IN THE MATTER OF ARBITRATION	)	**INTEREST ARBITRATION**
	)	
between	)	
	)	**Sheriff's Office Supervisory**
Carlton County,	)	**Unit**
Carlton, Minnesota	)	
	)	
-and-	)	**BMS Case No. 15-PN-0350**
	)	
Law Enforcement Labor	)	
Services, Inc., Local	)	
No. 374	)	**June 3, 2015**

))))))

interest arbitration to resolve all outstanding impasse issues between the Parties.

This is the first collective bargaining agreement between the County and LELS (hereinafter referred to as the "Parties") for this Bargaining Unit. The Bargaining Unit members were previously included in a wall-to-wall County law enforcement unit (Local 259) represented by LELS for 2011-2012. As a result, LELS represents both the law enforcement Supervisors (Local 374) and those other law enforcement employees in LELS Local 259 under separate collective bargaining agreements.

The Parties entered into negotiations for their first collective bargaining agreement. The Parties were unable to during bargaining and mediation to resolve all of their outstanding issues. As a result, on February 5, 2015, the Minnesota Bureau of Mediation Services ("BMS") received a written request from the Union to submit the unresolved issues to conventional interest arbitration. On February 6, 2015, the BMS determined that the following items were certified for conventional interest arbitration pursuant to Minn. Stat. § 179A.16, subd. 2 and Minn. Rule 5510.2930:

1. Wages 2013 – Amount of Increase
2. Wages 2014 – Amount of Increase
3. Wages 2015 – Amount of Increase

Since both Parties are proposing a general wage increase of 4% for 2015, Issue Three has been resolved. Consequently,

there are only two issues remaining for decision on their merits.

The Arbitrator, Richard John Miller, was selected by the Parties from a panel submitted by the BMS. A hearing in the matter convened on April 22, 2015, at 2:00 p.m. at the County Law Enforcement Center, Carlton, Minnesota. The Parties were afforded full and ample opportunity to present evidence and arguments in support of their respective positions.

Representatives for the Parties elected to file electronically post hearing briefs, with receipt by the Arbitrator no later than May 6, 2015. The post hearing briefs were timely submitted in accordance with that deadline date. The Arbitrator then exchanged the post hearing briefs electronically to the Parties' representatives, after which the record was considered closed.

ISSUE ONE: WAGES 2013 – AMOUNT OF INCREASE
ISSUE TWO: WAGES 2014 – AMOUNT OF INCREASE

POSITION OF THE PARTIES

The County is proposing a 1.75% general wage increase for 2013, retroactive to January 1, 2013, and a 2.25% general wage increase for 2014, retroactive to January 1, 2014.

The Union is proposing a 4% general wage increase for 2013, retroactive to January 1, 2013, and a 4% general wage increase for 2014, retroactive to January 1, 2014.

AWARD

A 1.75% general wage increase for 2013, retroactive to January 1, 2013. A 2.25% general wage increase for 2014, retroactive to January 1, 2014.

RATIONALE

There are generally four factors considered in any interest arbitration case. Those factors include: 1) the employer's ability or willingness to pay for union economic demands; 2) internal equity; 3) external market comparisons; and 4) cost-of-living and other considerations, such as attraction and retention of employees or another important consideration.

As to the first factor, with the national, state and local economies stabilizing or even improving for 2014 and 2015, most government entities are not relying upon an inability to pay argument. As a result, the inability to pay argument raised by employers during prior harsh economic times has migrated to an argument that an arbitrator should consider the employer's obligation to efficiently manage and conduct its operations within the legal limitations surrounding the financing of these operations. Minn. Stat. § 179A.16, subd. 7. In other words, employers are now relying upon the argument of "financial restraint" or "financial constraint" rather than an inability to pay argument when it comes to financing union economic demands. The County is taking that approach in this case.

The State Auditor recommends that public employers adopt fund balance policies, and that the amount of the unreserved fund balance in the general and special revenue funds as of the end of the calendar year on December 31 be approximately 35 to 50 percent of fund operating revenues, or no less than five months of operating expenditures. According to the Minnesota County Finances Report from the Office of the State Auditor for 2013 (the most recent available report), Carlton County has $17,301,136 in its Total Unrestricted Fund Balance. This is 42.4 percent of current expenditures, which is far greater than the minimum 35 percent recommended by the State Auditor.

The approximate cost difference between the Parties' wage proposals is $51,000 for all three years (2013, 2014 and 2015). This difference represents a mere 3/10th of 1 percent, or 0.3%. As a percent of the $53,000,000 County budget, the added cost of the Union's wage proposal is less than 1/10th of 1% of the budget, or 0.09%. Obviously, awarding the Union's wage proposal would not constitute a major financial "blow" or impact for the County. To the contrary, the Union's wage proposal is affordable to the County without adversely affecting the County's right and obligation to efficiently manage and conduct their operation. The Union's wage proposal was not awarded because of the County's inability to pay, financial restraints or financial constraints, but rather by the consideration of

some of the other factors generally considered by interest arbitrators.

A second factor to be considered by arbitrators in interest arbitration is internal equity. Internal equity usually consists of two component parts - consideration of pay equity and consideration of an internal pattern among employee groups, if one exists.

Internal equity is an important wage consideration for an arbitrator, as mandated in Minnesota's Local Government Pay Equity Act (hereinafter "Pay Equity Act").

The legislature has established standards that interest arbitrators must use when resolving wage and salary issues:

> In all interest arbitration involving a class other than a balanced class held under sections 179A.01 to 179A.25, the arbitrator shall consider the equitable compensation relationship standards established in this section and the standards established under section 471.993, together with other standards appropriate to interest arbitration. The arbitrator shall consider both the results of a job evaluation study and any employee objections to the study.

Minn. Stat. § 471.992, Subd. 2 (2014).

These standards apply in the instant matter because the Supervisor classification contained in this Bargaining Unit is male dominated as that term is used in the Pay Equity Act.

In addition to equitable compensation relationships, the standard referred to above requires the arbitrator to consider the extent to which:

> Subd. 1 ...
> (1) compensation for positions in the classified civil service, unclassified civil service, and management bear reasonable relationship to one another;
> (2) compensation for positions bear reasonable relationship to similar positions outside of that particular political subdivision's employment; and
> (3) compensation for positions within the employer's work force bear reasonable relationship among related job classes and among various levels within the same occupational group.

Subd. 2 **Reasonable relationship defined.** For purposes of subdivision 1, compensation for positions bear "reasonable relationship" to one another if:

> (1) the compensation for positions which require comparable skill, effort, responsibility, working conditions, and other relevant work-related criteria is comparable; and
> (2) the compensation for positions which require differing skill, effort, responsibility, working conditions, and other relevant work-related criteria is proportional to the skill, effort, responsibility, working conditions, and other relevant work-related criteria required.

Minn. Stat. § 471.993 (2014).

Thus, it is necessary to review the actual positioning of the Bargaining Unit's male dominated classification within the County's pay equity based classification and compensation system.

The legislature entrusts the Department of Employee Relations ("DOER") with the responsibility of ensuring compliance with the Pay Equity Act. Minn. Stat. § 471.991 (2011). To ensure compliance with the Pay Equity Act, DOER requires jurisdictions to file reports in three year

intervals. The Pay Equity Act requires a governmental jurisdiction maintain an underpayment ratio of 80 or higher in the statistical analysis test to stay within the guidelines established by DOER.

DOER has developed computer software to statistically measure equitable relationships and determine a given jurisdiction's compliance. The County most recently submitted a pay equity compliance report in February, 2015, for all jobs in place in 2014. The County was found to be in compliance with the Pay Equity Act with an underpayment ratio of 107.54, considerably above the required minimum underpayment ratio of 80. It is undisputed that had the Arbitrator awarded the Union’s wage proposal of 4% increase for 2013 and 4% for 2014, the County's underpayment ratio would drop below 90, but the County would continue to be in compliance under the Pay Equity Act. Consequently, compliance with the Pay Equity Act was not detrimental to the Union’s wage proposal.

In addition to pay equity considerations, the internal settlement patterns regarding economic and non-economic issues, including wages, are an important factor in the outcome of any interest arbitration.

The record establishes that the majority of County employees are organized into seven bargaining units, including two LELS Bargaining Units (law enforcement Supervisors and law

enforcement non-supervisors). Five of those bargaining units had settled for 2013-2015. Four of those bargaining units, including the LELS non-supervisory unit, settled for what the County is offering the Union in this matter (1.75% general wage increase for 2013, retroactive to January 1, 2013; 2.25% general wage increase for 2014, retroactive to January 1, 2014; and 4% general wage increase for 2015, retroactive to January 1, 2015). A fifth bargaining unit settled for the same as the other four bargaining units for 2103 and 2014, but agreed to a general wage increase of 2.5% rather than 4% for 2015. A sixth bargaining unit has not settled as of this hearing as they are a newly formed unit that entered negotiations for a first-time contract at the beginning of 2015, but no agreement has been reached. They have been offered the same general wage increases as have been offered the Union in this case. The unrepresented County staff were given the same general wage increase as has been offered to the Union in this case, while the three Electeds, including the Sheriff, were given general wage increases of 1.75% for 2013, 0% for 2014, and 2% for 2015.

Of the County's seven bargaining units, the LELS Supervisory Unit is the second smallest in terms of membership with eight members, being substantially smaller than the AFSCME-Public Health and Human Services unit and the Teamsters 320 unit, and about a third to half the size of the IUOE 49er's

unit, Supervisor's unit, and LELS non-supervisory unit. The only smaller unit is the County Attorney unit, which has four members. The non-represented group has approximately 15 members, who are department heads and confidential employees.

It is clear from this evidence that a general wage "trend" has been established by the County with the majority of the other bargaining units, including the LELS non-supervisory unit whose members are supervised by the LELS Supervisory Unit. While there is not an absolute consistency regarding the general wage settlement among all County employees, the vast majority of employees are receiving the same general wage increase as has been offered the Union in this case. Moreover, the lack of absolute general wage consistency actually supports the Employer's wage position as one of the organized unit and unorganized employees received general wage increases that were the same or less than what was proposed to the LELS Supervisory Unit in this case. In other words, there were no County employees that received a general wage increase that was greater than that was proposed by the Union for 2013 and 2014.

While internal settlement patterns are an extremely important consideration in interest arbitration so too is external settlement patterns, especially when the external comparisons pay comparable employees far more than the employee unit in arbitration. It has been said by many experienced

interest arbitrators that external comparability is as important and, even more important, as internal comparability when employees involved in the interest arbitration are being paid significantly less than their counterparts in other comparable jurisdictions. This is case here.

The Parties presented the Arbitrator with two separate lists of comparable counties. The Union's list, which was used in the last interest arbitration between LELS (wall-to-wall law enforcement unit) and the Employer in 2004, is also largely included in the list proposed by the County. The Union group consists of those counties in Economic Region Development Region 3, including Aitkin, Cook, Itasca, Koochiching, Lake, St. Louis and Carlton. In addition, the contiguous county of Pine has been included in the Union’s comparability group pursuant to the last arbitration case.

The County's proposed comparability group is a product of the County's currently ongoing compensation study (hereinafter “Keystone Study”), and was compiled by a compensation consultant with input from County staff, including LELS Supervisory Unit representatives. This proposed comparability group is comprised of all Minnesota counties which have no more than twice the general population of Carlton County or no less than half the population of Carlton County. These proposed counties include: St. Louis, Crow Wing, Otter Tail, Chisago, Itasca, Kandiyohi,

Benton, Isanti, Douglas, Carlton, Cass, Mille Lacs, Todd, Meeker and Aitkin.

The wage data submitted by the Union clearly shows that in 2012 Carlton County Sergeants were 5.33% below the average pay for Sergeants in the neighboring counties. Additionally, Carlton County Sergeants make only 5.28% more than the Deputies in the LELS non-supervisory unit they supervise, which is 3.28% below the average of the counties in the Union's comparability group. This wage disparity was the driving force behind the Supervisors splitting away from the LELS non-supervisory bargaining unit.

The Union also presented wage data being used by the Keystone Study as a peer comparison group, focusing on geographic and demographic similarities. While this list has some counties that are far removed from Carlton, (Meeker and Otter Tail), the Union is not overly objectionable to this list, as the external wage comparison here is even worse than when limited to the Union's comparability group. While there are a few counties that lacked reliable settlement data, the Union discovered that when looking at Sergeants, Carlton County is 11.90% below the average of the counties being used in the Keystone Study.

The Employer acknowledges that the purpose of the Union data was to prove that there is the lack of a pay gap between

the Road Sergeant class, which comprises four of the eight positions in the Union, and the Road Deputy class, which is found in the LELS non-supervisory unit. Of the seven counties in the Union's comparable group, only four had Road Sergeant classifications that could be used for comparison. That comparison was based upon 2012 wages, not current wages. Two of those counties compensated the Road Sergeant class at a rate higher than the County, and two compensated that class at a rate lower than the County. As for the two that compensated at a higher rate, Aitkin and St. Louis Counties, Aitkin may have paid the highest wages in 2012, but it provided no wage adjustment in 2013. In 2014, a $.45 increase was provided generally, which amounted to up to a 2% increase for the lower paid classifications. For 2015, Aitkin County provided a $.30 increase, but also implemented a county-wide wage study, which resulted in varied wage changes.

St. Louis County, which paid the second highest wages to the Road Sergeant class of the four comparables, provided a 1.5% pay increase in 2013 and a 2% pay increase for 2014 for all except the LELS Deputies unit, which received a 1% increase. For 2015, only 2 of 11 units had settled. The Teamsters unit settled for 1.5%, and the LELS Deputies unit, which settled with a 1% increase for 2015 and no general increase for 2016. As such, Aitkin County provided a minimum $.75 (seventy-five cent)

wage adjustment for the years of 2013-2015, while St. Louis County provided a 3.5% wage adjustment for its LELS Deputies Unit for the years of 2013-2016. On the other hand, Carlton County has offered an 8% wage adjustment for the years of 2013-2015. As such, that proposed 8% wage adjustment is significantly more than Aitkin and St. Louis County have offered for the same time periods, with the result being a closure in the gap between what Aitkin and St. Louis Counties and Carlton County compensate their Road Sergeants.

It should be noted, however, that the County has acknowledged this wage disparity among comparable counties when it began the Keystone Study. In fact, the purpose of the Keystone Study was to ascertain whether wage disparities exist among County employees compared to similar employees in other comparable counties. Unfortunately, the County has not yet completed its compensation study, although the County did state that the Keystone Study was at the point of conducting the market comparison, and that the results of that comparison would be made available to the County Board sometime in June of this year.

While the Arbitrator recognizes there is a paramount need to reduce the gap between the wages being paid to law enforcement Supervisors in Carlton in comparison to comparable counties being used in the Keystone Study, there is also the

need for the Keystone Study to be completed before "market adjustments" are paid to these Supervisors.

It would be an injustice to the County for the Arbitrator to intervene before the Keystone Study is complete and considered by the County Board. There already has been a considerable amount of time and expense incurred by the County in the Keystone Study. The Union argues that it cannot wait for the results of the Keystone Study, as there are no guarantees that the County Board will implement wage improvements based on the Study. This may be true, but let it be known that if the County does little or nothing to close this wage disparity among Supervisors in comparison counties and the wage compression disparity that exists between law enforcement Supervisors and those they supervise in the Sheriff's Office, an interest arbitrator in the next round of negotiations will have free reign and ample justification to close or equalize this wage disparity.

While the Arbitrator understands the frustrations that are facing the Supervisors, if the Arbitrator intervenes before completion of the Keystone Study there would be no reason for the County to ever again engage in a timely and costly wage study or even complete the Keystone Study. It also must be remembered that the Keystone Study is near completion and the contract term ends on December 31, 2015, so this wage disparity

is nearing a resolution. Finally, it also important to note that waiting for the results of the Keystone Study may result in the Supervisors receiving more from the Study than they received had the Arbitrator awarded the Union's wage proposal.

Another consideration in interest arbitration is Consumer Price Index ("CPI"). The CPI-A11 Urban Consumers as of February, 2015, remained unchanged when averaged out over the past 12 months. This was due in part to substantial decreases in the cost of energy and energy services and moderate decreases in commodities other than food and energy commodities, which offset the moderate increase in food, medical and services commodities other than energy. As such, it appears that the general wage increases of 2.25% and 4% the County has proposed for 2014 and 2015 are adequate for employees against a CPI that has been level when averaged over the past 12 months.

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 June 3, 2015, at Maple Grove, Minnesota.