

**IN THE MATTER OF INTEREST ARBITRATION BETWEEN**

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<b>County of Carver,</b>	)	<b>BMS Case No. 09-PN-0424</b>
<b>Chaska, Minnesota</b>	)	
	)	<b>Issue: 2009 Wage Reopener</b>
<b>“County” or “Employer”</b>	)	
	)	<b>Hearing Date: 01–26 –10</b>
<b>and</b>	)	
	)	<b>Brief Filing Date: 02–09–10</b>
<b>Law Enforcement Labor Services, Inc.)</b>	)	
<b>Local No. 289 – Licensed Sergeants</b>	)	<b>Award Date: 03–06–10</b>
	)	
<b>“LELS” or “Union”</b>	)	<b>Arbitrator: Mario F. Bognanno</b>

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**I. JURISDICTION**

Pursuant to Minn. Stat. § 179A.16, Subd.4, the above-captioned matter was heard in Chaska, Minnesota on January 26, 2010. The parties in this arbitration are the County of Carver and Law Enforcement Labor Services, Inc., Local No. 289 who are signatories to a Collective Bargaining Agreement (“CBA”) with effective dates of January 1, 2007 through December 31, 2009. (Union Exhibit 1 and Employer Exhibit 1)

The County is one of the Twin Cities seven metro area counties, with a 2008 population of approximately 90,043; and 2007 per capita income of \$49,691, which is 121 percent and 129 percent of the state and national average, respectively. (Union Exhibits 6, 11 &12) LELS is the exclusive representative of 10 employees in the Sergeant classification. In October 2007, the parties concluded the negotiation of their 2007–2009 CBA and they entered into a Memorandum of Agreement (“MOA”) wherein the County agreed to conduct a “market/compensation” (“market”) study that was to be completed by December 31, 2008. The MOA also stipulates that the CBA would be reopened for the “...sole purpose of negotiating implementation of the market/compensation study for 2009.” (Union Exhibit 1 and Employer Exhibit1)

A 15 person Compensation Study Advisory Team (“Team”) was established to oversee the market study. Among other tasks, the Team assisted in the decision to retain the Stanton Group to conduct the study. For the purpose of making market wage comparisons, the Stanton Group, with Team input, defined the external market as Anoka, Dakota, Scott and Washington counties, metro cities of 25,000–85,000 and metro area private employers with annual budgets of \$100 million. (Union Exhibit 24) From the study’s onset, the LELS was a member of the advisory Team and an active participant in the market study. (Union Exhibits 21 – 28)

Subsequent to the market study’s completion, the parties entered into 2009 wage reopener negotiations only to reach an impasse. On June 4, 2009, the Union requested that the impasse be resolved by conventional interest arbitration. (Union Exhibit 2) Pursuant to Minn. Stat. §179A.16, Subd. 2, the Commissioner of the Bureau of Mediation Services, State of Minnesota, certified only one issue to binding arbitration, namely, “Wages – Wage/Market Adjustment 2009 – App. A.” (Employer Exhibit 2) On June 24, 2009, the parties provided the Commissioner with their “final positions” on 2009 wages. Said positions are as follows:

LELS: “All wages should be increased by a 10% market adjustment for 2009.”

County: “The County proposes no increase to the wage schedule that became effective January 1, 2009.”

(Union Exhibits 3 & 4 and Employer Exhibits 3 & 4)

At the hearing, the parties were given a full and fair opportunity to present their cases; witnesses were sworn and cross-examined; and documentary evidence was accepted into the record. On or about February 9, 2010, the parties filed timely post-

hearing briefs and, thereafter, the 2009 wage adjustment issue was taken under advisement.

**II. APPEARING**

**FOR THE COUNTY**

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**FOR LELS**

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**III. LELS ARGUMENTS**

The Union's arguments in support of a 10 percent increase in 2009 wages are based on four standards, namely: (1) ability to pay; (2) internal pay equity; (3) external equity; and (4) other economic factors.

**1. Ability to Pay**

LELS estimates that its wage proposal will cost Carver County \$63,000.00. (Union Exhibit 4). For the following reasons, it maintains that the County has the ability to pay this amount:

(1) For the year ending December 31, 2008, the Employer had \$176,956,750 in total net assets, representing a \$5,764,796 increase over the year ending December 31, 2007; and it had unrestricted net assets of \$29,442,693. (Union Exhibit 12)

(2) For the year ending December 31, 2008, the Employer's unreserved General Fund balance (i.e., funds available to the County for discretionary use) was \$22,506,434 or 44 percent of the County's general expenditures. (Union Exhibits 5, 7 & 12) For the year ending December 31, 2007, the comparable State average was 43.8 percent. Thus, the Union argues, Carver County's unreserved General Fund balance is well

within the State Auditor's recommended 35 percent to 50 percent level. (Union Exhibit 5)

(3) In 2009, Standard & Poor's increased Carver County's bond rating from Aa2 to AAA, a two-step increase. (Union Exhibit 8)

(d) State Aid to all Minnesota counties has been unstable and trending downward. As a consequence, in February 2009, Carver County decided to cease relying on State Aid to fund its operating budget and to begin funneling all State Aid allocations to capital projects, which were to be paid for on a "pay-as-you-go" basis. (Union Exhibit 10, p. 56) To finance this decision, the Employer reduced its 2009 budget of \$82 million by \$1.1 million and its 2010 budget of nearly \$90 million by \$2.6 million, with said reductions being made primarily through personnel changes.

## **2. Internal Pay Equity**

The Employer's September 7, 2007 Pay Equity Compliance Report ("Report") indicated that 13 of the County's job classifications had 943 job evaluation points, including the Sergeant classification. Further, it showed that the Sergeant classification's "maximum monthly salary" was below "predicted pay" by \$445.64 or 8.6 percent; whereas, the remaining 12 comparable job classifications were being paid more than the salary predicted by the pay/points regression line. (Union Exhibit 15) Similarly, the Employer's September 27, 2004 Report showed that among the 12 job titles with 943 points, the Sergeant job title was the only classification being paid 6 percent below predicted pay—a negative difference of \$268.40 per month. (Union Exhibit 16) Clearly, LELS argues, between 2004 and 2007 Sergeant's pay has drifted downward relative to the County's other jobs that require the same average level of

skills, knowledge and ability. As a final point, the Union observes that internal pay equity aside, the County has increased the wages of several job classifications because of external market competitiveness concerns. (Union Exhibit 19)

### **3. External Equity**

The Stanton study shows that on July 1, 2008, the Sergeant classification actually was paid an average of \$64,700 per year whereas the market average for Sergeant's was \$72,000 per year, implying that Sergeant's in Carver County made only 89.9 percent of the market—an 11.3 percent shortfall. (Union Exhibit 27) This shortfall is the foundation on which the Union bases its 10 percent 2009 wage proposal.

Further, the combined LELS Sergeant and LELS Deputy bargaining units were being paid 93.3 percent of the market, while the combined AFSCME and IBT units were being paid in excess of 100 percent of the market.<sup>1</sup> (Union Exhibit 27) The Union argues that this means that the LELS units and particularly the Sergeant unit uniquely warrant 2009 market-based wage adjustments. In addition, the Union maintains, (a) since the combined AFSCME bargaining units were paid above the market, it is not surprising that they did not bargain for a 2009 market adjustment; (b) when their 2007-2009 CBAs were bargained, the IBT bargaining units agreed to a general 2009 wage adjustment of 3 percent effective January 1, 2009 and another .5 percent adjustment effective July 1, 2009; and (c) merely because the Stanton Group recommended "market adjustments" only for job classifications that were below 80 percent of the market and above 120 percent of the market, does not make it right and does not limit the arbitrator's authority. (Union Exhibit 25)

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<sup>1</sup> The LELS Deputy Sheriff classification actually earned \$52,200 per year, which was 94 percent of the comparable market average of \$55,500 per year.

#### **4. Other Economic Factors**

With respect to the general economic climate, the LELS initially points out that even though the County increased its 2010 property tax levy, property values fell at a faster relative rate, causing the property tax bill to fall for the average home owner in Carver County. (County Exhibit 47) Next, the Union dismisses the County's macro economic evidence, arguing that while it may have applicability at the state level, it has none at the county level.

#### **IV. CARVER COUNTY ARGUMENTS**

The Employer's proposed 0.0 percent 2009 general wage adjustment is based on five lines of argument, namely: (1) since the 2007-2009 CBA was negotiated, the general economy has deteriorated; (2) Carver County's financial condition has worsened; (3) 2009 Wage Reopener; (4) internal wage comparisons; and (5) external wage comparisons.

##### **1. General Economic Deterioration**

Under the terms of the parties' 2007-2009 CBA, effective January 1, 2007, the Sergeant unit received a general wage increase of 3 percent; effective January 1, 2008, the unit received a general wage increase of 3 percent, plus the salary schedule's maximum wage was increased by an additional 2.5 percent; and finally, effective January 1, 2009, the unit received a general increase of 3 percent, plus the parties agreed to reopen 2009 wage negotiations subsequent to the Stanton study. (Employer Exhibit 1)

The 2007-2009 CBA was executed in October/November 2007, long before the U.S. and Minnesota economies slipped into the current recession, aggravating public

sector budgets. In November 2008, the State of Minnesota estimated that by the end of the biennium (June 30, 2009), its FY 2008-09 budget would have a \$426 million deficit; in November 2009, the State estimated that its biennial FY 2010-2011 budget would result in a \$1,203 billion deficit; and in November 2009, the State forecasted a structural shortfall of \$5.426 billion without adjusting for inflation by the end of the FY 2012-2013 biennium. (Employer Exhibits 8 & 25) The Employer argues that the State's budgetary difficulties have cascaded down to local units of government.

In this regard, in December 2008, \$761,036 in State Aid to Carver County was "unallocated." (Employer Exhibits 12 & 18) In May 2009, the County was unallocated another \$565,646 in State Aid, and Carver County's State Aids are scheduled to fall by another \$1,148,433 in 2010. (Employer Exhibits 20 & 43) To underscore the severity of the current recession, the County introduced into evidence several articles and commentaries about growing deficits, unemployment rates, wage deflation, limited inflation rates, the mortgage crisis, housing foreclosures and so forth at the State and, in some cases, at the federal level of government. (Employer Exhibits 9-11, 13-19, 21, 23-24 & 26-42)

## **2. Carver County's Financial Condition**

The Employer argues that the County has been proactive in reducing its expenditures in order to responsibly manage its budget in the face of falling State Aid, investment earnings, recorder's fees and other revenues. In fact, although the County modestly increased its property tax levy in 2009 and 2010, with falling home values, the impact of these levy increases on the "average" valued home were negligible, and property tax revenues have fallen. (Employer Exhibits 45 & 47)

In its effort to reduce expenses, the County made \$923,000 in cuts to its \$101 million 2008 budget, and it made \$19 million in cuts to its \$82 million 2009 budget. (Employer Exhibits 43 & 44) With respect to personnel, the 2009 budget cuts eliminated 19.45 FTE County positions, implying a corresponding reduction in public services, including the elimination of 1 deputy position from the Sheriff's Office. (Employer Exhibit 45). Later, the County further adjusted its 2009 budget by cutting expenses another \$2.64 million, which included the elimination of 10.9 FTE positions. (Employer Exhibit 46) With respect to the Sheriff's Office, in addition to other cost-savings, the 2009 adjusted cuts meant the elimination of 1 FTE Lieutenant position (effective July 1, 2009), 1 FTE Deputy position (effective January 1, 2010), and 1 FTE Detention Deputy position (effective January 1, 2010). (Employer Exhibit 46)

Ultimately, the Employer argues that its on-going economic difficulties have also cut into its unreserved fund balances. In 2004, the County's unreserved fund balance was 74.6 percent of total expenses and in 2008 it was 44 percent of total expenses—a 41 percent decrease in only four years (Employer Exhibits 48 B, C, D & E and Union Exhibit 12) The Employer points out that under Minnesota's Public Employee Labor Relations Act, interest arbitrators are required to consider the "obligations of public employers to efficiently manage and conduct their operations within the legal limitations surrounding the financing of their operations." (Minn. Stat. § 179A.16, subd. 7)

Moreover, the Employer observes that the County's \$89 million 2010 budget, including \$1.45 million in questionable State Aid,<sup>2</sup> and is predicated on a 0.0 general

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<sup>2</sup> The County's 2010 budget shifted State Aid from funding its operating budget to pay-as-you-go funding for capital projects. Since all future State Aid will go toward capital projects, if State Aid is not forthcoming, capital projects will be eliminated or delayed. To remove State Aid from its operating budget, downward

wage adjustment with no “step” increases for all of its personnel, union and non-union. Moreover, compensation for the County’s elected officials was to remain at its 2008 level. (Employer Exhibits 47 & 48) To date, 3 of the County’s 8 bargaining units, namely, the IBT, Local No. 320, representing the Detention Deputies & 911 Dispatchers unit and AFSCME, Local No. 2789’s General unit and Social Services unit, have agreed to the County’s 2010 “hard freeze”. (Employer Exhibit 68) These 3 CBA settlements, the Employer points out, represent approximately 75 percent of the County’s unionized personnel. (Employer Exhibit 57)

For the year ending December 31, 2008, the Employer acknowledges that its unreserved general fund balance was \$22,506,434, however, it hastens to add that this balance is based on total general assets of \$29,635,093 of which approximately \$7,175,548 or 24 percent represent unstable intergovernmental transfers. (Union Exhibit 12, 26 & 88)

Further, the Employer argues that: (1) as a reflection of its conservative tax policy, the County’s effective tax rate had been decreasing for several years only to have increase in 2009 (Employer Exhibit 45); (2) the County’s Year End Savings Account (i.e., the undesignated, unreserved dollars remaining at year-end that may be used to meet future, unplanned needs) has been trending downward: In 2003 there was \$12 million in this account, a figure that fell to \$1.36 million in 2008 (Employer Exhibit 45); and (3) whereas the Sheriff’s Office generates revenues from a number of sources such as detention bed rentals and the contracting out police services to neighboring

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adjustments of \$ 1.1 million for 2009 and \$2.6 million for 2010 were approved in June 2009. (Employer Exhibit 47).

cities and townships, revenues from sources like these are expected to decline by 8.7 percent between 2009 and 2010 (Union Exhibit 10).

### **3. The 2009 Wage Reopener**

With respect to the 2009 wage reopener, the Employer notes:

(1) During 2007-2009 negotiations, the County and its LELS Sergeant and Deputy Sheriff units and its AFSCME, Local No. 2789 General, Social Services, Public Works and Assistant County Attorney units<sup>3</sup> all agreed to the conduct of a market study that would be completed by December 31, 2008. It was further agreed that 2009 wage negotiations would be reopened to implement the market study (Employer Exhibits 58, 59, 60, 61 & 62)

(2) The Stanton study's final report was issued in December 2008. (Employer Exhibits 62 and 64)

(3) The Stanton study determined that Carver County's benchmark job classifications averaged 103.1 percent of market, placing it well within the 95 percent to 105 percent competitive range of the market median, and that the Sergeant position was at 89.9 percent of the market average. Moreover, it recommended that the County only adjust salaries for positions that fell below 80 percent or above 120 percent of the market, meaning that the Sergeant unit should not get a 2009 market adjustment. (Employer Exhibit 63)

(4) The Employer maintains that the County has unwaveringly followed the Stanton's market adjustment recommendations. That is, the salaries of several job

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<sup>3</sup> The Assistant County Attorney's Unit and Carver County also agreed that in exchange for the Union's willingness not to proceed to interest arbitration over implementation of the 2009 market/compensation study, the County would make a \$500 lump sum payment to each member of the bargaining unit. (Employer Exhibit 61)

classifications fell between 89.9 percent and 80 percent of the market and these job classifications, like the Sergeant classification, did not receive a 2009 market adjustment. Moreover, 3 of these jobs were in AFSCME units. (Employer Exhibit 64) In fact, the Employer observes, each of AFSCME's 4 bargaining units agreed that none of their job classifications would receive a 2009 wage adjustment.<sup>4</sup> Implementation negotiations were not held with the County's 2 IBT bargaining units because 2009 wage settlements had been reached with these units early in the 2007-2009 round of negotiations. In contrast, negotiations between Carver County and the LELS Sergeant and Sheriff's Deputy units (which was at 94 percent of market) failed to produce 2009 wage adjustment settlements. (Employer Exhibits 66 & 67)

#### **4. Internal Comparisons**

Regarding internal comparisons, the Employer makes two overarching points:

(1) With reference to its 2007 Pay Equity Compliance Report, 13 job classifications had 943 job evaluation points, including the Sergeant classification. Among these 13 classifications the Sergeant classification was the only one whose maximum monthly salary was below predicted pay. The Sergeant differential was \$445.64 per month. (Union Exhibit 15) However, the Employer points out that the salary schedule's maximum monthly for the Sergeant position did not include longevity pay and "Employee Growth and Development Pay" ("EGDP"), which, among the 13 classifications, this position alone received. Longevity pay amounts to 2.5 percent and 5 percent of annual earnings (including overtime) for Sergeants with at least 5 years of

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<sup>4</sup> The wages of the Records Specialist job classification was at 78.1 percent of the market based on the Market study. As recommended by the Stanton Group this position was reevaluated by a job evaluation consultant and, subsequently, its grade was changed from Grade 5 to Grade 7, which is not a "wage adjustment" per se. This classification is represented by the AFSCME Local No. 2789 General Unit.

service and with 10 or more years of service, respectively. In 2009, 5 Sergeant unit members received EGDP pay in the amount of \$200.00 per month. After adding these components of pay to the Sergeant's 2007 maximum monthly salary, the Employer estimates that the Sergeant's actual pay was only \$93.05 or 1.8 percent per month below predicted pay.

(2) All employees in the County's 8 bargaining units, as well as its non-union employees, received a 3 percent general wage increase on January 1, 2007, 2008 and 2009—increases that were negotiated in the case of represented employees. In addition, in 2008, only the LELS Sergeants and LELS Deputies received an additional 2.5 percent at the maximum of their wage schedules. Further, in 2009, only employees in the Assistant County Attorney unit received a \$500 lump-sum payment which had been previously negotiated in exchange for an interest arbitration waiver in the event that 2009 market wage negotiations broke down. In addition, the IBT Local No. 320's Detention Deputy/Dispatchers and Non-Licensed Supervisory units received a .5 percent general wage increase on July 1, 2009. (Employer Exhibit 67)

## **5. External Comparisons**

The Employer estimates that the Union's 2009 general wage adjustment of 10 percent will cost Carver County \$84,478.25. (Employer Exhibit 55) In addition, the Employer makes the following observations:

(1) Since 2004, 4 Sergeant vacancies have been filled, all *via* internal promotions. At least 9 and at most 17 Carver County Deputies applied for each of these vacancies. (Employer Exhibit 69) Further, in recent years only 2 Sergeants have resigned to take new positions in other jurisdictions. (Employer Exhibit 70) Excluding PERA and

Medicare contributions, in 2009, the average compensation of Sergeants was \$96,370—a figure that includes holiday, overtime, longevity and EGDP pay as well as contributions to health insurance. The Employer argues that these statistics combine to support the proposition that market competitiveness is not a problem for Carver County.

(2) Since 1996, it has been generally affirmed through negotiations and *via* several interest arbitration awards that Anoka, Dakota, Scott, Washington and Wright counties comprise Carver County's external comparison group. (Employer Exhibits 49, 50, 51 & 52). The socio-economic criteria commending this particular set of counties include population, taxable tax capacity, net tax levy per capita, geographic proximity and so forth. Among the comparable counties, in 2007, Carver County had the smallest population, lowest taxable tax capacity and highest net tax levy per capita. (Employer Exhibits 78 - 84) The 2009 maximum hourly wage rate for Carver County Sergeants was 91.4 percent of the average maximum hourly wage rate paid to the external comparison group's Sergeants.<sup>5</sup> (Employer Exhibit 77) However, the Employer argues, Carver County's socio-economic rank relative to the socio-economic rankings of the comparison group counties *vis a vis* the maximum hourly wage rate paid to its Sergeants, relative to the comparison group's average maximum hourly wage rate, is well balanced, obviating the need for a 2009 market wage adjustment beyond the negotiated 3 percent increase already paid.

(3) The Stanton's market study was not based on the parties' historic comparison group. However, when the Employer negotiated the 2009 wage reopeners with LELS, it

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<sup>5</sup> Carver County Deputies who are promoted into the Sergeant's unit receive a 4.5 percent increase above their current salary, or the minimum of the range, whichever is higher. However, their current salary is almost always higher than the minimum of the range. Thus, comparing Carver County minimum with the comparison groups average minimum is not a helpful exercise. (See Employer Exhibit 1, Article XVIII)

maintains that it clearly asserted that in the event the prospective market study modified the parties' historic external comparison group, the modified comparison group would not replace the parties' historic comparison group.

#### **IV. DISCUSSION AND FINDINGS**

In 2007, the Employer and LELS entered into an agreement to reopen negotiation over 2009 wages for the "...sole purpose of negotiating implementation of the market/compensation study for 2009." The Stanton Group was subsequently retained to conduct the referenced market study. The external market on which the salary data were compiled included Anoka, Dakota, Scott and Washington counties, metro cities of 25,000-85,000 and metro area private employers with annual budgets of \$100 million. Based on this comparison group, Stanton established that in 2008, the Carver County's Sergeant classification earned 89.9 percent of the market. This result formed the basis for the Union's claim that effective January 1, 2009, its wages ought to be increased by 10 percent.

Over the years, the Employer and LELS, as well as the County's other bargaining units, have had their differences over the units that ought to comprise the County's external comparison group. While these differences remain, the record suggests that since 1996 Carver County's comparison group has included the counties of Anoka, Dakota, Scott, Washington and Wright. (See: *Carver County and Teamsters Local 320, BMS Case No. 96-PN-345 (Miller 1996)*) That these 5 counties are recognized as Carver County's external comparison group has been affirmed in several interest arbitration awards. (*AFSCME, Council 65 and Carver County, BMS Case No. 98-PN-61 (Ver Ploeg 1998)*, *LELS and Carver County, BMS Case No. 04-PN-834 (Kircher 2005)*);

and *Carver County and LELS, BMS Case No. 04-PN-1028 (Lundberg 2005)*) (Union Exhibits 37-40 & Employer Exhibits 49-52) Based on this 5-county comparison group, the Employer's research disclosed that the 2009 maximum hourly wage rate of Carver County's Sergeant classification was 91.4 percent of the comparison group's average or 8.6 percent below the market.

The market data used in both the Stanton study and the Employer's 2009 5-county study appear to show that the Sergeant classification's pay lags behind the market. Similarly, with respect to internal comparisons, the County's pay equity studies appear to show that the Sergeant classification's monthly salary, at the maximum of the salary range, was below predicted pay by \$268.40/month in 2004 and by \$445.64/month in 2007. That is, in 2004 and 2007, the Sergeant classification was apparently being paid 6 percent and 8.6 percent, respectively, less than the County was paying employees in job classifications that required the same level of skills, knowledge and ability—as measured by job evaluation points.

However, the analysis cannot end here. When the parties negotiated their 2007-2009 CBA the economy was buoyant, as the Employer pointed out. Accordingly, the 2007, 2008 and 2009 general wage increases of 3 percent seemed fitting, along with the additional 2008 wage increase of 2.5 percent for Sergeants at the salary schedule maximum. In addition, in 2007 it seemed fitting to negotiate a MOA committed the parties to reopen 2009 wage negotiations. But by the end of December 31, 2008, the current recession was at its worse and the County's fiscal condition was on a downhill slide. State Aids fell in 2008 and 2009, with further reductions expected in 2010. Carver County's 2008 budget was adjusted downward and its 2009 budget was both

downsized and later adjusted downward, resulting in the elimination of dozens of FTE positions over both years. This downsizing suggests that the County's unreserved general fund balance may have fallen between 2007 and 2008, and between 2008 and 2009, but the record does not address this suggestion; however, it does show that said balance was \$22,506,434 for the year ending December 31, 2008. Indeed, there is no question that the current recession continues to extract a toll, as the County's 2010 budget is predicated on freezing both general and step increases for all bargaining unit employees, among others—freezes that 3 of the County's bargaining units have already accepted.

Against this backdrop, the County opened 2009 wage reopener negotiations with its 2 LELS units and 4 AFSCME units. The Employer seemed to be arguing that because Carver County's finances were shrinking none of the AFSCME units insisted on 2009 market wage adjustments. The Union persuasively refuted this argument by pointing out that the Stanton report established that the AFSCME units were not being underpaid relative to the market; whereas, the LELS units were being paid sub-market wages.

Nevertheless, the Employer might well counter, Stanton recommended that no job classification should receive a 2009 market-based increase in wages unless it was below 80 percent of the market; that the Sergeant classification was approximately 90 percent of the market and, thus, the County rightly rejected the Union's 2009 wage demand; and, finally, that none of the County's other job classifications that were at or above 80 percent of the market received a market adjustment. The Union's response to

these facts was that the Stanton recommendation was arbitrary and not binding on the arbitrator.

A determination of the matter before the Arbitrator requires a more critical analysis of the above-discussed internal and external data. First, consider the internal comparison data. The Employer showed that Carver County's 2007 internal equity study did not fully measure the Sergeant classification's maximum monthly salary, since they also receive longevity pay and EGD pay to the exclusion of the other 12 job classifications with 943 job evaluation points. After adding these forms of pay to the Sergeant classification's maximum monthly salary, the Employer estimated that Sergeant's pay was actually \$93.05/month or 1.8 percent below predicted pay, not \$445.65/month or 8.6 percent below predicted pay. This analysis is convincing and leads to the conclusion that the LELS' claim of disparate internal pay is overstated.

Second, with respect to the external comparison data, the referenced studies suggest that the Carver County's Sergeant classification is paid less than the Sergeant classification in the external marketplace, by either 10.1 percent (according to the Stanton Group) or 8.6 percent (based on the parties' 5-county comparison group). The 8.6 percent estimate is controlling in this analysis because it is based on the parties' historic comparison group, which makes apple-to-apple or county sergeant-to-county sergeant wage comparisons; whereas the Stanton comparison is based on the wages of an amalgam of county sergeants, city police sergeants and private sector security personnel. But even the 8.6 percent figure overstates the actual market-based imbalance in question. The Employer convincingly argues that 8.6 percent figure is too high because relative to the 5-county comparison group, Carver County has the

smallest population, lowest taxable capacity and highest net tax levy per capita and because the alleged imbalance has not manifested itself in the form of high Sergeant turnover rates and/or low job applicant rates.

The Arbitrator's analysis of the internal equity and external market comparison data and the parties' related arguments suggests that a 2 percent adjustment in 2009 wages is a good estimate of the wage increase needed to bring the pay of Carver County's Sergeants into a full and fair balance with the pay of the Employer's comparable job classifications and with the Sergeant classification's pay in the relevant external labor market. The Employer estimated that the Union's 10 percent wage proposal will increase the County's operating costs by \$84,478.25 and not by the \$63,000, as the Union proffered. The Employer's estimate is the more accurate of the two and, if anything, it understates the real, present value cost of the 10 percent wage increase. Nevertheless, based on the Employer's \$84,478.25 figure, a 2 percent wage increase for the Sergeant classification would cost Carver County about \$16,895.65, which is affordable, given the magnitude of Carver County's General Fund balance, and it is compliant with the "efficiency standard" in Minn. Stat. 179A.16, Subd. 7.

In concluding that Carver County's Sergeant classification warrants a 2009 wage increase of 2 percent, the Arbitrator does not mean to penalize Carver County for being an effective custodian of the public's resources and for having achieved Standard & Poor's coveted AAA bond rating, or to fly in the face of political-economic winds that reasonably disfavor wage increases. Rather, the Arbitrator's intent was to follow generally accepted wage determination criteria (e.g., internal and external standards) wherever they may lead to determine whether a 2009 wage augmentation is warranted.

In the Arbitrator's opinion, the parties might well have agreed to a 2 percent increase had their bargaining ended in settlement rather than impasse.

**V. AWARD**

For the reasons discussed above, the LELS Sergeant unit is awarded a 2 percent general market wage increase retroactive to January 1, 2009.

Issued and ordered on this 6<sup>th</sup> day of  
March 2010 from Tucson, Arizona.

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Mario F. Bognanno, Labor Arbitrator