IN THE MATTER OF ARBITRATION	)	**INTEREST ARBITRATION**
	)	
between	)	
	)	
St. Louis County, Duluth Minnesota	)	
	)	**BMS Case No. 12-PN-0951**
-and-	)	
	)	
Law Enforcement Labor Services, Inc., Local No. 288 (Deputies)	)	**September 28, 2012**

))

APPEARANCES

For St. Louis County

Steven C. Fecker, Attorney, Johnson, Killen & Seiler, Duluth, Minnesota
Melissa Honkola, Assistant Human Resources Director

For Law Enforcement Labor Services, Inc., Local No. 288

Kim Sobieck, Business Agent
David Lovaas, President
Michael McDougall, Vice President
Claire Olson, Secretary/Treasurer

JURISDICTION OF ARBITRATOR

Law Enforcement Labor Services, Inc., Local No. 288 (hereinafter referred to as the "Union" or "LELS") is the exclusive representative for all licensed essential employees employed by St. Louis County (hereinafter referred to as "County" or "Employer") in the County Sheriff's Department, Duluth, Minnesota. As of June 2012, there were 95 members of the Union, of which 69 are Deputy Sheriffs, 10 are Investigators and 16 are Sergeants.

The County and the Union (hereinafter referred to as the "Parties") are signatories to an expired collective bargaining agreement that was effective January 1, 2010 through December 31, 2011, and thereafter until modified by the Parties or other PELRA means.

The Parties entered into negotiations for a successor collective bargaining agreement. The Parties were unable to during bargaining and mediation to resolve all of their outstanding issues. As a result, on March 28, 2012, the Bureau of Mediation Services ("BMS") received a written request from the Union to submit the unresolved issues to conventional interest arbitration. On May 1, 2012, the BMS determined that the following items were certified for arbitration pursuant to Minn. Stat. § 179A.16, subd. 2 and Minn. Rule 5510.2930:

1. Duration - What shall be the duration of the contract? - Article 29
2. Wages - What, if any, should the general wage increase be for 2012, and what shall be the effective date? - Article 5 and Pay Plans
3. Wages - What, if any, should the general wage increase be for 2013? - Article 5 and Pay Plans
4. On-Call Pay - Whether and how much shall on-call pay be increased in 2012? - Article 5
5. On-Call Pay - Whether and how much shall on-call pay be increased in 2013? - Article 5
6. Wage Scale - Whether and how the wage scales should be compressed? – Article 5 and Pay Plans
7. Employer Contribution to Health Insurance - The amount, if any, that the Employer contribution to health insurance increase for 2012? - Article 19, Exhibit C
8. Employer Contribution to Health Insurance - The amount, if any, that the Employer contribution to health insurance increase for 2013? - Article 19, Exhibit C

9. Monthly Subscriber Amount - Whether Health Insurance MOU should delete Employer ability to collect "monthly plan subscriber amount"? - Article 19, Exhibit C
10. Uniform Allowance - What, if any, should the increase be for uniform allowance for 2012? - Article 10
11. Uniform Allowance - What, if any, should the increase be for uniform allowance for 2013? - Article 10
12. Shift Differential - What, if any, should the increase be for shift differential in 2012? - Article 7
13. Shift Differential - What, if any, should the increase be for shift differential in 2013? - Article 7
14. Work Related Injuries - Whether, and how, the benefit timeframe in the "work-related injuries" provision should be amended? - Article 20
15. Various - Whether, and how, shall Appendix A be amended? - Appendix A

Prior to the start of the hearing, the Parties resolved Issue One – Duration by agreeing to a two-year agreement effective January 1, 2012 through December 31, 2013. The Parties also resolved Issues Seven and Eight – Employer Contribution to Health Insurance for 2012 and 2013 and Issue Nine – Monthly Subscriber Amount.

The Arbitrator, Richard John Miller, was selected by the Parties from a panel submitted by the BMS. A hearing in the matter convened on August 21, 2012, at 9:30 a.m. at the County Government Services Center, Room 608, 320 West Second Street, Duluth, Minnesota. The Parties were afforded full and ample opportunity to present evidence and arguments in support of their respective positions.

The Parties’ representatives elected to file electronically post hearing briefs, with an agreed-upon submission date of

September 14, 2012. The briefs were submitted in accordance with those timelines. The Arbitrator exchanged the briefs electronically to the Parties' representatives on September 16, 2012, after which the record was considered closed.

ISSUE FIFTEEN: VARIOUS - WHETHER, AND HOW, SHALL APPENDIX A BE AMENDED? - APPENDIX A

POSITION OF THE PARTIES

Under the County's proposal, as set forth in Appendix A, compensatory time, personal leave, vacation, sick leave accrual, maximum sick leave accumulation, sick leave available for retirement, and funeral leave will be reduced for employees hired after January 1, 2013.

The accumulation of compensatory time would be reduced from the current maximum amount of 480 hours (maximum allowed under FLSA – Article 6, Section 1) to a maximum of 48 hours under Appendix A.

With respect to personal leave, currently Article 14, Section 3 provides for 16 hours of personal leave in the first year of employment and 32 hours, or four 8 hour days, thereafter. Appendix A would provide 16 hours or two 8 hour days per year to new hires.

The current contract in Article 15 sets the maximum annual vacation accrual at 247 hours. Appendix A would provide only 208 hours.

Under the current contract in Article 16, Sections 1 and 2, employees who have worked 25 or more months, accrue sick leave at 5.75 hours per pay period, and can accumulate 1900 hours. New hires under Appendix A would accrue no more than 3.5 hours, beginning at 13 months of employment, and accumulate only 1150 hours.

Currently, Article 16, Section 4 allows an employee a maximum of 10 sick days for funeral leave for the death in the immediate family. Under Appendix A new hires would have only 3 days.

Currently, Article 16, Section 2 and Article 31, Section 2 allow employees to accumulate up to 1900 hours of sick leave, all of which is available for severance at retirement with five or more years of County service. Under Appendix A that total drops 39% to 1150 hours, all of which is available for severance at upon the employee's retirement with five or more years of County service.

The Union's position opposes all of the proposed changes made by the Employer in Appendix A with respect to compensatory time, personal leave, vacation, sick leave accrual, maximum sick leave accumulation, sick leave available for retirement, and funeral leave. The Union seeks to have no change in the contract, i.e., no reduction of benefits for newly hired employees.

AWARD

The Union's position is awarded. Appendix A shall not appear in the contract. There shall be no change in the contract, i.e., no reduction of benefits for newly hired employees.

RATIONALE

It is undisputed by the Parties that the most important issue in this case is whether the Employer should have the right in Appendix A to impose significant changes to current contract benefits with respect to compensatory time, personal leave, vacation, sick leave accrual, maximum sick leave accumulation, sick leave available for retirement, and funeral leave for new employees hired after January 1, 2013. In fact, many of the Employer's original and modified positions were predicated on whether the Arbitrator placed Appendix A in the contract or not. Accordingly, this issue need to be resolved initially as it will impact the Arbitrator's decision on the remaining issues.

Arbitrators recognize that there is a "give and take" that occurs during negotiations and place the burden on the proponent of a change to demonstrate that the proposal is necessary and reasonable and there is a trade off for the change.

As a proponent of a significant change in benefits for newly hired employees, the County bears the burden of proving a compelling reason or reasons for the change as well as the *quid* *pro quo* for the change. Consequently, the County had the burden to prove in this case that its proposed reductions to contract benefits for new hires effective January 1, 2013, as contained in Appendix A to the contract, are both necessary and reasonable as well as establishing the *quid pro quo* for the change. The County did not meet this burden of proof.

The Union has for many years successfully bargained wages and benefits for all of their members without distinction as to when they were hired by the County. The tiered benefit approach proposed by the County creates an inequity between two classes of employees performing the same job duties and responsibilities but under different benefit levels. This inequity is exacerbated by the fact that the County is attempting to make seven substantial decreases to the benefit levels of newly hired employees.

The evidence establishes that it is not unusual for a bargaining unit in the State of Minnesota to have one or even two tiered benefits incorporated in their contracts. Of the 117 LELS collective bargaining agreements with tier benefits, 86 contracts contain just one tiered benefit and 44 contracts have two tiered benefits. The LELS contract in the City of Virginia is the sole contract with six tiered benefits. However, no LELS bargaining unit has ever agreed to seven substantial changes in benefits for new hires, nor have they agreed to all of the changes at one time in their contracts. Thus, the County's proposal to implement seven tiered benefits into the contract is without precedent in LELS contracts. Clearly, the County's proposal is not reasonable in its scope or content.

The County also provided no evidence to demonstrate that the adoption of Appendix A is necessary. There is no evidence that the County's financial well-being would be jeopardized by retaining the benefit levels for all employees hired by the County. While it is true that the County is looking for a reduction in future costs for newly hired employees by proposing Appendix A, the Arbitrator's jurisdiction is limited to decide wages and benefits for 2012 and 2013 and not beyond in the future. If a party's desire to reduce benefits or even increase benefits is all that is necessary to meet the burden for change, negotiations under PELRA would be meaningless. Clearly, such an interpretation was not intended under PELRA.

There are 11 bargaining units in the County. The only bargaining unit that has settled for 2012 and 2013 is the Highway Maintenance Unit represented by Teamsters Local 320. There are 168 employees in that bargaining unit which is the third largest bargaining unit in the County. The Deputy Sheriffs unit of 95 employees is the sixth largest in the County. The only bargaining unit in the County that has agreed to Appendix A is the Highway Maintenance employees.

There was considerable debate between the Parties as to whether the Highway Maintenance employees received a *quid pro quo* for agreeing to Appendix A. The Parties agree that the Highway Maintenance Unit received a 1% wage increase in 2012, a 1.5% wage increase in 2013 and received step increases for both years, if eligible for step increases. What is in dispute between the Parties is the savings, if any, by the Equipment Operator Senior and the Sign Technician classifications who received a three grade upgrade (12% wage increase) but agreed to the elimination of their premium pay ($2.07 per hour) when operating equipment. With the savings to the County resulting from the elimination of premium pay, the County calculates the Highway Maintenance Unit package cost, including steps, at 1.92% in 2012 and -.29% in 2013. The Union, on the other hand, alleges that the grade increases will result in Teamsters employees receiving more from their grade increases in 2012 and 2013 than they would have if they continued receiving premium pay. Specifically, in 2012, the actual wage increase in Teamsters wages will be approximately 2.9%, and in 2013 the actual increase will be approximately 3.48%.

In addition, Heavy Equipment Mechanics in the Teamsters Unit were upgraded from Salary Grade 18 to 20 for retention purposes but those upgrades were not charged to the cost of the settlement. It should be noted that Equipment Operator Senior, Sign Technician, and Heavy Equipment Mechanics classifications did not receive the wage increases given to other Teamsters Unit employees.

In any event, it is not necessary for the Arbitrator to determine which Parties' costing method is valid to satisfy the *quid pro quo* argument because the Employer made a new proposal during the arbitration hearing in an attempt to convince the Arbitrator to grant its proposed Appendix A. Specifically, the County proposed as a *quid pro quo* to eliminate longevity step 2 for the new hires affected by Appendix A, thereby allowing them to reach top pay at 20 rather than 24 years. However, the County offered no evidence to support their argument that the wage compression was equivalent to the value of the reduced benefits in Appendix A. In fact, under Appendix A, a new hire would work 12 years under the reduced benefit proposal before the wage compression would have any effect on that employee. Twelve years of reduced benefits under Appendix A without any *quid pro quo* compensation is not a convincing or compelling reason to grant the Employer's proposal for inclusion of Appendix A in the contract.

The County also hinted that if the Arbitrator believes the elimination of longevity step 2 is not an adequate quid pro quo for the adoption of Appendix A, the Arbitrator could make awards in some of the other outstanding economic issues, where the

Union is seeking additional monies, that would justify this implementation. While it might be tempting to establish what the Arbitrator believes to be an equitable *quid pro quo* for the adoption of Appendix A, this should be left for the Parties to resolve in successor negotiations. The Arbitrator does not know the Union's priorities as to the remaining impasse issues to warrant the inclusion of Appendix A. The role of the Arbitrator is not to guess what the Union's priorities might be but rather what they truly are in this case and in future bargaining.

The County did not meet its burden to demonstrate that Appendix A is reasonable and necessary, nor did the County establish a quid pro quo for its inclusion. Therefore, the County's proposal for adoption of Appendix A must be denied.

ISSUE TWO: WAGES – WHAT, IF ANY, SHOULD THE GENERAL WAGE INCREASE BE FOR 2012, AND WHAT SHALL BE THE EFFECTIVE DATE? – ARTICLE 5 AND PAY PLANS

ISSUE THREE: WAGES – WHAT, IF ANY, SHOULD THE GENERAL WAGE INCREASE BE FOR 2013 - ARTICLE 5 AND PAY PLANS

POSITION OF THE PARTIES

The Employer's certified position to BMS was no wage increase for 2012 or 2013. Their position, however, was subject to modification if Appendix A was awarded. The Employer's position if Appendix A had been awarded was a 1% wage increase for 2012, a 1.5% wage increase for 2013, with step increases each year, if an employee is eligible.

The Union’s position is a general wage increase of 1% effective January 1, 2012, and a 1.5% general wage increase for 2013 effective January 1, 2013, with step increases each year, if an employee is eligible.

AWARD

The Union’s position is awarded -- a general wage increase of 1% effective January 1, 2012, and a 1.5% general wage increase effective January 1, 2013, with step increases each year, if an employee is eligible.

RATIONALE

Among the general considerations used by interest arbitrators in determining wages and other benefits are the employer’s ability to pay the union’s requested increases, internal equity, external market comparisons, cost of living, and other relevant considerations.

As to the Employer’s ability to pay, the evidence establishes that the County has the financial resources to adequately fund the Union’s wage proposal without jeopardizing its resources. This is easily proven by the fact that the Employer’s position, had Appendix A been awarded, was identical to the Union’s position -- a 1% wage increase for 2012, a 1.5% wage increase for 2013, with step increases each year, if an employee is eligible. Most certainly, if the Employer could afford the Union’s wage position had Appendix A been awarded, it can also afford to pay for the same Union’s wage position without inclusion of Appendix A. This is particularly true since the County would have not saved any money in 2012 had Appendix A been awarded with an effective date of January 1, 2013, and there would be little cost-savings in 2013. In any event, the cost-savings had Appendix A been implemented in 2013 would not have offset the cost of the 2013 wage increase to bargaining unit employees.

In spite of modest levy increases, St. Louis County taxpayers face relatively high taxes, a situation further compounded beginning in 2012 by the effects of the Homestead Market Value Credit Exclusion. To balance its general fund budget, the County spent down reserves in 2011 and 2012 and projects a further spend down of reserves for 2013, all at a time where the County's funding for cash flow and reserves for future unallotments are deficient and further reductions in intergovernmental revenue are in the offing. However, there is no conclusive evidence that the County’s finances are in jeopardy. They were willing to negotiate a wage increase with the Teamsters Unit without financial harm that is identical to that sought by the Union in this case. In fact, the County budgeting presumes that the Teamsters Unit wage pattern for 2012 and 2013 will be followed for all County employees, whether union or non-union.

In this case, the Arbitrator can confidently conclude that internal comparison is a strong predictor of the bargain the Parties would have negotiated, even without need to rely on the well-established line of decisions giving internal settlements significant weight. In fact, the Union's wage position is identical to that received by the Teamsters Unit -- the only settled bargaining unit in the County for 2012 and 2013.

In addition, the Union's wage position is also supported by the historical wage pattern, Since 1988, the Union has received general wage increases in every year, with the exception of three years (no general wage increase for 2004, 2010 and 2011). Moreover, the evidence establishes that most, if not all, bargaining unit groups have received identical wage settlements for many years. The wage increases in this case adheres to that historical practice since the only two bargaining units that have contracts for 2012 and 2013 are receiving identical wage increases.

Further, the Union's position does not affect the County's compliance with the Pay Equity Act. The County currently is in compliance with the Act and will remain in compliance under the general wage increases awarded to the employees.

The Parties agree that St. Louis County compares best with the external comparability group of six northeast counties -- Aitkin, Carlton, Cook, Itasca, Koochiching, and Lake. All six counties have settled contracts for 2012. Aitkin and Carlton had 0% general wage increases. The remaining four counties ranged from the lowest settlement of 1% (Lake) to a high of 3% plus market adjustments (Itasca). The average was 1.4%. For those counties with wage increases, the average was 2.1%. Clearly, the Union’s 1% general wage increase for 2012 is comparable, if not lower than the comparable counties.

As for 2013, only three of the six comparables are settled (Aitkin – 0%, Cook – 2.5%, and Lake – 1.5%. The average is 1.33%. For the two counties with wage increases for 2013, the average is 1.5%. Thus, the Union’s 2013 1.5% general wage increase is within the mainstream of those settled comparables.

The County’s position of 0% general wage increases in 2012 and 2013 are not supported by the external market, and will negatively affect the Union’s historical ranking amongst the external comparables. The County has been ranked second of seven, when comparing top pay (including longevity). This ranking will remain the same under the Union’s wage position but the rankings for years leading up to top pay will drop substantially under the Employer’s position, with ranking for entry dropping from 4^{th} to 5^{th}, 5 years from 3^{rd} to 4^{th}, 15 years from 4^{th} to 5^{th}, and 20 years from 2^{nd} to ^{4th}.

In summary, the external market supports the Union's wage position.

The Union's wage increase proposals were awarded to ensure the wages of the bargaining unit maintain pace with increases in the cost of living. Many arbitration awards have granted wage increases based, in part at least, on the application of the cost-of-living ("CPI") standard. The CPI is used as an indicator of inflation, and as an escalator for income payments. The CPI-U for the Midwest in 2010 was 2% and in 2011 was 3.2%. As of July 2012, the CPI-U was 2.3%. The Union's proposals for 2012 and 2013 wage increases are below the current CPI, and the Employer's position of zero percent for both years would exacerbate this problem.

The only apparent difference between the Union's wage position and the Employer's modified wage proposal (inclusion of Appendix A) was the effective date -- the Union seeking an effective date of January 1, 2012, and January 1, 2013, for the salary increases, while the County failed to announce an official position to BMS on a specific effective date. The County mentioned during the hearing that the effective date for the 2012 salary increase granted to the Teamsters Unit was upon the date of ratification (February 16, 2012).

Even assuming *arguendo* that the County is arguing for an effective date beyond January 1, 2012, there is no justification for that position. The history of this bargaining unit shows that no wage increase was delayed until ratification of a settlement. In each and every contract that was signed after the expiration of the expired contract, the wage increase was effective (retroactive) either with the first pay period of the year or as of January 1st of that year. The historical pattern supports the Union's position that the 2012 wage increase effective date should be January 1, 2012, and January 1, 2013, for the 2013 wage increase.

ISSUES FOUR AND FIVE: ON-CALL PAY – WHETHER AND HOW MUCH SHALL ON-CALL BE INCREASED IN 2012 AND 2013 – ARTICLE FIVE

POSITION OF THE PARTIES

The Union proposes that on-call pay be increased from $2.00 per hour to $3.00 per hour, effective January 1, 2012. The County proposes no change in the contract.

AWARD

The County's position is awarded. There shall be no change in the contract with respect to on-call pay.

RATIONALE

An employee receives on-call pay during periods of time that he/she is required to be ready to immediately respond to a law enforcement call for service or other emergency. In 1990, the County recognized that to be on-call was compensable, and the Parties agreed that the compensation should be $1.48 per hour. Five years later, the County agreed that compensation should be increased and thus, in 1995, the on-call pay was increased from $1.75 per hour to $2.00 per hour. Since 1995, the on-call pay rate has remained at $2.00 per hour.

Internal equity is not persuasive to sustain the Union's position. In specialized professions such as law enforcement, arbitrators give considerable attention to pay and benefit increases within the jurisdiction of the employer and in other comparable jurisdictions. Two of the County's bargaining units receive on-call or standby pay. Like the Union, the County Sheriffs Supervisory Association, which is also a law enforcement unit working in the County, receives $2.00 per hour for on-call.

Unlike the Union, however, the AFSCME Merit System Basic Unit employees receive one hour of compensatory time for every 8 hours of standby duty. The AFSCME employees' 2011 wages range from $18.26 per hour to $44.69 per hour. The value of their standby duty pay is $2.28 per hour to $5.59 per hour. By way of comparison, if the Union was similarly compensated, the value of their on-call pay would be $2.55 to $4.00 per hour. However, one County bargaining unit unrelated to law enforcement should not dictate the appropriate pay for on-call for law enforcement personnel in the County.

The external market does not overwhelmingly support the Union's position. Cook County deputies receive $3.00 per hour and Itasca County and Lake County deputies receive $2.00 per hour. Thus, the majority of the counties provide for $2.00 per hour for on-call.

ISSUE SIX: WAGE SCALE – WHETHER AND HOW THE WAGE SCALES SHOULD BE COMPRESSED – ARTICLE 5 AND PAY PLANS

POSITION OF THE PARTIES

The Union proposes that the wage scales should be compressed by eliminating longevity step 1, and renumbering the remaining as L1-L4. The effect of the wage compression would include reaching top pay in 4 steps rather than 5, and at 20 years rather than 24. The County proposes no change in the contract.

AWARD

The County's position is awarded -- no change in the contract.

RATIONALE

The issue of step compression in not new to the Parties. It was subject to two prior interest arbitrations in which the Union sought step compression without success. There are several reasons to reject the Union's proposal with respect to step compress -- a third time in interest arbitration.

First, the Union's step compression proposal would create a marked departure from the well-established pay plan structure of several bargaining units. The Deputy's pay plan has the same number of steps and the same step intervals as the pay plans of all 7 "civil service" bargaining units in the County. None of those pay plans has been compressed.

Of the four non-civil service units which have a different pay plan structure, two (the Merit System Supervisory Unit and the Merit System Basic Unit) are Minnesota Merit System units with pay plans derived from the Merit System and two, the Assistant County Attorneys and the Investigator's Unit, are "unclassified" employees who are not covered by civil service.

Second, the cost of the proposed step compression is staggering. It would cost 2.26% of the unit payroll. The Union actually computes the cost at 2.71%. This enormous cost would be incurred not for the purpose of keeping pace with market comparables but rather would result in elevating the unit's ranking among comparables for affected employees, i.e., those at 8 years and over, and would increase lifetime earnings by $33,864.

Finally, there is no persuasive evidence that step compression is needed for recruitment and retention even though the average of the comparable counties is 16.2 years to reach top pay versus 24 years in this bargaining unit. With the County's ability to hire up to Step 5, making for the highest starting rate in the comparable counties, and the County's high, above average pay at Step 20 and Step 24, licensed law enforcement officers in large numbers are applying for employment in the County often coming to the County with extensive experience in other departments, not leaving for other law enforcement employment, and enjoying superior retirement benefits after lengthy careers as County Deputies serving the public.

All of the above considerations establish that step compression is not needed at this time in the County for Deputies.

ISSUES TEN AND ELEVEN: UNIFORM ALLOWANCE – WHAT, IF ANY, SHOULD THE INCREASE BE FOR UNIFORM ALLOWANCE FOR 2012 AND 2013 – ARTICLE 10

POSITION OF THE PARTIES

The Union proposes that, effective January 1, 2012, the monthly uniform allowance be increased from $50 to $52, and effective January 1, 2013, the monthly allowance be increased from $52 to $54. In addition, effective January 1, 2012, each employee shall receive a $70.00 voucher annually for the purchase of footwear for the employee from an approved St. Louis County vendor pursuant to the County's safety policy.

The County proposes no changes in the contract in 2012 and 2013.

AWARD

Effective January 1, 2013, the monthly uniform allowance be increased from $50 to $54. In addition, effective January 1, 2013, each employee shall receive a $70.00 voucher annually for the purchase of footwear for the employee from an approved St. Louis County vendor pursuant to the County's safety policy.

RATIONALE

The record indicates that there is justification for increasing the uniform allowance and adding the footwear allowance. The Arbitrator delayed the implementation of the award until January 1, 2013, due to cost concerns since the Union's position for both 2012 and 2013 was costed at .18% of the unit payroll. By delaying the implementation date the County saves one year of cost and the employees enjoy their fully sought benefit in 2013 – a win-win situation.

Like every other clothing item we purchase, costs of uniforms have risen. The last time the monthly uniform allowance increased was in 1997.

The evidence demonstrates that an increase in uniform allowance is needed. The cost for an average Deputy's uniform needs exceeds the current allowance by approximately $28 per month, or $332 per year. Those costs do not include the replacement cost of spring and winter coats, and other duty gear. A small increase in the monthly allowance, in combination with the $70 annual voucher for footwear, will help make up the difference but will not completely cover an average Deputy's needs. Clearly, an increase in uniform allowance is overdue to keep up with the rising costs.

Two other County bargaining units receive uniform allowances. Although the Jailer Correction Officers have significantly fewer uniform needs, they receive the same uniform allowance as Union employees. The Sheriff's Supervisory Association also receives $50 per month for uniform allowance but may have fewer or different uniform needs as compared to the Jailers or the Deputies which would justify their amount of uniform allowance.

The internal comparisons also supports the Union's proposal for $70 annual voucher for footwear. Three other County bargaining units are either provided with footwear or receive a voucher for footwear. AFSCME Basic Unit employees are provided with footwear; Teamsters are either provided with footwear or receive a $70 voucher; and, the Civil Service Supervisory Unit employees receive a $70 voucher. Clearly, when a footwear allowance is deemed necessary, the amount is consistent.

The uniform allowance award is also consistent with external comparables. The average external market uniform allowance for 2012 is $633 per year compared to the Deputies at $600 per year. Settlement data for 2013 is incomplete due to some counties not yet reaching agreement with their deputies. In any event, the increase of $48 in 2013 will place the Deputies in the mainstream of the settled counties for 2013, once all of them settle for 2013.

ISSUES TWELVE AND THIRTEEN: SHIFT DIFFERENTIAL – WHAT, IF ANY, SHOULD THE INCREASE BE FOR SHIFT DIFFERENTIAL IN 2012 AND 2013 – ARTICLE 7

POSITION OF THE PARTIES

The bargaining unit's current shift differential under Article 7, Section 2 is $.25 per hour for the afternoon shift (2:00 p.m. and 10:00 p.m.), $.35 per hour for the night shift (10:00 p.m. and 7:00 a.m.), and $.35 per hour for the night shift (6:00 p.m. and 6:00 a.m.) and afternoon shift (2:00 p.m. and 2:00 a.m.) portion of 12-hour shifts.

The Union proposes increases in shift differentials of $.25 per hour, effective January 1, 2012, for all shifts contained in Article 7, Section 2. Thus, the Union proposes an increase to $.50 per hour for the afternoon shift, $.60 per hour for the night shift, and $.60 per hour for the night and afternoon shift portion of 12-hour shifts.

In contrast, the County's position is no change in the collective bargaining agreement for any of the shift differential rates (afternoon, night or 12-hour shifts) contained in Article 7, Section 2.

AWARD

Effective January 1, 2013, increase the afternoon shift (2:00 p.m. and 10:00 p.m.) by $.05 per hour to $.30 per hour and increase the night shift (10:00 p.m. and 7:00 a.m.) by $.05 per hour to $.40 per hour.

RATIONALE

A need exists to grant the Deputies a "modest" increase in shift differential rather than the substantial increase sought by the Union. The Union's proposal is .25% of unit payroll. The award reduces this amount to less than .05% considering that the implementation date is not until January 1, 2013, and the increase is only $.05 per hour for the afternoon and night shifts, and not for those Deputies working 12-hour shifts.

The award mirrors that being paid to Corrections/911 bargaining unit members, who like the Deputies, are part of the law enforcement team in the County that work closely together. The $.05 per hour increase for having to work the afternoon and evening shift will result in both Corrections/911 and Deputies being treated equally with the same shift differential. There was no need to increase the 12-hour shift differential because both the Corrections/911 and Deputies are currently receiving the same amount -- $.35 per hour. Thus, there was only a need to award shift differential to those Deputies having to work the afternoon and night shifts. Clearly, internal comparability supports the shift differential award.

The award is also supported by external comparables. Two of the comparables (Aitkin and Koochiching Counties) provide for a $.20 per hour afternoon shift differential but Koochiching also provides for a $.40 per hour night shift differential.

Cook County provides a shift differential of $.75 per hour for their deputies working the afternoon shift and $1.00 per hour for working the night shift. Itasca County grants shift differential for their deputies at $1.00 per hour for the afternoon shift and $1.05 per hour for the night shift. Finally, Lake County will provides a shift differential of $.70 per hour in 2013 for their deputies working the night shift.

The evidence patently establishes that both internal and external comparisons exist to award a "modest" increase in shift differential for Deputies.

ISSUE FOURTEEN: WORK RELATED INJURIES - WHETHER, AND HOW, THE BENEFIT TIMEFRAME IN THE "WORK-RELATED INJURIES" PROVISION SHOULD BE AMENDED? - ARTICLE 20

POSITION OF THE PARTIES

Article 20, Section 1 provides that Deputies are entitled to have their workers' compensation weekly benefits supplemented so that they receive full pay while temporarily totally disabled ("TTD") due to a work-related injury. The contract language states that "[t]his benefit shall continue so long as the employee is determined, under Workers Compensation Laws, to be temporarily totally disabled, but not to exceed six months from the date of injury." The Employer's position is to maintain this contract language.

The Union's position is to eliminate the contract notation "from the date of injury." As such, the Union proposes to modify the contract to provide that the benefit period of six months commences at such time as the employee becomes TTD.

AWARD

The Union's position is awarded. Article 20, Section 1 should be amended by eliminating the notation "from the date of injury."

RATIONALE

Under the contract, employees who suffer a work related injury receive certain benefits from the County, including monies to make up the difference between Workers Compensation payments and their base wage. Those monies are not deducted from the employee's vacation, personal leave, or sick time. However, under the contract the benefit begins immediately on the date of injury. The employees do not receive the benefit if they are injured and the injury either does not immediately cause a TTD or the treatment that causes the TTD does not begin until six months have passed. Thus, the contract language in Article 20, Section 1 rewards injured employees who directly go to surgery and punishes those who choose a less severe treatment regimen with the hopes of recovery without invasive treatments that would cause a TTD.

The Union argues that their position will allow employees to pursue more conservative treatments, which might obviate the necessity to ever have to be off work on TTD, without the disincentive of seeing the benefit period dissipated while they continue working and receiving the conservative treatment.

The Union's position is sound, reasonable, and also appears in the County's Civil Service Rules. Thus, it only makes good sense for this bargaining unit to have language in their contract that mirrors the County's Civil Service Rules.

The Parties are to be complemented on their professional conduct at the hearing and the comprehensiveness of their oral presentations and their written post hearing briefs.

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Richard John Miller

Dated September 28, 2012, at Maple Grove, Minnesota.