method for calculating 2003 wages.” The Union adds that “There is no public policy that favors punishing Unions for bargaining independently of other unions;” that “there is no evidence of an agreement between the City and other units as to the method of calculating 2003 wage increases;” and that contrary to the City’s claim, the agreement for a two year contract and the delayed implementation of the agreed-upon health insurance changes “is not a strike against either . . . offer.”

The City contends that external comparables relating to wages and total compensation favor its offer; that “The low wages suggestion made by the Union should be disregarded;” and that internal comparables favor its offer because the health benefit costs must be considered and because the residency issue has no impact on which offer should be adopted. The City further claims that its offer is supported by the cost of living, declining state revenues, and the local economy. It also claims that the “Green Bay DPW does have established comparables;” that the Union’s attempt “to confuse wage comparisons should be disregarded;” and that negotiations with other City bargaining units are relevant here even though the Union did not participate in those negotiations.

## **DISCUSSION**

The parties are not that far apart in their wage proposals: Both parties agree that the DPW employees in 2002 should receive the same wages agreed to by the other unions for 2002, i.e., a flat \$300 increase on January 1, 2002, and an additional 2.25% wage increase effective on the fifth pay period of 2002. That amounts to a 3.1% wage increase and a total package cost of 3.94%. As for

2003, the Union proposes a flat 3% across-the-board increase effective January 1, 2003. The City's offer amounts to an actual 2.86% wage increase for 2003 with a package cost of 4.1%. Employees under the Union and City's offers therefore will receive the same wage rates by July 1, 2003. The difference between the parties' two offers is about \$31,000.

The major difference between them turns on what is to happen between January 1, 2003 - July 1, 2003, and what is the appropriate base for calculating the 2003 wage rates. The Union wants its 3% increase to be calculated as follows:  $3\% \times (2001 \text{ wages} + 2.75\%)$  which is to then be added to employees' actual 2002 wages. The Union calculates that its offer generates about an additional 17¢ or 18¢ an hour above the City's offer between January 1, 2003-July 1, 2003.

In order to properly understand the full context surrounding the parties' offers, it is necessary to briefly describe the negotiations leading up to the parties' impasse.

The City several years ago learned that its self-funded health insurance plan was not properly funded and that something had to be done to reign in ever escalating health care costs and to rebuild its insurance reserve fund balance which was about \$4,000,000 short. The City in 2000 therefore met with all of its 15 unions in an effort to deal with its insurance crisis. The unions eventually proposed that the City switch over to a plan administered by the Teamsters Union. That suggestion proved impractical, however, because the costs of switching over to the Teamsters' plan was higher than expected.

The City in 2001 then tried to again negotiate with all of its unions for an alternative to the then-current health care plan (sometimes called the "Union of Unions"). All unions except Local 75 participated in those second negotiations and they and the City eventually agreed to offer a PPO health care plan. The City estimates that those changes saved the City about \$1,672,000 in health care costs in 2002. Employees selecting the PPO alternative also did better through reduced deductibles; higher coverage for certain items; through better dental coverage; through better transplant benefits; and through an added wellness benefit that pays for routine doctor visits.

As part of those negotiations, the City agreed to not lay off anyone until April 2003, and to eliminate the City's residency requirement for non-safety related groups.

All those other bargaining units, including the separate Assessors' bargaining unit represented by Local 75, also agreed to one or two year contracts which provided for a \$300 immediate payment effective January 1, 2002, and an additional 2.25% wage increase to be effective on the fifth pay period of 2002. The two year contracts called for a wage reopener in 2003. As a result, no other bargaining units as of the time of the instant hearing had reached agreement with the City over the size of any 2003 wage increase. Each bargaining unit also agreed to the identical contract language proposed here relating to how the lift will be calculated for the purpose of determining wages in 2003.

Former Green Bay Mayor Paul F. Jadin testified that the City agreed to the \$300 payment because the unions proposed that as a means of obtaining a slightly higher percentage wage increase for lower paid workers. He said that a misunderstanding arose between the City and those unions about what was agreed to and that the City agreed to the additional 2.25% wage increase for 2002 even though it exceeded the City's parameters of a 2.75 total wage increase for 2002 on the express condition that any subsequent 2003 wage increase had to be based upon 2.75% being added on to the 2001 wages, as opposed to what the wage rates would be at the end of 2002. In other words, those other unions in 2003 would be bargaining from a slightly lower lift than otherwise would be the case.

Kathryn Koehler previously served as the Assistant Director for the City of Green Bay Brown County Human Resources Department. She participated in the 2000 and 2001 negotiations referenced above and she testified that the parties in those negotiations "agreed in concept that the lift for 2002 would be 2.75% over 2001;" that the actual dollar cost of that settlement for the City was "closer to 3%;" and that the unions then agreed "to this paragraph which indicated, yes, we did intend that the actual lift for 2002 would be 2.75%. We were getting more than that in 2002, and, as an offset to that, when we calculate 2003, we will base that on 2001 plus 2.75."

Koehler added that the City in negotiations presented the Union here with the same residency proposal it initially made to other unions and that all of the other unions in negotiations were able to either secure the total abolition of the residency requirement or to make significant changes in those units involving safety-sensitive positions.

She added that Local 75 also represents the City's water department employees and that it was the only other union to claim that it did not understand the meaning of the City's lift language. All other unions, said she, fully understood the meaning of the City's language after she explained it to them. She said that the City's total package cost for 2003 is 4.1% and that its actual wage cost is 2.86%. She also said that the 4% wage settlement for Oshkosh (which is relied upon by the Union) predated then-Governor McCallum's announcement to reduce shared revenues and that the Oshkosh settlement was predicated upon quid pro quo changes in that city's health plan. She also said that DPW employees here paid about \$195 less in insurance costs in 2002 than other City employees because they remain in the basic health indemnity plan rather than the new PPO plan, and that the Union has refused during the pendency of this matter to implement the insurance changes it had agreed to on the ground that the entire contract must be implemented at the same time. Koehler acknowledged that none of the other unions have agreed upon terms of a 2003 contract.

Union Business Agent Michael E. Williquette represents Green Bay Water Utility employees. He testified that there was confusion over the meaning of the language in the City's final offer; that Attorney James. M. Kalny told him in negotiations that any 2003 wage increase would be determined by adding 2.75% to the actual wages of Schedule A of the contract; and that the City subsequently informed the Union that that was not its understanding.

Union Business Agent Mike Thoms represents the DPW employees. He testified that after some initial confusion about the City's offer, he ultimately understood what it meant when Attorney Kalny sent him a letter in December 2002 explaining the proposal, and that Williquette's different understanding resulted in about a penny higher in wages for certain positions.

The Union relies on this bargaining history to claim: "The City and DPW unit have mutually



broken from whatever settlement pattern was achieved by the ‘Union of Unions’ for 2002 by abandoning any changes in residency requirements.”

I disagree. The City offered the Union the same residency language it initially offered to the other 14 unions and the Union here apparently never made a counterproposal to that language. Since the Union itself did not further pursue this issue in negotiations, the City’s offer here does not break the internal settlement pattern.

The Union also asserts: “There is no internal pattern for 2003 wages, and there is no evidence of an agreement between the City and the other units as to the method of calculating 2003 wage increases.”

It is true that no other unions have agreed to wage increases for 2003. However, all of the other 14 unions have agreed on the lift language contained in the City’s final offer, which means that there is an “internal pattern” over how those wages are to be calculated. Moreover, while the Union claims that other unions may disagree with the City’s interpretation of that language, Koehler testified without contradiction that all of the other unions in negotiations shared the City’s understanding of what that language means after she explained it to them. Union Business Agent Thoms also testified that he and the City shared that same understanding of what that language means. In addition, the attachment to the City’s final offer set forth above calculates to the penny all of the City’s 2003 proposed wage rates, thereby obviating any confusion over how its proposal is to be calculated. As a result, there is no basis for assuming that there will be a dispute over the meaning of this language.

The Union also contends that the City’s agreements with all of the other bargaining units are “irrelevant” because it chose not to participate in those negotiations and because it therefore is not “bound by anything that happened in those negotiations.”

The Union certainly is not “bound” to what was agreed to there since the Union has the legal right to engage in its own negotiations in order to obtain the best contract for its members. That, though, does not make the other negotiations “irrelevant.” They, in fact, are very relevant because the statutory criteria at Section 111.70(4)(cm)7r, expressly mandates that weight must be given to internal comparables.

The Employer points to this bargaining history in claiming that its offer is supported by “other factors” because all of the other unions (except the crossing guards who must pay for their own insurance) agreed to “a significant change” when they agreed to create a PPO health plan and that the Union here should not be rewarded for refusing to implement that change and for remaining in the more costly basic indemnity plan. It thus argues: “The DPW members are paying less for insurance, have a broader type of insurance coverage, are costing the City more, and are not contributing to solving the insurance problem as all the other groups are.” The City states that DPW workers are paying about \$195 per year less for their health insurance than the other employees covered by the PPO and that the City’s total added cost for this was about \$24,721 in 2002 and about \$14,965 for the first six months of 2003 (City Exhibit entitled “DPW Insurance Costing”).

In reply, the Union points out that both parties have agreed to a two-year contract and that both therefore know that the other party is not legally required to implement tentative agreements until all of the terms of the contract have been finalized.

There of course is nothing wrong when the Union chooses to exercise that right, one which also means that its members have not yet received any of the wage increases granted to all other City employees in 2002. Nevertheless, DPW employees have paid less for their insurance than other unionized City employees which is a fact that must be considered when looking at internal comparables.

Turning now to the statutory criteria, the “greatest weight” under Section 111.70(4)(cm)7 must be given to state laws or directives which place “limitations on expenditures that may be made or revenues that may be collected by a municipal employer.”

The City points out that shared revenues for the City have tightened over the years and the increase in state aids has not matched the City’s recent wage increases (City Exhibit entitled “State Imposed Restraints”). In addition, state expenditure limits have limited how much the City can spend under Wisconsin’s Expenditure Restraint Program which is aimed at limiting the rate of increase of the local property tax. That is why the City argues that the Union’s 3% wage offer for 2003 is three times greater than the 1% increase in shared revenues it is receiving and that its wage offer “recognizes that the revenue sources for the City are not keeping pace with cost increases.” The Union contends that the City’s financial situation is no different from other comparables who have granted higher wage increases and that the City has made no showing that it “must restrict its spending more than the comparables to qualify for the state’s [expenditure restraint] payments.”

While the City’s financial situation has become more difficult because of stagnant state aids, the record fails to establish that the City, in fact, cannot afford to pay the Union’s offer and the record similarly fails to establish that the City is precluded from doing so under the state’s Expenditure Restrain Program.

The next criteria under Section 111.70(4)(cm)7 g. states that “greater weight” must be given to the economic conditions of the municipal employer, as opposed to the criteria which follows. The City points to the 8.9% unemployment rate in the local area and argues that the local economy is “experiencing a slow-down” as shown by a number of plant closings. The Union, in turn, states that the “City produced no evidence” that the economy was affecting the City’s ability to pay or that its difficulties are worse than other municipalities.

The record supports the Union’s argument since former mayor Jadin testified that the “Green Bay area has been fairly resilient in terms of the economic downturn” and since there is no proof that economic conditions adversely affect the City’s ability to pay. As a result, there is no basis for

finding that the Union's offer should be rejected because of local economic conditions.

As for the "Other factors considered" in subdivision 7r, there is no issue over the lawful authority of the municipal employer.

With the exception of health insurance, the stipulations of the parties do not favor either party. The insurance changes agreed to by the Union involving Article 25 of the contract, however, are important because they support the Union's claim, discussed below, that its wage offer should be adopted in part because of the insurance changes it has agreed to.

The interests and welfare of the public have no weight on which offer should be adopted. However since the City has the financial ability to meet the City's offer, the remaining part of this criteria favors the Union's proposal.

Comparing the wages, hours, and conditions of employment here with the wages, hours, and conditions of employment of other employees performing similar services elsewhere does not favor either party.

The same is true for comparing the wages, hours, and conditions of employment here with the wages, hours, and conditions of other employees in private employment in the same community and in comparable communities. In addition, there is no proof that the DPW employees do or do not earn appreciably more than employees performing similar work in private employment.

The CPI for All Urban Consumers prepared by the U.S. Department of Labor's Bureau of Labor Statistics supports the City's final offer because its 2003 wage offer of 2.86% is closer to the 1.60 CPI increase in 2002, and the projected 2.30% CPI increase for 2003 (City Exhibit entitled "Cost of Living").

As for external comparables, both parties agree that Appleton, Ashwaubenon, DePere, Eau Claire, Fond du Lac, Kenosha, La Crosse, Oshkosh, Racine, and Sheboygan are all appropriate.

They disagree, however, whether Madison and Waukesha should be included in that pool of comparables. The City claims that these two latter cities should be included because Arbitrator Sherwood Malamud in a prior interest proceeding between the City and the DPW determined that the appropriate comparables consist of Ashwaubenon, DePere, Eau Claire, Fond du Lac, Kenosha, La Crosse, Madison, Oshkosh, Racine, Sheboygan, and Waukesha. See Case 308, No. 58316, INT/ARB-8878, Decision No. 30022-A (10/2001). The Union, on the other hand, asserts that no historical comparables exist, which is why it does not include Madison and Waukesha in its list of comparable communities.

The disagreement between the parties may stem from Arbitrator Malamud's finding on p. 9 of his Award that:

. . .  
the pool of communities employed by the Arbitrator to determine average wage rates against which the wage rates of the City of Green Bay are compared and contrasted are Appleton, Ashwaubenon, DePere, Eau Claire, Fond du Lac, Kenosha, La Crosse, Oshkosh, Racine, and Sheboygan.

. . .

Standing alone, this finding supports the Union comparability argument.

However, when read as a whole, Arbitrator Malamud's Award makes it clear that Madison and Waukesha also constitute comparables. He thus earlier ruled on p. 8: "With Madison included in the comparability pool . . ." and "with the inclusion of Waukesha . . ." He then ruled on p. 9:

. . .

This comparability pool comprising 12 communities is weighted heavily toward much larger communities in the state of Wisconsin. This pool of comparable municipalities includes communities geographically proximate to Green Bay, cities in the Fox Valley and primarily in Central Wisconsin from its West to East borders. Madison, Waukesha, Racine and Kenosha provide important data about the wage rates paid by the larger cities in this state. (Emphasis added.)

. . .

Arbitrator Malamud added on p. 9 that the parties "were unable to provide any meaningful data . . . for . . . Madison and Waukesha." That is why he subsequently did not examine the wage rates of

those two cities.

That, though, is a separate question of whether he determined that those two cities should be included in the list of external comparables. Since Arbitrator Malamud determined that they should be included, and since there is no basis for finding otherwise here, I conclude that Madison and Waukesha represent appropriate external comparables and that their wage rates must be considered in determining the reasonableness of the parties' offers.

The Union states that of the external comparables that settled for 2003, four settled for 3% wage increases, two settled for 4% wage increases, and that only DePere settled for less than 3% (2.8%) in wages, with none of them settling for split increases. The Union also claims that its offer is bolstered by the health insurance concessions it has made and that Oshkosh's 4% wage settlement is "most relevant" because it also was predicated upon health insurance concessions. The Union further maintains that Green Bay's Laborers under either offer would earn less than their counterparts in Ashwaubenon, DePere, Eau Claire, Fond du Lac, Kenosha, and Racine in 2002 and 2003.

Madison, however, settled for a 2% wage increase for 2003 and Waukesha in 2003 settled for 2.95% (City Exhibit entitled "Wage Settlements in Comparable Cities"). In addition, Eau Claire in 2003 settled on a 2%/1% split wage increase. The City also points out that Kenosha settled for a 3% wage increase in 2003, rather than the 4% wage increase claimed by the Union and it argues that the 4% wage increase in 2003 for Oshkosh represents an "anomaly" because there is no evidence of "what percentage was in exchange for concessions . . ."

As for Oshkosh's 4% wage increase, the record here does not establish the nature of those health care concessions and how much they were worth to the municipal employer. Moreover, and as noted above, the DPW employees here have not yet converted to the City's PPO health plan,

which means that the City, unlike Oshkosh, has not yet achieved any cost savings in this bargaining unit.

I thus find that the Oshkosh wage settlement, standing alone, is insufficient to overcome the external wage costs for comparable communities in 2003 which have averaged 2.89%, and which is very close to the City's 2.86% wage increase for 2003. The external comparables therefore support the City's offer because the City's wage cost for 2003 is 0.03% less than the 2003 wage costs of the comparables, whereas the Union's 3% wage increase places it 0.11 higher than the 2003 wage costs of the comparables (City Exhibit entitled "Comparable Communities").

As for the external comparables for the Laborers' classification, the record shows that the Laborers here earn less than their counterparts in some of the comparables. However, there is no proof in this record that that is also true for the Equipment Operator, Mechanic, and Truck Driver classifications.

Arbitrator Malamud addressed this same issue in his earlier Award. He ruled:

. . .  
catch-up or some adjustment may be appropriate for the Truck Driver classification. However, there is no basis for concluding that the rates in Green Bay are declining precipitously from the average at the Laborer, Equipment Operator or Mechanic classifications. On the basis of the above data and analysis, the Arbitrator concludes that the Union has failed to demonstrate the need for catch-up during the term of this agreement, 1999-2001.

. . .

Given that finding there, and the instant record here, I also conclude that the Union's argument is without merit because the Union here is seeking catch-up for the Equipment Operator and the Mechanic classifications which do not deserve it. In addition, there is no proof here that the rates for the Truck Driver classification are still low.

The Union also claims that the "unit's benefits do not justify selection of the [City's] lower wage package" because bargaining unit employees receive fewer paid holidays than most comparables and that: "There are no fringe benefits in Green Bay that are so generous to justify

dragging wages any further below the average.” It also points out that Green Bay DPW employees have more personal leave days; one more day of vacation; and average health insurance costs and premiums.

The City states that the total compensation of the DPW workers here is favorable to that of the comparables because DPW workers receive 2.5 days off more than comparable workers; because they have better vacation benefits; because only Kenosha (who also has an HMO) has the kind of expensive health indemnity plan found here; and because its health benefits are comparable (City Exhibit entitled “Benefit Comparability”).

It is unnecessary to here identify each specific benefit that DPW workers receive and to then compare them to the benefits offered in the comparables. It, instead, suffices to relate that the total level of compensation here versus the total compensation elsewhere does not favor either parties’ final offer.

As for internal comparables, Jadin’s uncontradicted testimony establishes that the City in 2002 agreed to raise its 2.75% wage offer to 3.1% only on the express condition that each of the other 14 unions agree to the City’s demand that the parties in 2003 would not use the actual wages at the end of 2002 as a base for negotiating higher wages, but rather, the 2001 actual wage multiplied by the 2.75% the City initially offered those unions.

The Union for 2002 is willing to accept the economic package offered to those other unions, but it is unwilling to accept the language relating to the lower base.

It is certainly understandable why the Union wants the higher wage base because that results in higher wages for its members in 2003. Nevertheless, the simple fact remains that the City’s 3.1% wage increase for 2002 was expressly predicated upon agreeing to the City’s language.



The internal settlement for 2002 is particularly important because it represented the final result of difficult bargaining over the City's health plan, and because the other 14 unions have all agreed to it. In order to disregard that settlement, it is necessary for the Union to present clear and convincing evidence that its situation is materially different from all of the other local unions and that it should be treated better than them. Since no such showing has been made, I find that internal comparables favor the City.

### **AWARD**

I thus find that the City can afford the Union's offer; that local economic conditions do not preclude adoption of the Union's offer; and that the stipulations of the parties support the Union's offer because the Union has agreed to important insurance changes. External comparables favor the City's proposal because its 2.86% wage increase and 4.1% package cost in 2003 are closer to the average 2.87% wage increase granted in the external comparables established in the Malamud Award. The City's offer also is closer to the CPI for 2002 and the projected CPI for 2003. The City's offer also is supported by internal comparables because all 14 of the other unions have agreed to the language involving the base for 2003 negotiations. This latter factor is particularly important because adoption of the Union's offer would disrupt the pattern bargaining which has taken place with all these other unions.

I therefore find that the latter factors supporting the City's case outweigh the factors supporting the Union's case. As a result, I select the City's offer.

July 15, 2003



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Amedeo Greco