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MAYOR**



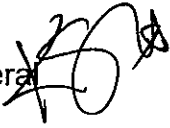
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**DEPARTMENT OF
INSPECTOR GENERAL
CITY OF YONKERS**

TO: Mike Spano, Mayor
Susan Gerry, Deputy Mayor
Bernard McGoey, President, Yonkers Firefighters Union Local 628
Chuck Lesnick, City Council President
All City Council Members

FROM: Kitley S. Covill, Inspector General 

DATE: August 21, 2013

SUBJECT: Yonkers Firefighters Variable Benefits Fund

The Department of the Inspector General (IG), as part of its ongoing mission to audit entities that receive City of Yonkers funds (City funds), has reviewed the Yonkers Firefighters Variable Benefits Fund for calendar year 2011. The Variable Benefits Fund receives taxpayer supported City money pursuant to the terms contained in the Collective Bargaining Agreement (CBA) between the City and the Yonkers Firefighters, Local 628, IAFF, AFL-CIO (the Union). This report outlines what we found.

Background

There are different funds available to Union members for reimbursement of eligible expenses. We reviewed only the Variable Benefits Fund, (VBF) which is financed solely by the City of Yonkers¹. The annual amount paid to the VBF by the City is determined by the terms of the CBA. The VBF is defined and governed by an Agreement and Declaration of Trust (Trust Agreement) initially executed in January 1980 and last amended in 2005. Pursuant to the Trust Agreement and the CBA,

¹ A second fund, known as the Yonkers Firefighters Welfare Fund, is funded by a surcharge imposed on foreign insurance companies, pursuant to NYS Insurance Law §9104. Both funds reimburse members for health related expenses and both are exempt from income tax. Because the IG review was limited to taxpayer supported City funds, the IG only reviewed the Variable Benefits Funds.

the Trustees of the Fund determine how the money will be used. They are required to sign a certification concerning the Trustees' vote on how the money will be expended and give the City both an annual audited account of the funds spent and the certification. Additionally, according to the CBA, the City has a right to audit the VBF.

The IG was told no yearly certifications have been sent or received, nor have the funds been audited by the City or the Union. When the IG asked the Union President why the Union did not conduct annual audits, he stated that an audit was conducted a number of years ago and the Union considered a more recent audit but believed it would be too costly. When the IG asked the Union President why he did not give the City the signed Certification he stated that the City never asked for it.

The VBF was created to reimburse active City Firefighters for expenses incurred and paid by them, and where applicable their dependents, for dental, prescription drug co-payments, vision, major medical co-payments, major medical deductibles, health insurance premium costs and physical incentive (health club) expenses. The VBF also pays for a life insurance premium for Firefighters, and pays a law firm to provide specified legal services to members. The VBF therefore reimburses members for (i) funds already expended by them or eligible family members or (ii) funds deducted from the members' paycheck as contribution to the cost of the City's health care premiums. The City contractually remits payments totaling several hundred thousand dollars to the VBF every year.

Eligibility for reimbursement from the VBF is defined in the VBF Handbook as being "available only to active Firefighters of the City of Yonkers Fire Department and where applicable to their dependents". According to the CBA, active is defined as employees of the City. The Trust Agreement also defines eligible members as "any employee or member of the City of Yonkers Fire Department for whom contributions are required to be made to the Fund by the terms of the CBA, or in fact are made to the Fund on behalf of employees or members". See attached relevant provisions of the VBF Handbook, CBA and Trust Agreement.

IG Review, Goals and Objectives

The goal of the IG review was to determine whether taxpayer supported City funds provided to the VBF are being expended consistent with the terms of the CBA and the Trust Agreement. In our review, we undertook the following:

1. We sought to obtain accurate records for the contractually required annual payments by the City to the VBF for calendar year 2011;
2. We examined financial statements to understand how the funds were being utilized;
3. We analyzed check registers for the benefits administered by the VBF; and
4. We requested files of selected payment records that were made from the VBF in order to verify the accuracy of payments made to its members.

In the course of our review, we looked at records of payments from the City to the VBF, check registers, individual claims and benefits paid, the Agreement and Declaration of Trust, the CBA, the VBF Benefit Book for 2011, a one page summary of annual benefits created for members for 2011, a schedule of dental allowances in effect for 2011 and other relevant documents. We prepared Excel schedules to analyze VBF expenditures and other financial data. Additionally, our office interviewed the President of the Firefighters Union, an employee of the Union and other individuals.

Overview of Yonkers Firefighters Variable Benefits Fund

The CBA mandates that the City pay 3% of the top Firefighter's annual salary, times the number of active Firefighters, to the VBF. For several years the top Firefighter's salary - \$76,895 - has remained the same, thus currently the City pays \$88.73 biweekly for a total annual cost of \$2,306.85 per active Firefighter.

The City also pays an annual administrative fee of \$14,280 and a sick leave incentive payment of 25% of the total annual sick incentive payment. The incentive payment varies depending on the average number of sick days taken by the members².

As determined by the VBF Trustees, there are nine (9) separate benefits for each active Firefighter (hereinafter member). Some of these benefits include payments for spouses and children; some are for the member only. Annually, the Trustees who oversee the VBF review the reimbursement amount available for each separate benefit, although the IG was told that no new benefits have been added in years. The annual benefit amount and to whom it is available, for the nine separate benefits, as well as the amounts paid out in 2011, is set forth below.

In calendar year 2011 there were approximately 318 Firefighters (a number that fluctuates as Firefighters are added, get promoted, resign, etc.). According to the compiled financial statements provided to us by Local 628³, in calendar year 2011 the VBF had revenue of \$1,024,000, benefit reimbursements of \$1,046,000, and expenses of \$101,000 yielding a net deficit of \$123,000. The expenses included

² The sick incentive payment is a contractually negotiated payment that pools all sick days taken by the Firefighters in a calendar year and is divided by the average number of Firefighters. Pursuant to the CBA all Firefighters are given 13.04 days of sick leave annually. This leave is not related to line of duty injuries. While all Firefighters have unlimited paid sick time this contractual benefit is different, and theoretically provides an incentive for Firefighters to use no sick time and be compensated for that unused time. Thus, if all of the Firefighters took no sick time they would be paid for 13.04 days a year in addition to their salaries. After the calendar year is over the total number of sick days used by all the Firefighters is divided by the average number of firefighters employed by the City that year. That average number of sick days used is deducted from the contractual 13.04, arriving at a number of days to be paid off.

³ The statements were compiled by an outside accountant but were not audited and thus were not certified.

the Trustees' salaries and FICA payments, a percentage of Worker's Compensation, Unemployment and Disability insurance, a percentage of office expenses and a portion of the salary and benefits provided to the Union employee who administers the fund. The deficit was financed from accumulated reserve funds held in an investment account. At the end of 2011 the VBF investment account had a balance of \$1.9 million. Since the VBF is legally separate from the other Union funds, the monies received by the VBF are deposited into a separate bank account.

In 2011 the City made contractual payments totaling \$808,000 to the VBF based on a form submitted bi-weekly from the Union to the City with a notation of the number of active Firefighters on the City payroll during that two week period. The City also paid an additional \$97,000 for the sick leave incentive payments calculated on sick leave taken by Firefighters in 2010. The VBF had \$92,000 in interest income on its reserve held in its investment account and received \$27,000 from the Uniformed Fire Officers Association for one third of the legal benefits cost.

The VBF shares administrative costs with the other funds. One Administrator, who is employed by the Union, receives all paperwork, processes all claims and enters the reimbursement amounts into two different systems: (i) an Access system for benefit claims and (ii) a QuickBooks program that tracks claims that were made. All checks presented for Trustees' signatures are accompanied by supporting documentation for review by the two trustees who will be approving the expenditure and signing the check. We were told that the Access check writing system contains programmed benefit limits that were established by the Trustees and would automatically limit reimbursements.

Specific Payments and Benefits

Listed below are the benefit categories and benefit amounts that in 2011, the Trustees approved for reimbursement, together with the total amounts approved for payment by the Trustees. Each claim is entered into the access system by code for tracking purposes and the system is supposed to reimburse the member up to the annual limit as determined by the Trustees.

Major medical co-payments – coded as 604

-The VBF provides an annual cap of \$600 per family for participating provider co-pays. **In 2011 \$55,000 was paid out to members.**

Major Medical deductible payments - coded as 605

-The VBF provides an annual cap of \$200 per family for out of network major medical deductibles. **In 2011 \$4,000 was paid out to members.**

Health Insurance reimbursement payment – coded as 617

-The VBF provides an annual benefit of \$1,240 per member paid semi - annually, \$620 in June and December. The program was started when the Firefighters were required to pay a portion of the health insurance provided by the City. Some Firefighters opt out and are not paid this benefit; others are paid pro rata based on start date or promotion out of Firefighter rank. **In 2011 \$388,000 was paid out to members.**

Prescription co-payments – coded as 704

-The VBF provides an annual cap of \$800 per family for prescription co-pays. **In 2011 \$44,000 was paid out to members.**

Physical Incentive program – coded as 705

-The VBF provides a payment of \$300 once in every 12 month period. A paid receipt is required for payment of this benefit. This benefit is described as reimbursement for a health club membership for members only. **In 2011 \$37,000 was paid out to members.**

Dental

-The Firefighters do not have City-provided dental insurance. The VBF therefore provides payment for dental visits. The dental reimbursement benefit has four separate components, routine dental, orthodontics, periodontal surgery and dental implants. The VBF provides:

-An annual cap of \$3,500 per person in a family for routine dental care, subject to individual dollar limitations per procedure;

-A lifetime cap of \$4,000 per person in a family for orthodontics;

-\$4,500 per person once every five years for periodontal surgery;

-A set fee schedule for one dental implant for member and spouse per year. **In 2011 a total of \$405,000 was paid out for the four benefits listed above.**

Vision

-The vision benefit has two parts: contact lenses and corrective eye surgery. Eyeglasses are not part of this fund as they are covered by the Firefighter's Union Welfare Fund. The VBF provides:

-An annual cap of \$200 per family member for contact lenses.

-A lifetime cap of \$2,000 for a member and spouse for Lasik eye surgery. **In 2011 \$8,000 was paid out to members.**

Life Insurance

The VBF pays for a \$25,000 life insurance policy on each member. Members may purchase additional coverage individually, at their own expense. **In 2011 \$17,000 was paid for life insurance premiums.**

Judicare Legal Services

-The VBF annually pays \$55,000 to a law firm for specific legal services for members. These legal services include real estate transactions, preparation of a Last Will and Testament and Health Care Proxy, and limited representation in other civil and criminal matters; otherwise a member may purchase extra legal services privately at a discounted rate. **In 2011 the VBF paid \$82,500 to the law firm which included an extra payment that was due but not made in 2010.**

Review

We began our inquiry in April, 2013⁴. We requested and received all VBF bank statements for 2011, and the check register in excel format. We did not receive any signed certification of Trustee votes or an annual audited account of the VBF as required by the Trust Agreement and CBA. We were told that the VBF had not retained a CPA to conduct an annual audit, but had retained an accountant who reviewed and corrected the books as needed and annually gave the Trustees a compiled financial statement. We were given the annual compilation. We were also told that we could not be provided with any benefit reports as the Access system the VBF was using could not generate useful reports.

We analyzed and sorted the material by coded benefit and identified numerous missing checks⁵. The sorted check register listed the benefits that were paid to the member only and did not delineate the name of the claimant (dependent); it also did not include the date of service for the benefit reimbursement. Thus we had no way to identify whether the benefit was paid for services rendered to the member, the spouse, or a member's dependent children. Therefore we needed to review individual members' files to ensure that reimbursements were made in accordance with the dollar benefit limits set by the Trustees. The review also included prior years to ensure that the payment limitations set by the Trustees were honored.

⁴ The President of the Firefighters Union (and President of the VBF Trustees) was cooperative although he expressed concerns about members' privacy. After negotiation with the Union's attorney, we issued a subpoena for all records and entered into a confidentiality agreement whereby no individual member would be identified in this report.

⁵ We gave the list to the Union President. We were told that the accountant that compiled the annual statement of funds expended reversed any missing and voided checks with journal entries.

The six (6) benefits the IG reviewed for 2011 were:

- Major Medical co-payments;
- Major Medical deductible payments;
- Health Insurance Reimbursement payments;
- Prescription co-payments;
- Physical Incentive payments; and
- Dental payments.

As noted above, each benefit has a specific account number which can be used to track and analyze benefit reimbursements.

Because the VBF is based upon a reimbursement of expenses incurred, with the exception of Judicare and Life Insurance benefits, the member is required, as per the VBF Handbook, to submit proof of services rendered and proof of payment made in order to obtain reimbursement. (In the case of the health reimbursement, the only requirement for reimbursement is payment for City health insurance). We were told, however, that an Explanation of Benefits statement from the service provider, without a paid receipt, is accepted. Additionally, because the benefits available to the member and family are capped, should services provided and member payments made exceed the defined benefit amount, reimbursement should be denied by the Access benefit system.

On June 4, 2013 we visited the Union office and randomly requested three member files. We were told that the files were kept by member and contained Welfare and Variable Benefit payments for multiple years, which might mean some of the files were likely to be disorganized or would contain documents not relevant to our review.

In fact, we found the three files we reviewed were in complete disarray. The first file we reviewed was for a person who had been promoted during 2011, and we were told that was why it was disorganized. The second file we reviewed was incomplete. We were told that the selected member has relatives with the same last name; we were then given the relatives' files. The relatives' files did not contain the missing documents either. The third file we reviewed contained multiple years and incomplete paperwork.

From this initial review it was clear that no meaningful audit of payments could occur.

On June 5th, 2013 we gave the Union a list of 65 members and requested checks and back-up paperwork to support specifically identified (coded) payments for calendar years 2010 and 2011. We selected these benefits and members because our review of the check register indicated that amounts reimbursed for a specific benefit may have exceeded the annual maximum set by the Trustees.

Four weeks after our request, we received individual files created for our review containing only the specific payments we requested for 2011. We reviewed all 65 files. The files consisted of check stubs from the VBF and back-up paperwork supporting the reimbursement, to the extent it could be obtained or found. Some of the files contained back-up documentation that was obtained during the 4 weeks following our request. (We believe that some of the supporting documentation was not in the members' file when payment was made). Some of the files contained handwritten notations indicating no back-up paperwork or check stub could be found.

We then selected some members from the 65 individual files given to us to further review in depth in order to verify payments made in relation to codes, payments and annual and lifetime benefit caps.

IG Findings

General Disorganization and a Lack of Supporting Documentation

Because we had initially sorted the payments shown in the check register by benefit code, our review revealed what seemed to be numerous payments that exceeded the Trustee imposed caps on benefits. Our review of the individual files revealed significant miscoding of payments. Thus, for example, what appeared to be some overpayments of Health Insurance reimbursements (since that was a defined annual amount of \$1,240) were sometimes, in fact, miscoding for other benefit payments. This finding revealed that the computer benefits program contained no limits, despite the Trustees' belief that it did. Moreover, because the computer program appeared to contain no automatic limits on payment, some members were overpaid and others were occasionally underpaid, and duplicate reimbursements for benefits were also made.

Many of the individual member files examined were missing VBF check stubs, or had no paid invoices, or had no paperwork for services rendered. In one instance we saw that a Firefighter had been reimbursed for his co-payment, however the paperwork in the file revealed that in fact he had not made his co-payment and the matter had been sent to collection.

Some of the files created for our review contained a copy of the VBF checking account statement showing that the check was cashed with no other documentation. In addition to finding some duplicate payments for the same services and overpayments and underpayments for other services, we found improper payments for items, and payments made on paperwork for services rendered outside the review period.

For example, in one of the files we found that the amount paid exceeded the member's capped amount and that the backup paperwork attached to the 2011 check stub (and allocated to the 2011 allowed limits) showed a 2008 paid receipt

and a 2010 paid receipt. Handwritten notations indicated that this payment should be allocated to the 2010 allowed limits, although additional paperwork for other checks indicated that the member had already received all allowable benefits for 2010.

In the files we were given we found voided checks with no paperwork supportive of the void and no evident reason for the void, although sometimes the file contained a handwritten entry of explanation that seemed to have been added for the IG review.

We found that some members submitted original supporting paperwork, some submitted copies. Some members submitted handwritten notations of what was paid and often the paperwork attached to the check stub did not contain a paid receipt to match the amount paid to the member as a reimbursement. We were told that an Explanation of Benefits statement would be enough for reimbursement despite explicit language to the contrary in the Variable Benefits Handbook.

Payments to Persons who were not active Firefighters or City Employees

In July 2010 a number of Yonkers Firefighters were laid off and remained laid off for some portion of 2011. Thus, their names would not be on the bi-weekly lists sent to the City for payment to the VBF and would be ineligible for monies from the VBF. Nonetheless we found that the VBF reimbursed claims for dental services and other benefits during a period when these Firefighters were not employed by the City due to layoffs. In addition, as noted below, some of these same inactive Firefighters, not employed by the City, were reimbursed for COBRA payments.

Specific VBF Accounts Reviewed

Although our review included six VBF benefits, we highlight three benefits; the Health Insurance Reimbursement payments, the Dental payments and the Physical Incentive payments.

Health Insurance Reimbursement

The Variable Benefits Handbook states the following for the Health Insurance reimbursement:

Benefit

Reimbursement to members for their health insurance coverage.

Eligibility

Active Firefighters of the Yonkers Fire Department who pay for the health coverage offered by the City of Yonkers.

Utilizations

The benefit is paid in June and December in two payments of \$620 each, for an annual total of \$1240.

We found that all of the members who contributed money towards the City health insurance received health insurance reimbursements⁶, although any Firefighter who was employed for less than 12 months, or was promoted during the year, received a pro-rated reduced amount. Some Firefighters, however, received payments to which they were not entitled, as detailed below.

As stated in the Variable Benefits Handbook, which mirrors language in the CBA and Trust Agreement, VBF monies are available only to employees of the City who are active Firefighters. Nonetheless we found that the VBF reimbursed some of the Firefighters who had been laid off for their City or HealthyNY COBRA payments⁷.

Dental Reimbursements

The Variable Benefits Handbook states the following for the Dental reimbursements:

Benefit

Reimbursement for the payment made to participating dentists and payments made to non-participating providers according to a fee schedule.

Eligibility

Active Firefighters of the Yonkers Fire Department and eligible dependents.

Utilization

This benefit is for routine dental work based on a schedule of allowances as set up by the Trustees of the VBF. Benefits are paid upon receipt of a dental claim form filled out by the dentist and signed by the member.

If a member, or eligible dependent utilizes a participating dentist, they will be reimbursed 100% of their out of pocket payments, up to a maximum of \$3500 per individual, per calendar year. When using a non-participating dentist, members will be reimbursed according to the established fee schedule.

⁶ Like most city employees, Firefighters covered by the City's health insurance are required to contribute to the cost of their health insurance. Their contribution is taken from their paycheck on a pretax benefit. We inquired about the VBF issuing 1099s, as the health insurance reimbursement, unlike other VBF benefits, could be considered income to the member who has received a tax break on his payroll contributions.

⁷ When the IG asked the Union Trustee President about these payments he stated that the Union Trustees voted to support laid off Firefighters, and that the Trust Agreement gives them great discretion. He stated that pursuant to the Union by-laws laid off Firefighters remain members of the Union. He noted that in the CBA the VBF benefits continue to be available to dependents of Firefighters killed in the line of duty, thus they are not "active". Since there is no CBA provision for laid off Firefighters, however, Union funds, not taxpayer VBF money, should have been used to reimburse these non-city employees.

In addition other dental benefits include an orthodontics maximum (\$4000 once in a lifetime), periodontal surgery (\$4500 every 5 years), and implants (\$2000 per year for members and spouses only). Orthodontics are available to all members, spouses and dependent children under 19 years of age.

Documentation

A dental form completed by the dentist's office stating the work that was completed along with a paid in full receipt.

While we found many accurate reimbursement payments we found a number that were not correct. Specifically, we found:

- Payments exceeding the lifetime cap for orthodontics, sometimes by as much as \$1,200 over the \$4,000 limit;
- Inconsistent payment amounts for the same dental treatment;
- Payments made without back-up documentation or verification of prior payments for purposes of review regarding annual or lifetime caps;
- Payments on nonexistent dental codes;
- Payments that did not match the billing;
- Payments based on the dental form, with no paid receipts attached;
- Overpayments despite a set fee per the established fee schedule; and
- Duplicate payments.

Physical Incentive reimbursements

The Variable Benefits Handbook states the following for the Physical Incentive Program:

Benefit

Reimbursement for health club membership.

Eligibility

Active Firefighters of the Yonkers Fire Department.

Utilization

Any Firefighter who joins an exercise health club which will enhance the physical well-being of the member shall be reimbursed up to \$300 of the cost of the membership once in a twelve month period.

Waiting period

Members are eligible upon appointment to the Yonkers Fire Department.

Documentation

A contract accompanied by a paid receipt, cancelled check or credit card receipt showing payment in full.

A contract accompanied by a credit card statement or checking account statements showing the first and last months of dues deductions.

We found that the receipts for many of the reimbursements made were not in conformance with the requirements as stated in the Variable Benefits Handbook. Thus for some payments we saw no paid receipts, for some we saw a few months receipts, and on occasion we saw reimbursements paid to the members in excess of \$300. In one instance, we saw a paid receipt, but no reimbursement and no explanation for nonpayment.

In addition to the members being reimbursed for health club memberships, we also found that the VBF reimbursed members for:

- Spouse health club membership;
- Pool club summer family memberships at a Country Club or municipal pool;
- Rock climbing; and
- Golf passes for member and spouse.

Conclusions and Recommendations

The VBF is a not-for-profit Trust run by Trustees who are Yonkers Firefighters. The VBF is supported by City taxpayer funds. Our review of the disbursements made in 2011 showed instances where they were not consistent with the CBA and Trust Agreement parameters, nor were they consistent with the VBF limits set by the VBF Union Trustees. We found that the VBF reimbursements had numerous errors in the select sampling of payments we reviewed. It is troubling that with a small sampling we found such a large number of issues. It is also troubling that VBF Trustees signed checks and approved all of these payments by reviewing supporting documentation that often was incomplete, inappropriate or in contravention of the limits and criteria set by them.

We also found that the VBF has accumulated a large reserve that is held in an investment account, relative to the annual number of claims and members. Another welfare fund previously reviewed by the IG carried a reserve of 100% of City funds paid to it, whereas the VBF is carrying a reserve of well over two times the annual contribution received from the City.

We make the following specific recommendations:

1. Use of a Third Party Administrator would eliminate many of the issues found in this IG review.
2. The VBF should ensure that a Third Party Administrator has the ability to provide the Trustees with whatever benefits reports are requested. Reports should include a detailed check register that clearly identifies and tracks claimants, dates of service and member payments to ensure that annual limits and lifetime caps are not exceeded.
3. A yearly certification of the Trustees' vote on how the money will be expended must be given to the City.

4. The VBF must conduct an annual audit and give a copy of that audit to the City. An annual audit may have caught some of these inconsistencies in reimbursements. (Other Unions have found audit firms that perform an audit for relatively modest amounts).
5. The VBF should change the reimbursement process for the physical incentive program to ensure that only the Firefighter member is receiving the correct benefit, if entitled.
6. A paid receipt should always be required prior to reimbursement. Submission of an Explanation of Benefits statement, without more, should not suffice.
7. When a check has not been cashed for 90 days, the check should be voided and a stop payment order should be sent to the bank handling the VBF account prior to issuing a replacement check.
8. The Third Party Administrator should pay in-network dentists directly, eliminating unnecessary paperwork as the member is currently reimbursed 100% for eligible expenses up to the annual cap of \$3,500, subject to the individual dollar limitations per procedure.
9. The VBF should establish an annual procedure for issuing 1099s to members who receive health insurance reimbursements, if required to do so.
10. Only active Firefighters should be reimbursed from VBF funds. If the Union chooses to give any funds to laid off Firefighters they must use other funds.
11. In discussions with the Union President he indicated that the Union has been working to fix the computer system and that some of these issues should be corrected⁸. It is therefore recommended that the IG review these systems in the future to ensure that the identified problems have been resolved.

A final draft of this report was given to the President of the Yonkers Firefighters Union for his review and response. His written response is attached.

⁸ The President of the Union and the Union attorney expressed frustration with the tone and tenor of the drafted report. The President indicated a number of things he believed we should have reviewed, including interviewing the computer consultant currently working to replace the VBF software system. Since this IG review is retrospective, we did not believe that was necessary.

VARIABLE BENEFITS FUND

Eligibility

- These benefits are available only to active **Firefighters** of the City of Yonkers Fire Department and where applicable to their dependents.

Description of Fund

- The Variable Benefits Fund is a Collectively Bargained Trust Fund established between Local 628 and the City of Yonkers. The Trust is currently funded by the payment of 3.00% of the base salary of a top paid fire fighter, paid annually on behalf of each member of the bargaining unit, and 25% of the annual fire fighters sick incentive award under the bargaining agreement.
- The Fund covers active Fire Fighters of Yonkers Fire Fighters Local 628 IAFF who are members of the Bargaining Unit and their dependents where applicable.
- Benefits from the Variable Benefits Fund cease upon promotion, removal from active service on the Yonkers Fire Department, or retirement from the Yonkers Fire Department.
- Benefits from the Variable Benefits Fund cease upon promotion, removal from active service on the Yonkers Fire Department, or retirement from the Yonkers Fire Department.
- Claims for Benefits will be paid upon completion of service with appropriate form filled out properly and submitted with a paid receipt.
- This Fund is governed by a Board of Trustees as provided in the Collective Bargaining Agreement and the Trust Agreement.
- Benefits will be paid for claims submitted for the calendar year, claims for benefits must be submitted by March 31st of the following year provided the services were rendered in the prior calendar year. **Any claims submitted after March 31st of the following year will be denied.**

Benefits Covered By the Variable Benefits Fund

Dental

- Health Insurance Reimbursement
- Drug Prescription Co-Payment
- Defensive Driving Course
- Physical Incentive Program
- Major Medical Deductible

CBA

**AGREEMENT BETWEEN
MUTUAL AID ASSOCIATION OF THE PAID FIRE DEPARTMENT
OF THE CITY OF YONKERS, NEW YORK, INC.,
LOCAL 628, I.A.F.F., AFL-CIO
AND
THE CITY OF YONKERS**

This AGREEMENT, made this 30th day of October, 2002, by and between the CITY OF YONKERS, NEW YORK (hereinafter referred to as the "City"), and MUTUAL AID ASSOCIATION OF THE PAID FIRE DEPARTMENT OF THE CITY OF YONKERS, NEW YORK, INC., LOCAL 628, INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, AFL-CIO (hereinafter referred to as the "Union").

ARTICLE 1:0

RECOGNITION

Section 1:0

The City recognizes the Union as the exclusive bargaining agent for all those employees holding the rank of Firefighter (hereinafter referred to as "members"), who are now on active duty and employed by the Fire Department of the City of Yonkers (hereinafter referred to as the "Department").

ARTICLE 2:0

CHECK-OFF AND AGENCY SHOP

Section 2:01 - Dues Check-Off

The City agrees to deduct membership dues and other present deductions from the members' bi-weekly paychecks when authorized in writing by members of the Union. The amounts deducted shall be transmitted to the treasurer within five (5) work days of such deductions, together with a list of Members from whom deductions were made. The Union shall notify the City in writing of the amount to be deducted and to whom it should be sent. The City shall not be responsible for the transmission, receipt and use of the funds when payment has been made. Payment shall be made through an Executive Board member who shall pick up the payment and sign for it.

Section 8:04 - Retiree Health Insurance

8:04.01 - The City shall continue to provide individual and family health insurance benefits to members who retire from the Department with the same employee contribution rates as the member had on the date of retirement. The retirees will have the same health benefit plan options as the active members offered by the City.

Survivor Health Insurance

8:04.02 - For employees who die in the line of duty, or while still in active duty, the City will contribute 100% of the cost of the coverage under the City medical and insurance plan for the deceased member's spouse and children, until the deceased member's spouse dies or remarries.

ARTICLE 9:0

VARIABLE BENEFITS FUND

Section 9:01 - Contributions

9:01.01 - The City and the Union have agreed to establish a Benefits Fund which shall be controlled by the Union. The City shall contribute annually, 3% of top rated firefighter's base salary per year, as provided in Article 4:0, Section 4:01.01, to the Benefits Fund, for each member of the bargaining unit. This contribution shall be paid bi-weekly in equal amounts over the course of the year on behalf of each member listed on the bi-weekly payroll. The total sum contributed bi-weekly shall be forwarded to the Variable Benefits Fund, or as otherwise indicated in writing by the Fund's Trustees. The President and Secretary of the Union shall sign a certification of any vote taken to expend funds for benefits as determined by the Fund's Trustees and shall present to the City such certifications and an annual audited account of funds spent. Payments shall be supported by a duly executed claim submitted by the President or his agent.

9:01.02 - The City shall make an annual contribution to the variable benefits fund in the amount of \$14,280 in addition to the contribution provided for in section 9:01.01 above. The annual contribution shall be paid in equal monthly installments of \$1,190 with the regular bi-weekly City contribution.

Section 9:02

The Benefits Fund shall be used for the benefit of all bargaining unit members covered by this Agreement. The Trustees of the Fund shall determine the nature and extent of the benefits to be provided from said Fund.

Section 9:03

9:03.01 - The City shall have the right to conduct an annual audit of the Variable Benefits fund. The Union shall make available to City auditors, for their examination, all books, records and

supporting documents reflecting the receipt of payments from the City to the Variable Benefits Fund and all expenditures made by said Fund.

9:03.02 - Written notice shall be provided to the Fund by the City notifying the Fund that an audit is being scheduled and requesting a mutually agreeable date to conduct such audit. The Union may have present at the audit its Trustees, Accountants and/or Counsel.

9:03.03 - Nothing contained in this section 9:03 shall be construed to modify the rights of the Union, as provided in this Agreement, to exclusively control and administer the Variable Benefits Fund nor to relinquish any control or administration of the Fund's books and records.

Section 9:04

If a member is killed in the line of duty the City shall continue to make contributions to the variable benefits fund, as such is provided in this Article of the collective bargaining agreement until such time as the member's youngest child, who was covered by said fund at the time of death, reaches his or her twenty-second birthday at which time such contributions shall terminate. Local 628 and the Variable Benefits Fund shall certify to the City, in writing, the names and birthdays of the deceased member's children covered at the time of death.

ARTICLE 10:0

VACATION LEAVE

Section 10:01

10:01.01 - Members of the bargaining unit who have completed in excess of one (1) year of service shall be entitled to nineteen (19) working days of vacation per year. Members who have completed six (6) months of service in one (1) calendar year shall be entitled to sixteen (16) working days vacation in the following calendar year. Members who have completed less than six (6) months of service in one (1) calendar year shall be entitled to eight (8) working days vacation in the following calendar year. Members shall be entitled to split their vacations in two (2) working day periods of ten (10) or nine (9) days; and also shall be entitled to take personal leave in conjunction with vacation.

10:01.02 - The Fire Commissioner shall establish the vacation periods, which shall commence either after a day tour or after a night tour, as he shall determine to be in the best interests of the Department. Members shall return to work on the next regularly scheduled working day in accordance with their normal cycle following the completion of their vacation. The number of vacation picks permitted members during any one (1) vacation period shall be determined in a manner so as to provide an equal distribution of member manpower during any vacation period as possible, which shall be defined as an average of not less than 1.5 members per company without the mutual consent of the member and the Commissioner. Once selections have been made, they shall not be changed. Said minimum may be lowered by mutual consent of the member and the

TRUST AGREEMENT

VARIABLE BENEFITS FUND OF THE MUTUAL AID ASSOCIATION OF THE PAID FIRE DEPARTMENT OF THE CITY OF YONKERS, NEW YORK, INC., LOCAL 628, I.A.F.F., AFL-CIO

1st AMENDED AGREEMENT AND DECLARATION OF TRUST, dated as of June 4, 1986 in the City of Yonkers, County of Westchester, State of New York.

W I T N E S S E T H :

WHEREAS, the City of Yonkers has made available to the Variable Benefits Fund of Mutual Aid Association of the Paid Fire Department of the City of Yonkers, New York, Inc., Local 628, I.A.F.F., AFL-CIO, certain monies for the purpose of purchasing fringe benefits other than pensions; and,

WHEREAS, these monies have been negotiated by the collective bargaining representative for the Yonkers Firefighters; and,

WHEREAS, said collective bargaining representative has the purpose of providing benefits of various kinds for its members; and,

WHEREAS, an Agreement and Declaration of Trust was executed as of January 1980 for the Variable Benefits Fund of the Mutual Aid Association of the Paid Fire Department of the City of Yonkers, New York, Inc., Local 628, I.A.F.F., AFL-CIO as a

3.4 "Bargaining Representative" shall mean Mutual Aid Association of the Paid Fire Department of The City of Yonkers, New York, Inc., Local 628, I.A.F.F., AFL-CIO.

3.5 "Plan" shall mean the Benefits Plan adopted by the Trustees pursuant to the terms of this Agreement and shall be set forth in a different document, describing the benefits to be provided and the rules for eligibility and which may be referred to as "Variable Benefits Fund of Mutual Aid Association of the Paid Fire Department of the City of Yonkers, New York, Inc., Local 628, I.A.F.F., AFL-CIO.

3.6 "Collective Bargaining Agreement" shall mean the collective bargaining agreement in effect from time to time between the City and the bargaining representative, including any Memorandum of Agreement or similar written statement expressing a mutual understanding pursuant to which there arises an obligation by the City to make contributions into said Fund of the collective bargaining representative.

3.7 "Employees" or "Members" shall mean any employee or member of the City of Yonkers Fire Department for whom contributions are required to be made to the Fund by the terms of a collective bargaining agreement, or are in fact made to the Fund on behalf of employees or members.

3.8 "Fund Manager" (if any) shall mean that person designated by the Trustees to administer the Fund and Plan in accordance with the directives of the Trustees.

YONKERS FIRE FIGHTERS

BARRY B. MCGOEY
PRESIDENT

MICHAEL EIFLER
VICE PRESIDENT

TODD CAMMISA
TREASURER

BRIAN GEARY
REC. SECRETARY



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YONKERSFF@OPTONLINE.NET

“UNION AND PROUD OF IT”

LOUIS VELLUCCI
TRUSTEE

FRANK MARINO
TRUSTEE

GREGORY de SOUSA
TRUSTEE

GEORGE ROCHA
TRUSTEE

August 20, 2013

Kitley S. Covill, Esq.
Inspector General
City of Yonkers
Yonkers City Hall
40 South Broadway
Yonkers, New York 10701

Re: **I.A.F.F. Local 628 Variable Benefit Fund Audit**

Dear Inspector General Covill,

The Trustees of the Variable Benefits Fund (“VBF”) cooperated fully with the Inspector General’s audit of the VBF for calendar year 2011 and promptly provided all documents and information requested by the Inspector General (“IG”) and her staff. Although we disagree with some of the IG’s findings and conclusions, we nevertheless welcome and agree with some of the IG’s recommendations. Indeed, many of the recommendations made by the IG in her audit report have already been implemented or are being considered by the Trustees of the VBF.

We are, and remain, troubled that the IG did not indicate all of the specific exceptions or findings in either her report or to the Trustees. The IG’s audit report states that she found “numerous” errors within a “small sampling” of payments. We disagree that the sampling was “small” and that the errors were “numerous.” We are also disappointed that the IG did not identify to the Trustees of the VBF each and every exception or error that she referred to in her report. The report uses terms such as “many”, “often”, “a number of”, “sometimes”,

etc., when referring to the exceptions found during the audit. If the sampling was "small" as stated by the IG then the IG should have been able to specifically identify the exact number of times such exceptions occurred. Indeed, such specificity would have been very useful to the Trustees of the VBF in determining the causes of any such exceptions and to assist us in developing procedures and practices necessary to prevent any similar exceptions from occurring in the future.

Prior to the IG's audit we had already determined internally that the services of a third party administrator ("TPA") may be necessary to deal with the ever-increasing complexity of medical/dental billing and the increased volume of claims processed by the VBF. In fact, we are in the final stages of selecting a specific TPA and we are in the process of negotiating that TPA's written proposal of services to be provided and the fees that will be charged for those services.

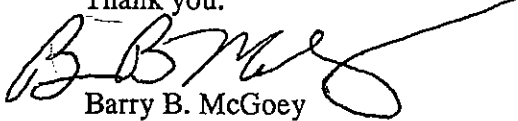
At the current time, the final decision to utilize the services of a TPA has not been made since we still must weigh the costs involved for the services to be provided by the TPA and whether we can provide such improved services internally in a cost-effective manner with a new computerized benefit claims processing program.

The computerized benefit system that was used for the claims processed in the audit period (calendar year 2011) was a very old and cumbersome program which could not be adequately upgraded to effectively deal with the numerous changes that have occurred over the past number of years in relation to medical/dental and other benefit claims processing. The VBF had attempted to purchase a new benefit claims processing software program but the cost of a suitable program ranged between \$50,000 on the low-end to close to \$100,000 on the high-end. Instead, at a fraction of the cost, the VBF retained the services of a computer programmer who has built us a new benefit claims processing software system that is presently being utilized and tested. This new benefit claim processing program addresses many of the issues raised by the IG in her report, including preventing duplicate payments, ensuring benefit limits are not exceeded, etc. This new program will soon be upgraded to require that all supporting documentation be scanned into the computer therefore making recordkeeping easier and eliminating the need for cumbersome storage of paper records.

The TPA that we are currently negotiating with has a relationship with numerous auditing firms that independently audit many of their clients' benefit funds. If the Trustees elect to retain the TPA, we will also engage the services of one of these auditing firms to conduct an annual audit of the VBF and the Trustees will provide the City with a copy of each such annual audit. The Trustees of the VBF have recently retained the services of a new accounting firm to provide us with accounting and consulting services for the VBF. In the event the Trustees do not elect to retain a TPA and instead continue to process the VBF claims in-house, the Trustees will direct our new accounting firm to assist us in procuring an independent auditing firm to conduct an annual audit of the VBF. A copy of that annual audit report will be provided to the City.

Utilizing the IG's report and recommendations, going forward we will work with our accountant (and possibly a consultant) to develop a Corrective Action Plan to address any deficiencies that we have not already addressed and corrected. We believe that the IG's conclusion that the VBF maintains a healthy reserve fund balance is proof positive that the Trustees of the VBF have managed the funds prudently and conservatively. We will continue to do so.

Thank you.



Barry B. McGoey

BBM/hd

cc: VBF Trustees
Richard Corenthal, Esq.