BEFORE THE ARBITRATOR

In the Matter of the Interest Arbitration Between CITY OF WAUWATOSA and WAUWATOSA PROFESSIONAL FIREFIGHTERS' ASSOCIATION, LOCAL 1923

Case ID: 436.0005
Case Type: MIA

WERC Decision: 40965-B

Appearances:
MacGillis Law Group, LLC, by Mr. Thomas Sucevic, 12700 West Bluemound Road, Suite 200, Elm Grove, Wisconsin 53112, appearing on behalf of the Union.
von Briesen & Roper, S.C., Attorneys at Law, by Mr. Ryan P. Heiden, 411 East Wisconsin Avenue, Suite 1000, Milwaukee, Wisconsin 53202, appearing on behalf of the City.

ARBITRATION AWARD

This is a final and binding interest arbitration proceeding pursuant to the Municipal Employment Relations Act, Wis. Stats. §111.77. In accordance with Wis. Stats. §111.77(4)(b), the parties submitted their final offers. The Arbitrator shall select the final offer of one of the parties and shall issue an award incorporating that offer without modification.

Per the statute, the Arbitrator has the difficult task of picking either the Union's offer or the City's offer and nothing more.

FACTS:

The City of Wauwatosa and the Wauwatosa Professional Firefighters' Association, Local 1923 have been parties to collective bargaining agreements for many years. Their latest agreement expired at the end of 2023. The parties bargained for a successor agreement but were unsuccessful in reaching an agreement. The parties agree, however, that the collective bargaining agreement shall cover the years 2024, 2025 and 2026. Their unresolved issues are now before the Arbitrator in interest arbitration. The final offers submitted to the Arbitrator are the following, captioned as “A” and “B.”

POSITIONS OF THE PARTIES:

The parties filed extensive, well-argued briefs in support of their positions. The briefs were lengthy and what follows is a summary of their briefs. Much of it is a verbatim summary by the parties.

City’s Position

The crux of this case is simple. The City’s final offer limits its impact solely to wages and maintains the City’s historical approach to both internal comparability and external comparability while providing employees with a competitive wage increase that actually boosts their already above-average external comparable position by one rank for the Firefighter Paramedic classification (from 5th to 4th) and by two ranks for the Firefighter EMT classification (from 5th to 3rd). [1] The Union’s final offer, by contract, demands numerous changes without a quid pro quo, at an additional cost of approximately $400,000 as compared to the City’s final offer, and in contravention of the parties’ historical recognition of internal and external comparability during bargaining. Specifically, the Union’s final offer seeks: 1) expansion of the bereavement leave benefit; 2) revisions to the probationary period language; 3) revisions to

[1] The City’s offer also contains a proposal relating to dental insurance, but the City’s proposal has no impact on employees since it merely deletes obsolete language relating to a past self-funded dental plan that no longer exists.

substance abuse language; 4) revisions to the sick leave payout provision; 5) generous across-the-board wage increases; and 6) a significant and costly adjustment to the wage structure which would boost the employees' already above-average comparable position by two ranks for Firefighter Paramedics (from 5th to 3rd) and by three ranks for Firefighter EMR's (from 5th to 2nd). The Union bears a significant burden in demonstrating a compelling reason why its final offer is more reasonable, given the Union's disregard for basic tenets of Wisconsin labor law and the parties' historical approach to bargaining.

With regard to its wage proposal, the Union claims that because the City's Police received a new top wage step in 2024, the Fire Union should too. However, as the City will show, the Police had a compelling reason--and a quid pro quo – for the new top step they received. The Firefighters have neither. Wisconsin labor law is clear: When one bargaining unit wants a new benefit another bargaining unit receive in exchange for a quid pro quo and demonstration of a compelling need, the unit asking for the new benefit must also provide a corresponding quid pro quo or bear the burden of demonstrating there is a compelling reason to achieve that new benefit through interest arbitration rather than through voluntary negotiations. As the City will show, the Union's final offer fails on both counts.

The City is proud of how it has treated its employees through its historical settlements with the Police and Fire Unions and with its final offer to the Fire Union here. The City's final offer is reasonable and justifiable under the statutory factors, providing competitive wage increases that no only maintain but actually improve the Fire Union's already above-average ranking vis-à-vis the external comparables. There is no justification for the Union's significantly more costly final offer, which boosts those rankings even further above the average while also demanding an expansion of the wage scale, bereavement leave, and various other contractual provisions – all with absolutely no quid pro quo and at a staggering price tag of nearly $400,000 more than the City's final offer.

The City's final offer respects the City's long-standing historical internal comparability pattern, improves the City's external comparables ranking, and promotes fiscal stability and caution in the fact of the City's budgeting and financial constraints. When applying the relevant statutory factors, the only reasonable offer before this Arbitrator is the City's final offer.

I. ISSUES IN DISPUTE.

Wages: As shown in City Exhibit 1, the parties agree on the appropriate across-the-board wage increases to be provided to the City's Firefighters in all three years of the contract. But the Union's Final Offer demands an additional new top step effective January 1, 2024 – the very first day of the contract--for each of the four classifications covered by the contract (Firefighter, Motor Pump Operator, Lieutenant, Captain). (City Ex. 3, pp. 40-42). Under the Union's proposal, the new top steps at 1.50% higher than the previous maximum steps for each classification, and employees become eligible for the new steps 12 months after reaching the previous maximums. [2] As shown in City Ex. 4.C., under the Union's proposal almost half the current bargaining unit members (44 of 90) will immediately move to the new top steps on the very first day of the contract, since these employees are already at the existing top steps and would have sufficient years of service to immediately qualify for the new top steps.

[2] The current top steps are Step 5 for the Firefighter classification, reached after four years of service, and Step 2 for the Motor Pump Operator, Lieutenant and Captain classifications, reached after one year of service in the position.

Another 17 employees would be eligible for the new top steps in the second year of the contract and four more employees would be eligible in the third year. (City Ex. 4.C.).

Other Issues: There are five additional issues in dispute which are summarized below (see also City Ex. 1). The City will address these issues in greater detail later in this brief.

Probationary Period: The Union proposes various changes to the existing language. The City makes no proposal.

Bereavement Leave: The Union proposes to add uncle and aunt to the category of family members for which employees are eligible to take one 24-hour shift of bereavement leave. The City makes no proposal.

Drug Policy: The Union proposes to "Adopt a new provision to include a drug policy identical to that of the drug policy within the Wauwatosa Police Department's collective bargaining agreement." The City makes no proposal.

Sick Leave Conversion at Retirement: The Union proposes to add language requiring employees hired after March 1, 2024 to have 15 years of service with the City in order to be eligible for sick leave payout upon retirement. The City makes no proposal.

Dental Insurance: The City proposes to delete obsolete language regarding a past self-funded plan that no longer exists. The Union makes no proposal. Since the City's proposal merely deletes obsolete language, the City asserts that this item is of little significance in the determination of this dispute.

As the City will demonstrate, the City's offer is the more reasonable in light of both the internal and external comparables and when measured against the other statutory criteria which the Arbitrator is required to apply in this matter.

II. STATUTORY CRITERIA.

Wis. Stat. §§ 111.77(6)(am)-(bm) set forth the statutory factors to be utilized by the Arbitrator in this matter. (City Ex. 2.C.). Some of the factors are not in serious dispute in this case. Neither party asserted any question as to whether the City has the lawful authority to satisfy either party's final offer [Wis. Stat. §111.77(6)(bm)(1)] nor have the parties identified any relevant issues with respect to: stipulations of the parties [Wis. Stat. §111.77(6)(bm)(2)]; comparison of the wages, hours and conditions of employment of employees in private employment [Wis. Stat. §111.77(6)(bm)(4)(b)]; or changes in any of the foregoing circumstances during the pendency of the proceedings [Wis. Stat. §111.77(6)(bm)(7)].

In reviewing the remaining statutory criteria, the relevant factors are as follows:

(1) §111.77(6)(am) – the "greater weight" factors, under which the Arbitrator is required to give greater weight to the economic conditions in the jurisdiction of the employer than he gives to any other statutory factors;

(2) §111.77)6)(bm)(3) – the interests and welfare of the public and the City's ability to pay;

(3) §111.77(6)(bm)(4)(a) – comparison of the wages, hours and conditions of employment of other employees performing similar services in public employment in comparable communities (i.e., the external comparables);

(4) §111.77(6)(bm)(5) – the average increase in the cost of living;

(5) §111.77(6)(bm)(6) – the overall compensation presently received by the Fire Union; and

(6) §111.77(6)(bm)(8) – such other factors "normally or traditionally taken into consideration" between the parties (i.e., the internal comparables).

The City will address each of these factors, in turn, in the arguments that follow.

City's Reply Brief

I. THE CITY IS NOT ARGUING AN INABILITY TO PAY; THE CITY ARGUES ITS OFFER IS MORE REASONABLE THAN THE UNION'S UNDER THE STATUTORY CRITERIA.

At pp. 9-10 of its initial brief, the Union states--multiple times--any argument the City cannot afford the Union's final offer is without merit. But the City has been very clear, both at the hearing and in its initial post-hearing brief, it is not claiming an inability to pay the higher cost of the Union's final offer. That does not mean the Union's final offer should automatically be selected, however. Arbitrators are clear on this point. At pp. 79-80 of its brief, the City cites a number of arbitrators who have espoused the principle that just because an employer has the ability to pay the cost of either party's proposal does not mean the employer is obliged to accept the higher-cost offer, even where the employer's economic condition is strong. On the contrary, the interest of the tax-paying public and a preponderance of other factors may lead to the conclusion that the more fiscally conservative final offer should be selected. [3] Thus, the Union's brief entirely misses the mark in claiming that because the City can "afford" the Union's proposed new wage step, "any analysis into the City's ability to pay should end there." (Union's brief, p. 7).

The Union is also misplaced in arguing employers must pay for recurring expenses, such as employee wage increases, with one-time funding sources like fund balances or ARPA monies. The City cites numerous arbitrators have expressed this viewpoint, in both historical interest arbitration decision as well as recent ones. Even the Union's own exhibits acknowledge the

[3] Citing Arbitrators Mary Jo Schiavoni and Raleigh Jones; see City's brief, pp. 79-80.

City's fund balance is "the fund of last resort" and it is "simply good management to maintain a reserve *to cover emergencies*." (Italics added).

This fiscal approach extends to the use of recent increased shared revenue dollars which many employers, including the City of Wauwatosa, received due to a change in legislation in 2024. (Tr. pp. 105-107, 109-110). As Arbitrators Susan Baumann and Raleigh Jones stated in two of the most recent Wisconsin interest arbitration decisions, the 2024 increase in shared revenues constituted a one-time, inconsistent, and unreliable funding source, with no guarantees that such monies will be there in the future; thus, it is fiscally unwise to spend such funds on recurring expenses such as wage increases.

Despite the Union repeatedly characterizing the City's finances as "positive" and "strong," the City's annual finances consistently reflect budget gaps year after year. These gaps require the City's departments to enact budgetary modifications every year to reduce the additional costs needed to provide the same level of departmental services as the prior year. Indeed, these budgetary modifications have directly impacted the City's Fire Department, resulting in the defunding of one Fire Department position in 2025 and another in 2026. The City's Police Department has been affected as well, with the defunding of three Police positions as a result of the new top wage step the Police received in 2024--something which the City would not have agreed to provide if the three Police positions had not been eliminated.

While the Union alleges the pending merger of the Wauwatosa and West Allis Fire Departments [4] will create a "windfall" of millions of dollars for the City, this statement is flawed

[4] As the City noted at pp. 71-72 of its brief, both parties were operating under the uncertainty of a merger at the time they submitted their respective final offers. At the time of the hearing, a merger was under consideration. By the time initial post-hearing briefs were due, both cities had formally approved a merger.

for a number of reasons. First, the funds the new department will receive via state grants for merging constitute a one-time payment over five years. [5] Further, there is no guarantee that the merger will result in realized cost savings. At p. 9 of its brief the Union references a consultant's projection that the merger will provide the City approximately $1.7 million of "savings" in the first year, with additional "savings" to follow. But as City Finance Director Ruggini testified, these figures are based on assumptions which are not realistically viable, such as elimination of all duplicative command staff and continuation of the existing level of services. (Tr. p. 149). The latter assumption is particularly misplaced, since it completely ignores the fact that the City has been reducing services for over 20 years. (Tr. p. 149). If service levels are to be maintained following the merger, the new department will be required to redirect any fiscal savings derived through operational efficiencies toward resources and priorities needed to maintain service levels, thereby eliminating the "windfall" the Union falsely identifies as coming the City's direction. (Tr. pp. 149-150).

The plain fact is, the Union's alleged million-dollar merger windfall is not fiscally realistic, particularly from the standpoint of actual, realized cost savings available for allocation toward wage increases.

Throughout its brief, the Union states the cost of its proposed new wage step is "modest" and repeatedly claims the new step "has been estimated to cost less than $200,000." (Union's brief, pp. 3, 8, 9, 10, 20). The City is compelled to ask, estimated by whom? Union witness IAFF Director Chris Lake acknowledged he did not calculate that figure. Lake testified: "We did not cost that out. That was just a question that I was asked." (City's initial brief, pp. 78-79;

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5 https://www.revenue.wi.gov/DOR%20Publications/ig-factsheet.pdf.

Tr. pp. 15, 20). In fact, the Union failed to submit any exhibits or calculations substantiating the Union's "less than $200,000" cost figure. The City, on the other hand, submitted numerous exhibits p the costs of both parties' final offers. Finance Director Ruggini also provided detailed testimony as to his costing model and how he arrived at his conclusions. (Tr. pp. 139-146). These calculations reveal the actual cost of the Union's proposed new top step is almost $400,000 – twice the Union's so-called "less than $200,000" estimate.

The Union's lack of proof in this regard is particularly objectionable given the Union pins a major part of its argument to this supposed "less than $200,000" cost estimate (the Union's brief references that figure at least six different times). In fact, this lack of proof brings the Union's entire economic argument into question because, like its inaccurate external wage rate evidence, the Union once again provides unreliable data in support of its position.

It is also important to keep in mind, if the Union's offer is selected, the entire $383,893 cost will hit the City's budget in 2026. The cost cannot be spread over the three years of the contract term, because the budgets for 2024 and 2025 have long since been closed. While the City can "afford" the $383,893 amount, the funds will have to come from somewhere else in the budget since the Common Council's directive was to budget for the City's final offer, not the Union's. As City Finance Director Ruggini testified and arbitrators have agreed, it is not fiscally responsible to fund the $383,893 cost with monies from the City's unreserved fund balance.

The City's final offer is the more reasonable based on the "economic conditions" and "ability to pay" statutory criteria. The City's budgets are stretched yearly, with budget gaps occurring on an annual basis--to the extent several Fire and Police positions have been unfunded in each of the past three budget years. There is nothing in the statutory criteria requiring fiscal destitution must occur before an arbitrator can find that the "ability to pay" and "economic conditions" criteria support a municipal employer's final offer.

II. THE UNION'S RELIANCE ON "INTERNAL PARITY" IS BOTH INACCURATE AND MISPLACED.

The Union's brief is replete with references to "internal parity" as a key factor supporting the Union's final offer. In fact, the Union's brief mentions "internal parity" no less than 37 times. But, for a number of reasons, the Union's reliance on internal parity is both inaccurate and misplaced.

First, the Union makes repeated references to "internal parity" improperly. Internal parity is distinct from internal consistency. In the arbitration setting, parity generally refers to pre-existing established relationships between the wage rates of one employee group as compared to the wage rates of another employee group.

The Union's brief repeatedly conflates the concept of internal wage parity with the principle of internal consistency in wage increases. In Wauwatosa, there has not been a pattern of internal parity between Fire and Police wage rates. There has been a general (although not lock-step) pattern of internal consistency in wage increases between the Fire and Police Unions. The City's final offer is consistent with the internal wage increase pattern set by the Police for 2024-2026.

Second, the Union claims at pp. 2 and 6 in its brief that its final offer "mirrors" the terms negotiated by the City with the Police Union. In fact, at p. 11 the Union contends its "entire final offer" is "identical" to the deal given to the Police in the most recent negotiations, and at p. 17, the Union asserts "each and every provision in the Union's final offer matches the language and benefits that the City police received in their most recent CBA." But each of these assertions is unequivocally false.

As the City set forth in its initial post-hearing brief at pp. 9-15, there has been a general pattern of historical consistency in wage increases between the Fire and Police Unions, but there has not always been lock-step consistency. Variances in Fire and Police wage increases occurred in both 2015 and 2017 in recognition of specific goals and preferences--and quid pro quos--offered by the respective Unions in those years. Variances in other wage-related terms of settlement have also occurred, including the following (note that all of these variances were the result of voluntary negotiations):

> Elimination of a $500 annual certification payment in exchange for incorporating $500 into base pay (Police Union 2002-2004 contract term)
>
> $200 lump sum payment for each bargaining unit member in exchange for voluntary contract settlement (Fire Union 2011-2013 contract term)
>
> Specific language conditioning a 2.00% wage increase on duty disability study committee discussions (Fire Union 2014-2016 contract term)
>
> Specific language conditioning a 1.00% wage increase on implementation of personnel cost efficiencies (Police Union 2016-2018 contract term)
>
> Annual certification premium of $750 per year (Police Union 2019-2021 contract term)
>
> Annual certification premium of $75-0 per year (Fire Union 2021-2023 contract term)
> (City's brief, pp. 9-13)

The City's final offer is entirely consistent with the City's previous history of negotiating variances in wage increases and other wage-related items based upon the specific goals, preferences, and external market forces at play in each particular Fire and Police bargain.

In its initial post-hearing brief at pp. 15-34, the City fully addressed its rationale for providing the Police with the new wage step and, therefore, the City will not reiterate those arguments here. Suffice it to say that the Fire Union has offered neither a compelling need nor a quid pro quo in exchange for its demand of a new top wage step. Unlike the Police, the Fire Department has no hiring or recruitment problems; Fire Union salaries are already above the average of the external comparables (and the City's final offer will actually increase the Firefighters' respective wage rankings); and, rather than offering a quid pro quo in exchange for its proposed new wage step, the Fire Union's final offer demands a number of additional changes for which it also provides no quid pro quo. (See City's brief, pp. 25-29).

Arbitrators have agreed that final offers which maintain the status quo generally are favored over final offers that propose changes to the status quo.

Here, it is the Union that is "deviating from the terms of the previous collective bargaining agreement," not the City. The Union's proposed language changes are not mere "updates," as the Union states at least 10 times in its brief. Thus, the Union bears the burden of providing a corresponding quid pro quo for its proposed changes.

The Union contends the two most recent Fire Department interest arbitration awards lend support to the Union's final offer because in both of those cases the arbitrators accepted the City's arguments in favor of maintaining "internal parity." The City's response to this Union argument is threefold.

First, neither of those awards reference "internal parity." Internal comparability, yes, but not "internal parity."

Second, in past years the City and its Police and Fire Unions have occasionally strayed from lock-step internal consistency, particularly when it comes tow age-related items other than across-the-board increases. The City's final offer is entirely consistent with that past history, providing the identical wage increases the Police received for 2024-2026 while at the same time remaining cognizant of the parties' bargaining history and external comparability. [6]

Third, in both of the prior Fire Union interest arbitrations the Union references in its brief health insurance was the primary issue, not wages. Arbitrators are in wide agreement that strict internal consistency is of critical importance when it comes to health insurance.

Nowhere in the Union's brief does the Union mention the two prior Fire Union interest arbitration decisions involved health insurance rather than wages.

The Union's reliance on and perversion of these two awards to support its "internal parity" argument is misleading and disingenuous.

There is simply no justification for the Union's proposed new wage step to be warded through arbitration. The conditions underpinning the City's agreement to provide a new top step to the Police Union are glaringly absent from the Fire Union's situation.

As the City noted in its initial post-hearing brief at pp. 37-42, a restructuring of the wage grid such as that proposed by the Union should be accomplished through voluntary negotiations, not an arbitrator's award--particularly where external wage comparisons fail to demonstrate that such a change is warranted.

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[6] It is telling that the Union's brief makes absolutely no mention of the Fire Union's wage positioning with respect to the external comparables. Even though the heading at the top of p. 13 of the Union's brief references the statutory criterion addressing external comparability, the discussion that follows addresses only internal comparability, with not a single reference to the externals. This is perhaps not surprising given that, unlike the Police, Fire Union salaries are already well above average and the Fire Department is not experiencing employee retention issues, with the typical Firefighter serving a decades-long career before retiring from City employment. (City Ex. 4.E.).

Interestingly, at the hearing the Union posited the new step provided to the Police "hasn't solved any [Police] recruitment-retention issues." (Tr. p. 222). HR Director Mbow responded by noting the Police staffing situation was "much more complex than just that one thing. That was one aspect of it. So it's a recruitment tool for us." (Tr. p. 222). If the Union questions the effectiveness of the Police Union's new wage step in addressing the Police Department's demonstrated recruitment and retention problems, ho, then, does the Union justify a new top wage step—especially for a bargaining unit that does not face similar external wage deterioration or recruitment and retention issues as the Police Union? The answer: it cannot. Which is why the Union's "strict" internal settlement pattern argument is legally misplaced and why the City's offer is more reasonable and reflective of the parties' internal settlement history.

III. THE UNION MANIPULATES THE COST-OF-LIVING DATA IN ORDER TO MAKE ITS FINAL OFFER APPEAR MORE PALATABLE.

At pp. 17-19, the Union argues the 2021, 2022 and 2023 cost-of-living figures (the years in effect during the last contract duration) are the most appropriate to utilize in this proceeding. While this methodology may be creative, it flies in the face of arbitral precedent.

As the City described at pp. 82-83 of its brief, arbitrators have recognized CPI increases that occurred during the previous year of the preceding contract—in this case, 2023—as the appropriate increases to analyze when looking at CPI.

There can be little doubt the Union's purpose in utilizing a three-year CPI lookback period was to capture the extraordinarily high cost-of-living increases that occurred in 2021 and 2022 (see Union's chart on p. 18 of its brief). However, by the time the appropriate CPI lookback period of 2023 arrived, those cost-of-living adjustments had returned to more historically typical figures. (See City Ex. 11). The cost-of-living statutory criterion does not require "catch-up" to the CPI increases in effect during the years of the prior contract, nor does it require the Fire Union's alleged "loss in buying power" must now be "dug out of in the current CBA." Indeed, any "loss in buying power" that occurred as a result of the historically high CPI increases of 2021 and 2022 also greatly affected the City, since the City is a major purchaser of goods and services and, thus, any rise in consumer prices had a considerable impact on the City's expenses.

IV. THE UION'S APPLICATION OF THE "CHANGE IN CIRCUMSTANCES" CRITERION IS MISGUIDED AND CONTRADICTORY.

The Union is trying to have its cake and eat it too. The Union never raised the "changed circumstances" issue at hearing in a sufficient manner to now rely upon it here. To the contrary, the Union's argument was limited to "internal parity." The Union argued at length the longstanding years of history between the City, the Fire Union, and the Police Union should carry the day and mandate explicit comparability. It is illogical and contradictory for the Union to now argue that the "changed circumstances" criterion should carry the day—either the longstanding parity between the parties requires selection of the Union's offer or a newfound change in fats requires the selection of the Union's offer, but both cannot be true.

Any reliance on the "changed circumstances" criterion also cuts both ways. As the City has pointed out, no one knows what terms the new collective bargaining agreement covering the merged department will contain. Nor does anyone know the priorities of the new bargaining unit—which still has yet to be created—or of the new department's governing board. The "changed circumstances" criterion is simply too speculative to conclude that it has any real impact on this proceeding. The Arbitrator must instead evaluate the final offers as though a merger was not in contemplation, because that is how the parties looked at the offers when they were certified as final and when the case was argued at hearing. Union that framework, the City's final offer is the more reasonable and should be selected by the Arbitrator.

But even if the parties' offers are evaluated under a "this contract alone" analysis, the City's final offer remains far more reasonable. It provides competitive wage increases that boost the Firefighters' already above-average wage rankings even further, while making no other change to the status quo. The Union's final offer, on the other hand, demands an extremely costly new top wage step, an additional day of bereavement leave, and numerous other language changes—all with no demonstration of a compelling need and with no quid pro.

V. CONCLUSION.

The Police Union has a compelling reason—and a quid pro quo—for the new top step they received in 2024. The Fie Union demands the same new top step, yet the Fire Union faces none of the same issues confronting the Police when the City agreed to provide them the new step. The Fire Department has been fully staffed for years, and the Fire Union's top wage rates exceed the external comparables' average. Moreover, the Fire Union fails to offer a corresponding quid pro quo like the Police did. To the contrary, the Union's offer demands expanded funeral leave and a multitude of other language changes, none of which constitute an appropriate quid pro quo. In fact, these added tasks require an even greater quid pro quo from the Fire Union beyond that already required in exchange for the Union's requested top wage step.

Use of the "change in circumstances" criterion is inappropriate in this proceeding because it is logically inconsistent with the Union's exclusive application of internal parity at hearing, and it ignores the numerous unknowns associated with the merger. But even if the "change in circumstances" criterion is to be applied as proposed in the Union's brief, there clearly is no justification for the Union's final offer. The multitude of changes contained in the Union's final offer, along with its proposed new top wage step, find no support under an analysis focused on the impact of the parties' offers "on this contract alone." Under that standard, the City's final offer, which offers competitive wage increases but proposes no other practical changes to the status quo, emerges as far more reasonable.

The City is not asserting an inability-to-pay argument in this proceeding, but that does not mean the Union's proposal should automatically be selected. The Union's offer is unsupported by the statutory criteria, arbitral precedent, and the internal and external comparable data. In addition, the absence of any compelling reason or quid pro quo for the Union's exceedingly high wage demand is glaring and should be the end of any further consideration. The relevant statutory factors heavily favor the City's offer, and therefore, it should be selected by the Arbitrator.

For all of these reasons, the City requests that Arbitrator Torosian select the City's proposed final offer in this proceeding.

Union's Position

After examining both offers and applying the law to the facts presented, the relevant statutory factors overwhelmingly favor the Union's offer. The dispute in this case is narrow. Both parties proposed the same wage percentage increases and the same contract duration. The only meaningful difference between the parties' offers is that the Union's final offer maintains the historical internal parity between the City's Police and Fire bargaining units, while the City's final offer abandons that parity without any justification or quid pro quo.

For decades, internal parity between the City's Police and Fire Departments has been recognized as a defining principle of the parties' collective bargaining relationship. Indeed, the two prior interest arbitration decisions involving these very parties identified internal comparability between Police and Fire as the most compelling factor in determining the appropriate outcome. The evidence presented at hearing confirms that this longstanding parity relationship continues to exist today. The Union's final offer simply mirrors the terms recently negotiated by the City with its Police bargaining unit, including the additional wage step and related language provisions.

The City's final offer, by contrast, attempts to break from this decades-long pattern by denying Firefighters the same compensation structure and contractual provisions that the City voluntarily granted to Police Officers. Importantly, the City offered no corresponding concessions or quid pro quo in exchange for this deviation from established practice. As a result, the City's proposal would create an unprecedented disparity between the City's two public safety bargaining units—employees who perform similarly dangerous work protecting the residents of Wauwatosa.

Moreover, the evidence presented during the hearing demonstrates that the City is in excellent financial condition and fully capable of implementing the Union's final offer. The City's own Finance Director conceded that the City can afford the Union's proposal. Independent financial analysis presented by the Union likewise confirmed that the City maintains strong financial reserves and positive fiscal indicators. In addition, the City has publicly announced that it anticipates millions of dollars in additional cost savings from the upcoming

Fire Department merger with the City of West Allis. Under these circumstances, there is simply no credible argument that the Union's proposal would adversely affect the City's economic condition.

In short, the Union's final offer maintains the historical parity between Police and Fire, aligns with established arbitration precedent between the parties, and imposes only a modest cost on a municipality that has conceded it can afford the proposal. The City's final offer does none of these things.

For these reasons, and as demonstrated in detail below, the relevant statutory factors overwhelmingly support selection of the Union's final offer.

LEGAL STANDARD

As set forth in Wis. Stat. §111.77(6), the Arbitrator shall consider several factors in selecting the final offer that will be incorporated into the new collective bargaining agreement. This statute articulates that the factor to be given the greater weight is the factor relating to the economic conditions in the jurisdiction of the municipal employer, stating:

> In reaching a decision, the arbitrator shall give greater weight to the economic conditions in the jurisdiction of the municipal employer than the arbitrator gives to the factors under par. (bm). The arbitrator shall give an accounting of the consideration of this factor in the arbitrator's decision.

Wis. Stat. §111.77(6)(am). While the economic conditions of the employer are to be given the greatest weight in comparison to other factors used to assess the reasonableness of the parties' respective offers, other factors should also be considered. Specifically, Wis. Stat. §111.77(6)(bm) identifies the following eight factors that shall be considered:

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 these 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, vacation, holidays and 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.

Wis. Stat. §111.77(6)(bm).

The parties' differences in their final offers can be placed into two different categories: (1) wages, and (2) other language proposals. The Union's final offer is contained in Union Exhibit 1, while the City's final offer is contained in Union Exhibit 2.

The Union's final offer proposes several updates to specific provisions of the parties' collective bargaining agreement ("CBA"). The proposed changes affect Article V (Probationary Period), Article XVI (Salary Schedule), Article XIV (Bereavement Leave), a new Drug Policy provision, and Article VIII (Insurance).

First, the Union's final offer updates Article V, Probationary Period, of the parties' CBA. (Union Ex. 1). The proposed change adds language stating that "the probationary period may be extended at the Chief's discretion for up to six months." (Id.) Union President Jeff Dethloff

("Union President Dethloff") testified that this language was included in the Union's final offer because similar language was added to the Police collective bargaining agreement. (Tr. 34:12-35:2). The City's final offer does not include this proposed language change. (Union Ex. 2).

Second, the Union's final offer and the City's final offer propose the same wage percentage increases. (Compare Union Exs. 1 and 2). However, the Union's final offer includes an additional wage step that is not included in the City's final offer. (Id.) Union President Dethloff testified that the wage schedule contained in the Union's final offer, including the additional wage step, mirrors the wage scheduled adopted in the most recent Police collective bargaining agreement. (Tr. 35: 3-15). The City's final offer does not include the additional wage step. (Union Ex. 2). The City's final offer also does not include any quid pro quo provision related to the wage step included in the Police agreement. (Union Ex. 2; Tr. 42:8-43:16).

Third, the Union's final offer updates Article XIV, Bereavement Leave, of the parties' CBA. (Union Ex. 1). The proposed change adds one day of bereavement leave for the death of an aunt or uncle. (Id.) Union President Dethloff testified that the language contained in the Union's final offer matches language included in the most recent Police collective bargaining agreement. (Tr. 37:4-21). The City's final offer does not include this proposed language change. (Union Ex. 2). The City's final offer also does not include any quid pro quo provision related to this bereavement leave benefits. (Union Ex. 2, Tr. 42:8-43:16).

Fourth, both the Union's and City's final offer propose a CBA term of three years effective January 1, 2024, through December 31, 2026. (Union Exs. 1 and 2).

Fifth, the Union's final offer proposes adding a new Drug Policy provision to the parties' CBA. (Union Ex. 1). The proposed language provides that the City may adopt a drug testing policy identical to the drug policy contained in the Wauwatosa Police Department's collective bargaining agreement. (Id.) Union President Dethloff testified that this provision as included in the Union's final offer because the Police collective bargaining agreement contains similar language. (Tr. 38:10-39:8). The City's final offer does not include this proposed provision. (Union Ex. 2).

Finally, the Union's final offer updates Article VIII, Insurance, of the parties' CBA. (Union Ex. 1). The proposed language adds a requirement that employees must have fifteen years of service in order to receive the applicable benefit referenced in the article. (Id.) Union President Dethloff testified that this language mirrors a provision contained in the most recent Police collective bargaining agreement. (Tr. 40:7-41:4). The City's final offer does not include this proposed language change. (Union Ex. 2).

The Union's final offer therefore contains proposed updates to several provisions of the parties' CBA that correspond to provisions contained in the most recent Police collective bargaining agreement. The City's final offer does not include these proposed changes.

Union's Reply Brief

ARGUMENT

I. THE CITY'S ATTEMPT TO REFRAME INTERNAL COMPARABILITY FAILS.

The City's primary argument is that internal comparability between the Wauwatosa Police Department and Fire Department does not require "lock-step" parity. (City's brief at 9). That assertion is not supported by the record, the parties' bargaining history, or the controlling arbitration precedent involving these exact parties. Rather, it is an attempt to reframe decades of consistent practice and arbitration precedent.

The evidence presented at hearing establishes that internal parity between Police and Fire has been the defining feature of collective bargaining in Wauwatosa for decades. The compensation structures between the two departments have historically moved together, including wages, steps, and key contractual provisions. (Tr. 28:18-29:10). This historical internal equal treatment has been upheld and maintained for decades, as both the City's Police Officers and Firefighters do similarly dangerous work to protect the public and it avoids hard feelings between the City's two safety departments.

More importantly, prior arbitration decisions involving these parties confirm that internal comparability between Police and Fire is not merely one factor among many but is instead the most significant factor. In both the 1994 and 2009 interest arbitration decisions, the arbitrators emphasized that parity between these two public safety bargaining units was central to determining the appropriate outcome.

The City's attempt to characterize internal comparability as something less than parity is also contradicted by its own conduct. The City voluntarily granted the Police bargaining unit the exact wage structure and contractual provisions that the Union now seeks to replicate. That settlement did not occur in a vacuum. It occurred within a bargaining framework historically grounded in parity between Police and Fire. The Union's proposal simply extends that same structure to maintain consistency between the two departments.

In contract, the City's final offer represents a clear departure from that longstanding pattern. For the first time in decades, the City proposes to treat Firefighters differently than Police with respect to core compensation structures, benefits, and contractual policies. The City offers no credible explanation for this deviation from the historical practice beyond its attempt to redefine internal comparability itself.

In sum, the record establishes that internal comparability between Police and Fire in Wauwatosa has historically functioned as near lock-step parity. The Union's final offer maintains that historical internal parity under all five of its proposals. The City's final offer breaks it. Under the statutory framework and the parties' arbitration history, that distinction is decisive. Therefore, this Arbitrator should choose the Union's final offer.

II. THE CITY'S ATTEMPT TO DISTINGUISH POLICE FROM FIRE FAILS.

The City attempts to justify its departure from internal parity by arguing that the Police department faced unique recruitment and retention challenges that warranted the additional wage step, while the Fire Department allegedly does not. This argument is not supported by the record and, more importantly, misunderstands the role of internal comparability under Wis. Stat. §111.77.

The factual premise underlying the City's argument is flawed. The record demonstrates that recruitment challenges are not unique to the Police Department. As Union President Jeff Dethloff testified, the number of applicants seeking Firefighter positions has declined significantly over time. (Tr. 48:21-49:6). Where departments previously received hundreds of applicants, they now receive only a fraction of that number. (Id.) This trend is consistent with broader labor market conditions affecting public safety professions across the state. The City's attempt to portray firefighter recruitment as stable or unaffected is therefore inconsistent with the testimony presented at hearing.

Second, even if the City could establish that the Police Department experienced greater recruitment challenges at a particular point in time, that would not justify abandoning internal parity. Internal comparability does not require that Police and Fire experience identical circumstances in every respect. Rather, it reflects the longstanding recognition that Police

Officers and Firefighters are similarly situated public safety employees who perform essential, hazardous duties for the same employer and are therefore appropriately compensated under a consistent framework.

This principle has been repeatedly recognized in interest arbitration decisions involving public safety bargaining units. As prior arbitrators have noted, Police and Firefighters are "justifiably lined as protective service groups" and constitute a close and reliable internal comparable. That linkage is not contingent on identical operational challenges in any given year. Instead, it is grounded in the fundamental similarities between the two professions and the City's historical treatment of them as comparable groups.

The City argument improperly attempts to convert internal comparability into a case-by-case justification analysis, requiring the Union to demonstrate that Firefighters fact the same recruitment or retention issues as Police before parity can be maintained. That is not the law. The Union is not seeking to create a new benefit based on external conditions, rather it is simply seeking to maintain an established internal relationship that has governed bargaining for decades. The burden, therefore, is on the City to justify its departure from that relationship, not on the Union to re-prove it.

Moreover, the City's position is internally inconsistent. The City voluntarily granted the Police bargaining unit an additional wage step and related contractual benefits. Having done os, the City now attempts to treat those same benefits as uniquely justified and available to Firefighters. But internal comparability does not operate in one direction. Again, as demonstrated above, the City has argued to arbitrators for decades that the Union must accept the same benefits as the Police Union—and nothing more—due solely to the factor of internal parity.

In sum, the City's attempt to distinguish between Police and Fire is unsupported by the record, inconsistent with established arbitration principles, and insufficient to justify a departure from decades of internal parity. Therefore this Arbitrator should choose the Union's final offer.

III. THE CITY MISSTATES THE LEGAL STANDARD GOVERNING THIS ARBITRATION.

The City's argument rests heavily on the assertion that the Union must demonstrate a "compelling need" to justify its proposal. That assertion is incorrect as a matter of law and reflects a fundamental misunderstanding of how the statutory factors under Wis. State §111.77 are applied in interest arbitration.

The Union is not seeking to introduce a novel benefit, fundamentally restructure the compensation system, or obtain an outcome untethered to the parties' historical bargaining relationship. To the contrary, the Union's final offer is narrowly tailored to maintain an established and longstanding pattern of internal comparability between the City's Police and Fire bargaining units. That distinction is critical. Where a proposal seeks to maintain an existing pattern, arbitrators do not require a showing of "compelling need." Instead, the focus shifts to whether there is a sufficient justification to department from that pattern.

The City attempts to invert this framework by placing the burden on the Union to justify maintaining parity. That is not how interest arbitration operates. The weight of arbitral authority makes clear that where a clear and consistent internal pattern exists, it is presumed to be the appropriate benchmark for resolving disputes. In such cases, the party seeking to deviate from that pattern bears the burden of demonstrating why a departure is warranted. Here, that party is the City.

As analyzed in detail in the Union's initial brief, the entirety of the Union's final offer simply seeks to abide by and respect the decades of above arbitration precedent by maintaining internal parity with the recently ratified Police CBA.

Critically, each and every provision in the Union's final offer matches the language and benefits that the City Police received in their most recent CBA. While three of the five proposals in the Union's offer are language changes that are in the City's favor, the Union included them in its final offer in order to abide by and respect the decades of above arbitration precedent on the issue of internal parity. Contrarily, the City's final offer completely abandons and destroys internal parity. Therefore, this factor strongly favors the Union's final offer.

Ultimately, the legal standard is straightforward: where a clear pattern of internal comparability exists, it is entitled to substantial and often controlling weight. The Union's final offer adheres to that pattern. The City's final offer departs from it without justification. Under the proper legal framework, that distinction resolves this case in the Union's favor.

IV. THE CITY'S <u>QUID PRO QUO</u> ARGUMENT IS INCORRECT AND LEGALLY IRRELEVANT.

The City's <u>quid pro quo</u> argument fails at the threshold because it is not supported by the record. The City repeatedly asserts that the Police bargaining unit received the additional wage step in exchange for giving up positions. That claim is directly contradicted by the testimony on the record.

As the City's own HR Director Beth Mbow testified, the Police Union did not negotiate over giving up any positions, as the City has the sole authority to determine how many positions the Police Department has.

The City's entire quid pro quo argument rests on the premise that the Police Union traded positions for the extra wage step. The record establishes that no such agreement existed and, more importantly, that the Police Union lacked the authority to make such a trade even if it had wanted to do so. In other words, according to the City's own witness, the quid pro quo asserted by the City is not merely unsupported, it is impossible under the structure of collective bargaining.

Simply put, the City's quid pro quo argument is flawed in every respect. It is based on a factual premise that is contradicted by the record, it relies on a type of agreement that the Police Union could not have made, and it invokes a standard that is not required under the statute. Therefore, this arbitrator should give no weight to the City's argument.

V. THE CITY'S ATTACK ON THE UNION'S PROPOSALS IS INTERNALLY INCONSISTENT AND UNSUPPORTED BY THE RECORD.

The City devotes a significant portion of its brief to attacking each of the Union's proposed changes in isolation, arguing that the provisions lack necessity, lack value, or impose unwarranted costs. This approach is fundamentally flawed. It ignores both the context in which the Union's proposals were made and the central role that internal comparability plays in this case.

At the outset, it is critical to recognize that every provision contained in the Union's final offer directly mirrors language adopted in the most recent Police collective bargaining agreement. The Union did not develop these proposals in a vacuum, nor did it seek to introduce novel or untested provisions. Rather, the Union's proposals reflect compensation and policy decisions that the City has already evaluated, negotiated, and accepted for another public safety bargaining unit. That fact alone significantly undermines the City's attempt to portray the Union's proposals as unnecessary or unreasonable.

The City's position is therefore inherently inconsistent. On the one hand, the City argues that the provisions at issue are appropriate for Police Officers. On the other hand, it contends that the exact same provisions are unnecessary or unjustified for Firefighters. The City offers no principled basis for this distinction. Police Officers and Firefighters are similarly situated public safety employees who perform essential and hazardous duties for the same employer. If a provision is reasonable for one group, the City must provide a compelling explanation for why it is not reasonable for the other. The City has failed to do so.

Ultimately, the City's attack on the Union's proposals fails because it is based on an internally inconsistent position and an improper analytical framework. The Union's final offer reflects provisions that the City has already deemed appropriate for similarly situated employees. The City's attempt to reject those same provisions in this proceeding lacks both factual support and logical coherence. Therefore, this Arbitrator should choose the Union's final offer.

VI. THE CITY'S COST ARGUMENT IS OVERSTATED AND DOES NOT OUTWEIGH INTERNAL COMPARABILITY.

The City places considerable emphasis on the cost associated with the Union's final offer, attempting to portray it as excessive and unjustified. That argument fails both factually and legally. As demonstrated in the record, it is clear that the cost of the Union's proposal is modest, fully within the City's financial capacity, and insufficient to overcome the strong weight of internal comparability in this case.

First, and most importantly, the City has conceded that it has the financial ability to implement the Union's final offer. During the hearing, the City's own Finance Director acknowledged that the City can afford the Union's proposal.

Second, the actual cost of the Union's proposal is far less significant than the City suggests. With the City's Fire Department ceasing to exist next year after being merged into a new shared entity with the City of West Alis, the current Union bargaining unit will also cease to exist. As such, the extra wage step included in the Union's final offer will only be in existence for the term of this single collective bargaining agreement. As a result, it is not necessary to analyze how much the extra step will cost the City into the future, but rather what the one-time cost will be for this contract alone. Again, the cost of the Union's extra wage step proposal has been estimated to cost less than $200,000.

Moreover, the record demonstrates that the City is in a strong financial position. The Union's financial analysis established that the City maintains healthy fund balances, positive financial indicators, and substantial reserves of over $25.5 million.

In sum, the City's cost argument is overstated, unsupported by the full financial record, and insufficient to justify a departure from established practice. The Union's proposal is affordable, reasonable, and consistent with the City's existing compensation framework. Accordingly, cost considerations strongly favor the Union's final offer.

VII. THE INTERESTS AND WELFARE OF THE PUBLIC STRONGLY FAVOR THE UNION'S FINAL OFFER.

The City's treatment of the "interests and welfare of the public" factor attempts to reframe a fairness issue as a fiscal one. That framing is incomplete and ultimately unpersuasive. While financial considerations are relevant, the public interest under Wis. Stat.

§111.77(6)(bm)(3) encompasses far more than budgetary concerns. It includes the impact of the parties' proposals on workforce stability, morale, operational effectiveness, and the delivery of public safety services. When viewed through that broader and proper lens, the public interest strongly favors the Union's final offer.

Ultimately, the public interest is best served by outcomes that promote fairness, stability, and effective public service. The Union's final offer achieves those objectives by maintaining the longstanding parity between the City's Police and Fire Departments. The City's final offer undermines them by introducing an unjustified disparity.

Accordingly, the interests and welfare of the public strongly support selection of the Union's final offer.

VIII. THE COST-OF-LIVING FACTOR DOES NOT SUPPORT THE CITY AND IS CONSISTENT WITH THE UNION'S FINAL OFFER.

The City places undue emphasis on cost-of-living considerations in an effort to portray its proposal as more aligned with inflationary trends. That argument is unpersuasive when viewed in the proper statutory context and in light of the record as a whole.

As analyzed in detail in the Union's initial brief, inflation has increased at historic levels in recent years, with measurable impacts on the cost of housing, transportation, food, and other essential goods and services. Specifically, from December 2020 to December 2021, the CPI rose an incredible 7%, the largest December to December change since 1981. (Union Ex. 22). Likewise, from December 2021 to December 2022, the CPI rose another 6.5%. (Id.) In total, the CPI over the three-year duration of the previous CBA rose a total of 16.9%. However, over that same three-year period, the Union only received a total wage increase of 7%. (Union Ex. 10 at

38). As such, the cost of living rose at over double the rate of the Union's wages. Therefore, the Union has suffered a significant loss in buying power that must now be dug out of in the current CBA.

Ultimately, the cost-of-living factor does not favor the City's proposal. Rather, it supports maintaining compensation that reflects both current economic conditions and established internal comparability. The Union's final offer satisfies both of those objectives.

CONCLUSION

For the foregoing reasons, the Union's offer is the more reasonable offer. Thus, the Union respectfully requests the Arbitrator select the Union's offer for inclusion in the parties' final collective bargaining agreement.

DISCUSSION:

The parties provided the Arbitrator with many, many pages of brief in support of their final offer as being the most reasonable.

The issues in this case are, in a sense, not really complicated and in fact quite simple.

The Union's position is all about parity, both with its language proposals and compensation. Its case is simple. There is no dispute over the wage increase; it is the same as the settlement with the Police. The only dispute is over the added step increases to the salary structure that the Police received.

The City's position is that their offer is more reasonable because the Police Union demonstrated a compelling need for the extra step and offered a corresponding quid pro quo. It agreed to not refunding three positions.

The Union, in response, argues that the Police did not offer a quid pro quo.as claimed.

The Arbitrator has read and re-read the transcript of the proceedings, the exhibits, and the parties' extensive briefs. In the opinion of the Arbitrator, when all is said and done, the determining factors in the selection of the most reasonable final offer of the parties are 1) whether there is parity between Police and Fire, and if so, is it controlling, 2) was the quid pro quo offered by the Police meaningful, and 3) was there a compelling need for the extra step due to the City's difficulty in the recruitment and retention of officers.

To begin with, in addition to the step increase, the Union's final offer contains language changes. The Arbitrator, however, does not find them significant enough to impact the reasonableness of the final offers. For the most part, all of the changes are the same or similar to what the Police now have. They are:

A new Drug Policy that is identical to the one added to the Police CBA.

With respect to the Union's offer on the Probationary Period, it updates the language and adds discretion to the Fire Chief to extend the probationary period.

The Union's final offer in Article VIII, Insurance, adds 15 years' service requirement to receive the benefit. This is a benefit to the City even though it will seldom be applicable due to the retirement history of the firefighters.

The Union' offer also includes one additional day of Bereavement Leave for aunt and uncle, the same as the Police received. The City, however, argues that one day for the police is equal to three days for the Fire. This is true, but it is consistent with the same bereavement leave received by family members now. The aunt and uncle addition would be on the same basis.

In the opinion of the Arbitrator, the language change proposals by the Union are consistent with what the Police have and to the extent they differ, they are not significant enough to play a role in the determination of the most reasonable final offer. The determinative issue is solely the step increase.

To begin with, there is the issue of whether there is parity between the Police and Fire? Clearly, the record establishes there has been parity dating back many years. The City agrees there is a longstanding historical pattern of internal consistent wage settlements but not lock-step consistency. In this regard, the record establishes that from 2006-2026 there were only two years of no parity in wages. In 2015, Police received an extra 1% in exchange for schedule changes in position. In 2017, the Fire received an extra ¼%. So, for the period of 20 years, there is a small difference of .75%.

The Arbitrator agrees with the City that internal comparability between Police and Fire (parity) was and is not absolute and exact in every way. However, a difference of .75% over 20 years is not significant. The City correctly points out that there were other variations. The variations, however, are within the concept of parity. In this regard, the Fire and Police units realize there will be non-structural deviations from exact treatment between the two to address the particular needs of the units. For instance, in 2002-2004, in addition to the same wage increase as the Fire, Police received certification pay. Later, Fire received the same wage increase as the Police, but also received certification pay. Also, the Fire received a $200 signing bonus in 2011-2013 and in 2022.

The Arbitrator concludes that none of the above differences places the Fire and Police outside of the scope of their parity relationship.

That being the case and notwithstanding parity, it is the City's position its offer is more reasonable because the Police offered a quid pro quo for their recruitment and retention step increase which the Fire has not.

The arbitrator disagrees. One cannot give up something it does not have. The Police did not and has no authority to negotiate and give up positions. The City has sole authority to do so. The Union does not have bargaining rights over same.

The City's position is that the Police were told that the step increase hinged on the reduction of the three positions. HR Director Mbow testified that the City viewed the reduction of the positions as a quid pro quo for the step increases. It may be, but Mbow also testified that the City had the unilateral right to reduce positions and the Police had no authority over the issue. Again, what the City received was not a negotiated agreement but the Union's blessing to not fund three positions.

In short, the Police may have given their blessing for the reduction of three positions, but it was not a quid pro quo. It may be the City viewed the reduction as quid pro quo, but it is also likely that the Police viewed the settlement as it receiving a step increase without giving up anything in exchange.

So the last and most important issue is the City's position that the City's difficulties in recruitment and retention of officers is a justifiable reason for the step increase Simply put, the Fire does not have the same issue and, therefore, there is no need for an extra step for the Fire.

The Arbitrator does not question the City's needs in this area. On the other hand, the City did make an offer to the Fire Union in bargaining with the step increase that maintained parity. The City, however, required a quid pro quo. Its position was that the Police settlement included a quid pro quo for the step increase so if the Fire wanted the step increase, it, like the Police, had to agree to a quid pro quo. But, as discussed above, the Police did not really agree to a quid pro quo. The City eliminated funding for three positions which it had the unilateral right to do. Likewise, the City, as with the Police, exercised its unilateral right to eliminate two firefighter positions. The difference is that the City obtained the Police's blessing for its position reduction.

Clearly, the Fire's entitlement to the step increase hinged on a quid pro quo. The Fire did not propose a quid pro quo like or similar to the one proposed by the City in its settlement offer. Neither has the City proposed same, which would have made its offer more reasonable as well. Both parties in their final offer took extreme [positions. The Fire with a step, but now quid pro quo and the City with not step increase at all. However, the Fire's offer without a quid pro quo matches the Police settlement. It, therefore, maintains parity with the Police. This principle of parity is recognized and adhered to in interest arbitration decisions, including the instant parties. In this regard, the Arbitrator agrees with Arbitrator Hempe's reasoning in a prior decision between the parties. His rationale was as follows:

> This is an internal comparable that provides undeniably strong guidance to the arbitrator. Firefighters and police officers continue to be justifiably lined as protective service groups, statutorily and in the mind of the public. The respective (though usually different) duties of each include physically exhausting, debilitating and at times personally dangerous activities, to which employees in non-protective or general service groups are not normally exposed.

The Arbitrator agrees and finds that the Union's final offer best meets the statutory criteria. The relevant criteria in this case are 1) greater weight should be given to Employer's economic condition, 2) interest and welfare of the public and the City's ability to meet the costs and, 3) internal comparability. The other factors are not significant enough to influence the determination of which of the two final offers is the most reasonable.

With respect to the economic conditions of the City, the arbitrator credits the testimony of Finance Director John Ruggini that the City faces issues going forward. However, taking into account the City's economic condition, it nevertheless, by the City's admission, has the ability to pay the Union's final offer. The Union's final offer does not adversely impact the City's economic condition. But, as the City correctly argues, this by itself doesn't mean the Union's offer is more reasonable than the City's. The Arbitrator agrees so other factors must be considered.

Factors 3 and 4 above can be discussed together. The Union's final offer best meets the criterion "interests and welfare of the public and financial ability of the unit of government to meet these costs" (Union's final offer). As discussed earlier, the City agrees it can meet the cost of the Union's proposal. This is important, but not the deciding factor. The Arbitrator also finds that the other part of the criterion, "interest and welfare of the public" is best met by the Union's offer. The City's final offer does not offer the step increase to the Union because it is for recruitment and retention; a problem the Fire does not have. The Arbitrator totally appreciates the City's need in this regard. However, its position results in a major change in the wage structure between the Fire and Police. The record establishes that as far as the parties can remember - that goes back many, many years- there has not been a structural change. There was parity all along. The Arbitrator finds Union's final offer best meets the interest and welfare of the public because as continues the consistency and equity in the treatment of Police and Firefighters. There has always been parity between the two for many years. There is no sufficient reason to break parity under the facts of this case. In the minds of the public, Police and Fire have been treated the same because the public views both as providing a public service in protecting the public. They are both public safety employees who perform essential, hazardous work for the City. Parity maintains the morale and harmony between the two groups. As such, it best meets criteria numbers 3 and 4.

In summary, the Arbitrator acknowledges the City's need to address its problem of recruitment and retention of police officers. The Fire does not have the same problem. The City's position is that the Police gave a quid pro quo for the step increase, so if the Fire wanted a step increase it also had to offer the same. It did not. However, the Police did not give a quid pro quo either, so the Fire's final offer is the same as the police settlement.

This was not an easy case to decide, but based on the above facts, exhibits, testimony, and arguments of the parties, and discussion thereon, the Arbitrator finds that maintaining the longstanding parity between the Fire and Police, ss proposed by the Union, is the most reasonable final offer and best meets the relevant criteria 111.77(6)(am), 3, and 4. As discussed above, criteria numbers 1, 2, 5, 6, 7 and 8 are not significant enough to alter the selection of the most reasonable final offer.

Based on the above facts and discussion thereon and the record as a whole, the Arbitrator selects the Union's final offer the most reasonable and, accordingly, renders the following

AWARD

Applying the criteria set forth in Wis. Stat. §111.70(6)(am) through (8), the Arbitrator finds that the Union's final offer is the more reasonable of the two offers. Accordingly, the Union's final offer (Attachment A), together with all prior agreements of the parties, shall be incorporated into the parties' successor January 1, 2024 - December 31, 2025, collective bargaining agreement.

Dated this 25th day of July 2026.

____
Herman Torosian, Arbitrator