

NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of Interest Arbitration Between:

TOWNSHIP OF HILLSIDE

“Public Employer,”

- and -

HILLSIDE FIRE SOA

“Union.”

**INTEREST ARBITRATION
DECISION AND
AWARD**

Docket No. IA-2022-006

**Before
James W. Mastriani
Interest Arbitrator**

Appearances:

For the Township:

Edward J. Kologi, Esq.
Kologi Simitz

For the SOA:

Robert Varady, Esq.
Lacorte, Bundy, Varady & Kinsella

This Award arises out of an impasse between the Hillside Fire SOA [the “SOA” or “Union”] and the Township of Hillside [the “Township” or “Employer”]. At the time of filing, the bargaining unit consisted of four (4) Deputy Chiefs due to two (2) recent retirements. At time of hearing there were four (4). The current collective negotiations agreement between the parties has effective dates of July 1, 2013 through June 30, 2017. They have been unable to reach a new agreement through voluntary, direct negotiations despite lengthy passage of time and with the assistance of a PERC appointed mediator. After the SOA filed a Petition to Initiate Compulsory Interest Arbitration and, in accordance with N.J.S.A. 34:13A-16(e)(1), I was randomly selected by the New Jersey Public Employment Relations Commission [“PERC”] to serve as interest arbitrator.

I conducted a pre-interest arbitration mediation session with the parties on May 25, 2022. Despite the efforts of the parties, they were unable to reach a voluntary agreement. This required the development of a formal record leading to an Award on issues set forth in the parties’ final offer submissions. The parties mutually agreed to a schedule enabling them to submit their presentations through exhibits, financial reports and formal argument. Due to the State of Emergency which impacted on the progress of the process, the parties requested and received PERC approval, for an extension of the statutory time periods. The SOA and the Township submitted final offers which were received on June 21, 2022. The Township and SOA each filed post-hearing briefs which were transmitted to the parties simultaneously on June 29, 2022 by the arbitrator upon their receipt.

FINAL OR LAST OFFERS

As required by statute, each party submitted its last or final offer to each other and the arbitrator. They are as follows:

HILLSIDE FIRE SOA 235

1. **Article III Section 1(c) – Hours of Work and Overtime**

A Deputy Chief assigned as Administrative Deputy or Fire Official shall receive a differential of 10% of their regular salary for the duration of their assignment.

The union's position is that the 5% differential of regular salary shall remain in the new contract.

2. **Article III**

a) **Section 3A: Acting Pay**

The language of this section shall remain as stated in the last contract.

b) **Section 4A: Personal Time**

The words "fifty three" (53) should be changed to fifty three and three quarters (53 $\frac{3}{4}$) hours.

c) **Section 5: Holidays**

Juneteenth should be added as a legal holiday for which Deputy Fire Chiefs shall receive holiday pay lieu of granting that day as a holiday.

3. **Article VI – Salaries**

a) **Section 4: Emergency Management Coordinator**

Language shall remain as stated in last contract with 3% differential.

b) **Section 5:**

Language remain the same as written in the last contract with a 2% differential.

- c) **Section 6: Salary**
 - 7/1/2017 – 6/30/2018: 2.00%
 - 7/1/2018 – 6/30/2019: 2.00%
 - 7/1/2019 – 6/30/2020: 2.00%
 - 7/1/2020 – 6/30/2021: 2.00%
 - 7/1/2021 – 6/30/2022: 2.00%
 - 7/1/2022 – 6/30/2023: 2.00%
 - 7/1/2023 – 6/30/2024: 2.00%

A salary step guide will be added for persons appointed to the rank of Deputy Chief subsequent to the execution of the Agreement by both parties.

- Year 1 - \$158,060.00
- Year 2 - \$160,376.00
- Year 3 - \$165,134.00
- Year 4 - \$169,892.85

4. **Article VII – Longevity**

Longevity for all present members of the Union remains as is. Any person promoted to rank of Deputy Chief after execution of this agreement by both parties shall remain at the longevity benefit as negotiated by FMBA Local 35 contract.

5. **Article IX – Health Insurance**

- a) Language should be changed to reflect the name of the present health insurance provider.
- b) **Section 4**
Deputy Chief contribution will be the percentage reflected in Tier 2 of Chapter 78
- c) **Section 8**
Sick leave incentive remains the same.

6. **Article XIV – Educational Incentive Pay**

All language shall remain the same as the last contract.

HILLSIDE TOWNSHIP

1. Article III – Hours of Work and Overtime

Section 1C

-Retain existing contract language as to 5% differential
-Delete Union proposed language as to differentials for
Administrative Deputy Chief and Fire Official

Section 3

-Delete in its entirety

Section 5

-Delete Union proposed language as to Juneteenth. Retain
existing contract language.

2. Article VI – Salaries

Section 4

-Delete existing contract language in its entirety.

Section 5

-Delete existing Contract language in its entirety.

Section 6 (Salary)

7/1/17 - 6/30/18	0.0%
7/1/18 - 6/30/19	0.0%
7/1/19 - 6/30/20	0.0%
7/1/20 - 6/30/21	2.0%
7/1/21 - 6/30/22	2.0%
7/1/22 - 6/30/23	2.0%
7/1/23 - 6/30/24	2.0%

-There shall be no retroactive payment for said percentage
increases.

-Delete Union proposed language as to salary step guide.

3. Article IX – Health Insurance

-Delete and replace with language identical to FMBA Local
35 Contract

Section 4

-Deputy Chief contribution will be the percentage reflected in Tier 4 of Chapter 78.

Section 8

-Delete existing language. Replace with: "No individual promoted to Deputy Chief after the date of execution of this Agreement shall be entitled to Sick Leave Incentive. No current Deputy Chiefs may accumulate any additional pay after 6/30/22."

4. Article XIV – Educational Incentive Pay

-Delete in its entirety.

BACKGROUND

The Township is located in the northern section of Union County. It has borders in the Essex County municipalities of Irvington and Newark and the Union County municipalities of Elizabeth and Union. Major roadways run through the Township, including the Garden State Parkway, Interstate 78, U.S. Route 22, NJ Route 439 and County Route 509. It is governed by the Faulkner Act (Mayor-Council form of government) with the Council serving as its legislative body. It has approximately 22,000 residents who occupy slightly more than 2 ¾ square miles.

The fire department has existed for over one hundred years and operates out of two fire stations. In total, there are approximately 48 firefighters who respond annually to over 3,000 emergency and non-emergency calls for service. All members are New Jersey State certified EMTs. The Department includes a Suppression/EMS Division, a Training Division and a Fire Prevention Bureau. The

Department is a member of, and participates in, the Union County Fire Mutual Aid System.

In addition to this SOA unit covering Deputy Chiefs, Township has additional bargaining units including rank and file Firefighters and Captains represented by FMBA Local 35, police officers represented by FOP Lodge 82 – Hillside Police Officer's Association and non-supervisory employees of the Township's DPW represented by the Hillside Public Works Association. FMBA Local 35 and the Township are parties to an agreement effective July 1, 2013 through June 30, 2021. FOP Lodge 82 and the Township are parties to an agreement effective July 1, 2020 through June 30, 2025. The Hillside Township Public Works Association and the Township are parties to an agreement effective July 1, 2012 through June 30, 2023.

The unresolved issues are primarily economic in nature. The parties agree that the duration of the new agreement should have effective dates of July 1, 2017 through June 30, 2024, thus encompassing six (6) contract years, only two of which are fully prospective. The record shows that the parties did not actively engage in negotiations until July 2020 and, after an unsuccessful effort at mediation, the Association filed for interest arbitration on December 16, 2021. The lengthy gap between contract expiration (June 30, 2017) and the December 16, 2021 filing is largely unexplained but appears to center on disagreement over wage

increases with the Township's proposal that there be no wage increases for 2017, 2018 and 2019.

The parties' positions on the unresolved issues were well articulated in post-hearing submissions, both of which refer to the record evidence each party has submitted into evidence and has relied upon.

DISCUSSION OF DISPUTED ISSUES

The evidentiary record has been thoroughly reviewed and considered. The parties have submitted exhibits relevant to the issues and have offered argument in their post-hearing briefs referencing the statutory criteria each seeks to be given weight in support of its proposals. The parties each urge the statutory criteria be applied in a manner favorable to its substantive proposals. The arbitrator must make a reasonable determination of the issues with due regard for the statutory criteria, when awarding any or part of the respective proposals for change or for deciding to maintain the status quo in an existing contract term. The party seeking change in the status quo has the burden to establish the basis for its proposal. That burden is more substantial when a provision has existed for a lengthy period of time. The burden to be met must be at a level beyond merely seeking change without sufficient evidentiary support. I will apply these principles as part of my analysis of the issues in dispute. Any decision to award or deny any individual issue in dispute will include consideration as to the reasonableness of that individual issue in relation to the terms of the entire award. In other words,

there may be merit to awarding or denying a single issue if it were to stand alone, but a different result may be reached after assessing the merits of an issue within the context of the overall award.

An award must be rendered with due regard for the statutory criteria deemed relevant for the resolution of the dispute. The statutory criteria are as set forth in N.J.S.A. 34:13A-16(g) and are as follows:

- (1) The interests and welfare of the public. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by (P.L. 1976, c. 68 (C. 40A:4-45.1 et seq.).
- (2) Comparison of the wages, salaries, hours, and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours, and conditions of employment of other employees performing the same or similar services and with other employees generally:
 - (a) In private employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.
 - (b) In public employment in general; provided, however, each party shall have the right to submit additional evidence for the arbitrator's consideration.
 - (c) In public employment in the same or similar comparable jurisdictions, as determined in accordance with section 5 of P.L. 1995, C. 425 (C.34:13A-16.2) provided, however, each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.
- (3) The overall compensation presently received by the employees, inclusive of direct wages, salary, vacations, holidays, excused leaves, insurance and pensions, medical

and hospitalization benefits, and all other economic benefits received.

- (4) Stipulations of the parties.
- (5) The lawful authority of the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by the P.L. 1976 c. 68 (C.40A:4-45 et seq.).
- (6) The financial impact on the governing unit, its residents and taxpayers. When considering this factor in a dispute in which the public employer is a county or a municipality, the arbitrator or panel of arbitrators shall take into account to the extent that evidence is introduced, how the award will affect the municipal or county purposes element, as the case may be, of the local property tax; a comparison of the percentage of the municipal purposes element, or in the case of a county, the county purposes element, required to fund the employees' contract in the preceding local budget year with that required under the award for the current local budget year; the impact of the award for each income sector of the property taxpayers on the local unit; the impact of the award on the ability of the governing body to (a) maintain existing local programs and services, (b) expand existing local programs and services for which public moneys have been designated by the governing body in a proposed local budget, or (c) initiate any new programs and services for which public moneys have been designated by the governing body in its proposed local budget.
- (7) The cost of living.
- (8) The continuity and stability of employment including seniority rights and such other factors not confined to the foregoing which are ordinarily or traditionally considered in the determination of wages, hours and conditions of employment through collective negotiations and collective bargaining between the parties in the public service and in private employment.
- (9) Statutory restrictions imposed on the employer. Among the items the arbitrator or panel of arbitrators shall assess when considering this factor are the limitations imposed upon the employer by section 10 of P.L. 2007, c. 62 (C.40A:4-45.45).

The parties' proposals must be evaluated in the context of the unique circumstances applicable to this specific impasse. All of the criteria are relevant and will be considered but not all are entitled to equal weight. I find the interests and welfare of the public 16(g)(1) to be given the greatest weight. While the interests and welfare of the public may be an elastic term with varying perspectives as to its meaning, it is undeniable that certain other criteria, while individually stated in section 16(g), are interrelated within 16(g)(1) and must be in harmony with the interests and welfare of the public. Among the other criteria I deem more relevant here, as explained below, are the statutory restrictions on the employer 16(g)(9), the lawful authority of the employer 16(g)(5). Simply put, an award cannot require a public employer to be beyond its lawful authority or ignore lawful restrictions placed on it. Comparisons of wages and benefits in public employment in the same jurisdiction (internal comparability) are entitled to significant weight due to the public interest need to promote harmony and stability within the operation of the governing body and the need to maintain integrated services to the public. In respect to comparable evidence, I find internal comparisons are entitled to greater weight than external comparisons because terms and conditions of employment for unit employees are set jointly with the public employer rather than external jurisdiction. The continuity and stability of employment 16(g)(8) which includes "other such factors ... ordinarily or traditionally considered in the determination of wages, etc." and also serves the public and the employees by enhancing the services provided and the morale of the employees who deliver the service. The continuity and stability of employment is also a significant factor. In this case, the

managerial authority to provide expert fire protection and suppression services vested in Deputy Chiefs in the absence of the filling of the Fire Chief position and requires stability in leadership and governance of the department.

As indicated above, when a contract provision has been in existence for a lengthy time period, there is a presumption, absent substantial credible evidence warranting change, that the status quo should be carried forward. This is especially so in light of the fact that less than two years will remain in the new seven-year agreement which will require a return to direct negotiations in the near future for the next agreement.

I believe major substantive changes to the status quo should be implemented with sufficient experience in the change to assess the merits of either maintaining the change going forward or proposing additional revisions based on an examination of the impact of the change. Each issue in dispute will be identified and reviewed individually, followed by an award resolving each individual issue. The totality of the issues awarded will then be set forth in a separate Award section.

DURATION

Each party has proposed a contract duration of July 1, 2017 through June 30, 2024. I accept their common positions as a stipulation and award the contract duration consistent with their proposals.

Award

Article XXII – Term and Renewal shall be modified to reflect a contract term of July 1, 2017 through June 30, 2024.

ARTICLE III – HOURS OF WORK AND OVERTIME

Each party has proposed changes to various sections in Article III.

Section 1: Hours of Work

The Union has proposed to increase the amount of differential that a Deputy Chief now receives when assigned as an Administrative Deputy or Fire Official. The existing language is set forth in Section 1: Hours of work, Section C. It states:

Effective July 1, 2005, a Deputy Chief assigned to a schedule of 5 days on duty followed by 2 days off duty shall receive a differential of 5% of his regular salary for the duration of his assignment to such alternate schedule.

The Union's proposal is that the aforementioned differential be increased from 5% to 10%. In support of this proposal, the Union makes the following main argument:

The Township has decided not to fill the position of Fire Chief recognizing a savings of \$200,000.00 in salary plus benefits. In its stead the Township has assigned the Chief's duties to a Deputy Chief adding additional responsibilities and work time. This assignment is now designated as Administrative Deputy Chief. This change has been acknowledged by the Township in a January 24, 2022 memorandum from then Fire Chief Ferrigno to Deputy Chief Bill Pelletiere (See Exhibit SOA 4). The increase in duties is also

described in depth in the Civil Service Commission Job Specification for the position of Fire Chief (See Exhibit SOA 5). For purpose of comparison, the SOA has attached the New Jersey Civil Service Commission Job Specification of Deputy Fire Chief (See Exhibit SOA 6). It is clear that the position of Fire Chief encompasses a vast expansion of duties in regard to maintaining and developing Standard Operating Guidelines, establishing training programs, create, maintain and submit monthly reports of sick time, vacation and overtime use, provides information for budgets and assists the business manager or municipal fiscal officer in development of the fire department budget. It should be noted that while performing these duties, he also must serve and perform the duties of Deputy Chief. A second Deputy Chief is not on duty when a Deputy Chief assumes the duties of Fire Chief. For these additional responsibilities, the SOA is seeking a 10% differential in pay. It is grossly unfair to require an individual to perform two jobs with no increase in compensation. Finally, it should be noted that this differential applies only to that Deputy Chief who works the designated title.

In regard to Fire Official, the SOA is seeking a 5% salary differential based on the same argument set forth above. Attached is the Civil Service Description for the Title of Fire Official (See Exhibit SOA 7). This assignment adds to the duties of Deputy Chief's day-to-day routine of actual fire code enforcement within the municipality. This takes the Deputy Chief out of the fire house and into the municipality to enforce the fire code while keeping his responsibility for supervision of the fire house. Once again, this differential is applicable only to that Deputy Chief who is assigned this position and gives substantial savings to the Township by it not having to hire an individual with an annual salary and benefits.

The Township agrees to maintain the existing 5% differential as set forth in Section 1(C). However, it rejects the Union's proposal to increase it to 10%. It submits:

The Union has proposed adding a 10% differential if a Deputy Chief is assigned as Administrative Deputy Chief, and if a Deputy Chief is assigned to the position of Fire Official. The Township opposes these proposals. An individual serving as Administrative Deputy spends his working hours addressing Administrative Deputy responsibilities. In so doing, this has become his assignment and he

is no longer doing normal Deputy Chief functions. Hence, there is no extra work being performed which would justify a differential. The same analysis applies to a Deputy Chief serving as Fire Official. It must be further emphasized that based upon the current salaries of Deputy Chiefs, which is \$ 177,226.40 per annum, 10% amounts to an additional \$17,722.00 per year, per man, which would cost the Township \$35,444.00 annually. For these reasons, and the clear absence of extra work, we submit the proposal for a differential should be rejected.

Award

I do not award the SOA's proposal during this contract term. I acknowledge that the record does reflect that Deputy Chiefs' responsibilities while serving in the capacities required of them will, more likely than not, intensify as a result of not filling the position of Fire Chief. However, the record does not adequately reflect a sufficient basis during this contract term for the doubling of the 5% differential currently being received. As indicated in SOA exhibits, the additional assignments occurred during this calendar year and the record does not accurately provide sufficient detail on impact. The denial is without prejudice to a renewed proposal for the next contract term based on the actual responsibilities that were undertaken and present at the end of the contract term. Accordingly, the 5% differential shall be carried forward through June 30, 2024.

Section 3: Acting Pay

The Township has proposed to delete the existing language concerning Acting Pay. The current provision states the following:

When a position in the field becomes vacant, for any reason, even if only temporary for absence due to illness, vacation, leave or for any other reason, it shall be filled by an officer of equal rank except for emergencies which occur during a work shift.

The Township's proposal to delete this section is based on the following:

In simple terms this means that only a Deputy Chief can be designated to fill in for another Deputy Chief. This is a unique provision, as it is common practice in New Jersey for both Police and Fire Management to be able to appoint for example, a Captain as Acting Deputy Chief. It is expected that the Union will advance the argument that only a Deputy Chief is qualified to do the job of another Deputy Chief. This position is specious. Acting positions are commonplace in the public sector and also serve the salutary purpose of providing an individual with experience in the next position.

Most significantly, the costs associated with these provisions are exorbitant and oppressive. In past years, this provision cost the Township between \$100,000.00 and \$200,000.00 per year. In fact, in 2017, this provision cost the Township \$442,000.00. (See Exh. I) These costs coupled with virtually no justification for such a limitation, clearly warrant deletion of this section, thereby permitting the Township to appoint an officer of lesser rank to an Acting position.

The SOA rejects the Township's proposal to delete Section 3(A). It seeks that the existing language remain as stated in the prior agreement. It submits:

During the arbitration proceeding, Deputy Chief Pellettiere described safety concerns with having a non-certified person supervising a fire scene. Deputy Chiefs are tested and certified to supervise major incidents; captains are not. To eliminate the man for man provision of the contract endangers both the public and the firefighters. Thus, the provision of the prior contract should remain in effect.

Award

I do not award the Township's proposal. The existing provision has burdened the Township with significant costs. However, based on this record, this is not the only relevant consideration. Recent retirements and the vacancy (temporary or permanent) in the Fire Chief position have resulted in significant cost savings in payroll costs with delegation of authority to Deputy Chiefs. It is reasonable to find that the retirement of two Deputy Chiefs and the absence of a Fire Chief has placed more emphasis on the leadership of the Fire Department being vested in an experienced Deputy Chiefs. The denial is without prejudice to a renewed proposal for the next term based on staffing levels that exist at that time and a more substantial record on when vacancies can be filled by a Captain that would not have significant impact on the department's leadership authority during calls for service.

Section 4: Personal Time (Non-Payable Time)

The SOA proposes to revise the amount of personal time set forth in the existing provision. The existing provision states the following:

- A. Each Deputy Chief of the Fire Department shall be entitled to 53% hours of personal time off during the calendar year with the permission of the Chief of the department, and if not received during the calendar year, this personal time (non-payable time) will be considered lost and there shall be no carryover to the next calendar year. Such permission of the Chief shall not be unreasonably denied provided that (1) the requested use of personal time will not result in an increase in overtime; (2) cause two officers to be off duty at the same time

(i.e., one captain and one deputy chief); or (3) affect the Department's minimum manning.

The SOA's proposal in its final offer is to change the number in Section A from fifty three (53%) to fifty-three and three quarters (53 $\frac{3}{4}$) hours. Prior to the issuance of this Award, the parties have stipulated that the SOA proposal is based on a typo in the Agreement that will be rectified by changing "53%" to "53 $\frac{3}{4}$ " hours.

Award

Based on the parties' stipulation, the reference to 53% in Section 4 shall be revised to fifty-three and three quarters (53 $\frac{3}{4}$) hours.

Section 5: Holidays

The Union proposes to add Juneteenth as a legal holiday. The existing provision states the following:

Deputy Fire Chiefs annually shall receive nine (9) hours of holiday pay in lieu of granting certain legal holidays. Bargaining unit members annually shall have the option to take this time off for one (1) full Township recognized holiday, regardless of the number of hours in the employee's regular workday. The permission of the Chief is required in order for an employee to use such time, provided that such permission shall not be unreasonably withheld. If an employee does not use such holiday time during the year, the employee will be entitled to be paid for nine (9) hours. No holiday time may be banked.

Specifically, the Union proposes:

Juneteenth should be added as a legal holiday for which Deputy Fire Chiefs shall receive holiday pay lieu of granting that day as a holiday.

It submits:

While the negotiating process has been taking place, both the Federal government and the State of New Jersey has recognized Juneteenth as a holiday. In the year 2022, that State celebrated the holiday on a Friday and the Federal government celebrated the holiday on a Monday. The Township of Hillside celebrated and closed its municipal building on both days. The Association wishes this holiday to be included in the language of the agreements with specificity as to the Township's position recognizing both the State and Federal observances.

The Township rejects the Union's proposal and seeks to retain the existing contract language. It contends:

The Union proposes a specific provision adding Juneteenth as a legal holiday, for which Deputy Chiefs shall receive holiday pay in lieu of granting that day as a holiday. The current Contract language does not list nor articulate specific holidays. To add a provision providing for Juneteenth as a specific holiday would cause significant confusion and interpretation issues. We submit that the current language is more than sufficient.

Award

I do not award the SOA proposal. Section 5 does not reference specific legal holidays and instead expresses time off or pay for holidays in terms of a number of hours. I am not persuaded that the granting of one additional specific holiday would be consistent with the intent and purpose of the existing language. Accordingly, the proposal is denied.

ARTICLE VI - SALARIES

Each party has proposed changes to various sections in the existing Article VI.

Section 4: Emergency Management Coordinator

Section 5: Emergency Management Deputy Coordinator

The Township proposes to delete the differentials that now exist in their entirety in Sections 4 and 5. Section 4 and Section 5 now provide for the following:

Section 4:

A Deputy Chief assigned as Emergency Management Coordinator for the Township of Hillside shall receive a pay differential of 3% over personnel in his/her rank.

Section 5:

A Deputy Chief assigned as Emergency Management Deputy Coordinator for the Township of Hillside shall receive a pay differential of 2% over personnel in his/her rank.

In support of its proposals to delete the existing language in Sections 4 and 5, the Township makes the following arguments:

Under the current contract, a Deputy Chief assigned as Emergency Management Coordinator or Emergency Management Deputy Coordinator, shall receive a pay differential of 3% and 2% respectively over personnel in his/her rank. For the same reasons set forth above relating to Acting Pay, individuals so assigned are doing these particular jobs without having to perform all other Deputy Chief functions. Hence, there is no justification for a differential as no extra work is being performed. Hence, the Township submits that Sections 4 and 5 be deleted in their entirety.

The SOA rejects the Township's proposals and seeks to retain the existing language. As to Section 4 it submits:

The Association's position is that the contract language containing the 3% differential for the appointment as Emergency Management Coordinator should remain. As with the Fire Chief's and Fire Official's position, the Township wishes to assign more job responsibilities to the position of Deputy Chief, but not compensate him for the same. The fact that he is appointed as an Emergency Management Coordinator does not relieve him of his Deputy Chief Duties.

As to Section 5 the SOA submits:

The Association's position is the same for Deputy Emergency Management Coordinator with a 2% differential. It should be noted that this is another attempted "take away" by the Township. It should be noted if the Township wishes to save money on either of these appointments, they can designate someone of a lesser rank to the position. Neither Section compels the Township to appoint a Deputy Chief to the Emergency Management Position.

Award

After due consideration, I find that the Township has not met its burden to remove the existing language in Sections 4 and 5. While the goal of cost reduction is not unreasonable, these sections providing differentials for the two Coordinator assignments and responsibilities have been part of a Deputy Chief's compensation package and there is no evidence that the responsibilities associated with the two designated coordinator positions do not remain. Accordingly, so long as these assignments and responsibilities remain, the status quo shall be carried forward and the Township's proposal is denied.

Section 6: Salary

The parties disagree on the terms of salary for the new agreement. Their proposals are as follows:

The Township proposes:

7/1/17 - 6/30/18	0.0%
7/1/18 - 6/30/19	0.0%
7/1/19 - 6/30/20	0.0%
7/1/20 - 6/30/21	2.0%
7/1/21 - 6/30/22	2.0%
7/1/22 - 6/30/23	2.0%
7/1/23 - 6/30/24	2.0%

In addition, the Township proposes that there be no retroactive payments for any percentage increases awarded.

The SOA proposal for the new terms on salary is as follows:

7/1/2017 – 6/30/2018:	2.00%
7/1/2018 – 6/30/2019:	2.00%
7/1/2019 – 6/30/2020:	2.00%
7/1/2020 – 6/30/2021:	2.00%
7/1/2021 – 6/30/2022:	2.00%
7/1/2022 – 6/30/2023:	2.00%
7/1/2023 – 6/30/2024:	2.00%

A salary step guide will be added for persons appointed to the rank of Deputy Chief subsequent to the execution of the Agreement by both parties.

Year 1 -	\$158,060.00
Year 2 -	\$160,376.00
Year 3 -	\$165,134.00
Year 4 -	\$169,892.85

The SOA seeks that any percentage increases in salary be retroactive to their effective dates.

The SOA has also proposed language creating a salary step guide for newly appointed Deputy Chiefs. The stated purpose of the SOA proposal is to save the Township money when new appointments are made to the Deputy Chief position by creating the new salary schedule. The SOA's exhibit sets forth what the proposed savings would potentially be for several potential future promotees beginning after execution of the new agreement and running through June 30, 2027. This, over time, would replace the current single rate salary scheme for the existing four (4) Deputy Chiefs, two (2) of whom the SOA has represented will retire upon conclusion of the new agreement. The proposed schedule includes salary levels at Year 1, Year 2, Year 3 and Year 4 and is set forth in SOA Exhibit #10 and assumes that any vacancy in the Deputy Chief rank would not occur until after July 1, 2022. While there would be actual savings resulting from the new salary schedule, the actual savings are hypothetical depending on who is promoted, when the actual retirements occur and what the terms of salary will be for existing Deputy Chiefs. The SOA exhibit compares what the salaries would be without awarding the SOA proposal and the amount of savings achieved if the SOA proposal for the new schedule is awarded. The exhibit also reflects what the savings would be by those achieved from implementing the new longevity scheme the SOA has proposed for newly appointed Deputy Chiefs. This latter issue has now been resolved through stipulation of the parties and will be awarded.

The respective main arguments of the parties regarding across the board salary are as follows:

The SOA

The Association is seeking salary increases of 2% per year. It should be noted that two (2) members are retired and would not be receiving the 2% increase for the years 7/1/2021 through 6/30/2024. Of the four (4) remaining members, two (2) of those members will reach the mandatory retirement age at the expiration of the new contract. Three (3) exhibits included with this brief and previously supplied to both the Township and the arbitrator (See Exhibit SOA 8) shows the New Jersey PERC Interest Arbitration Salary Analysis, which shows the 2% per year increase to be in line with Annual Salary Increase Awards for the years commencing in 2017 forward. Furthermore, looking at Hillside Fire SOA 235's Last Best Offer (See Exhibit SOA 9), for the individual members, a 2% increase in each year would total \$313,653.58. This figure takes into account Deputy Chief DeLane and Deputy Chief Ferrigno who are retired and do not get the increase for the years 2022, 2023 or 2024.

The second exhibit illustrates the salaries going forward while comparing present eligible candidates for Deputy Chief and the savings made with the salary and steps proposed by the Association (See Exhibit SOA 10). The dates used run from 7/1/2022 through 6/30/2027. The second column of the exhibit shows "salary without steps" at 16% longevity. The third column illustrates "salary with steps" and proposed longevity. The savings over the four (4) year period ranges from approximately \$77,000.00 to \$109,000.00 per Deputy Chief. The supporting data accompanies this exhibit. The third exhibit sets forth a complete analysis of the SOA's proposed salary increase (See Exhibit SOA 11).

In comparing the FOP contract, it did not have a retro pay issue and the Union received 9% over four (4) years. The Public Works Union received 13%, including 9% retro with the contract expiring this year.

The aforementioned also does not consider the issue of inflation and its impact on these increases. As expected, the costs of goods, gas and services has dramatically increased. The Association supplies both CPI and CPE index figures showing that a 2% raise per year does not keep pace with the percentage rises indicated by these

statistics (See Exhibit SOA 12). Finally, the Township's position ignores the "give back" in regard to longevity.

The Township

The Township has offered a 0% increase for the years 2017-2018, 2018-2019 and 2019-2020, and a 2% increase for 2020-2021, 2021-2022, 2022-2023 and 2023-2024, with no retroactive payment for salary increases.

The Union has also proposed a salary step guide. If implemented, it would start any newly appointed Deputy Chiefs at the same salary that existing Deputy Chiefs are receiving.

Internal Comparisons

Internal comparability can be broken down into two general categories consisting of uniformed and non-uniformed employees within the same jurisdiction. An internal pattern in the same jurisdiction involving both uniform and non-uniformed employees is a significant factor in the determination of an award because it usually corresponds to a public employer's budgetary capabilities and connotes uniform treatment.

In the Matter of Interest Arbitration between the County of Union and FOP Lodge 103, IA-2010-118, Arbitrator Hundley noted that PERC issued a directive that arbitrators must consider evidence of settlements between the employer and other negotiations units, as well as claims that those settlements constitute a pattern. See Union Cty, P.E.R.C No. 2003-33, 28 NJPER 459 (¶¶33169 2002) and Union Cty., P.E.R.C. No. 2003-87, 29 NJPER 250 (¶¶75 2003). Further, arbitrators must fully articulate the rationale for any decisions to deviate from an internal settlement pattern. Union Cty., P.E.R.C. No. 2003-33; Union Cty., No, 2003-87. The principle underlying these decisions is that maintaining an established pattern of settlement promotes harmonious labor relations, provides uniformity of benefits, maintains high morale, and fosters consistency in negotiations. Id.

The Township has reached settlements with two other bargaining units which are consonant with salary percentages offered in the instant case. In its MOA with FOP Lodge 82 Hillside Police Officers Association, the following percentage increases were agreed upon: 2021-3%; 2022-2%; 2023-2%; 2024 and 2025-2%. (See Exh. B) Similarly, in an MOA between the Township and the Hillside Public

Works Association, the following percentage increases were agreed upon:

2013-2020	0%
2020 (Retro)	5%
2021 (Retro)	4%
2022	4%

These figures must take into account that the Hillside Public Works Assn. accepted a 0% increase for the seven year period comprising 2013-2020 (See Exh. C) and that the overall salaries in Public Works average \$80,119.14, (See Exh. C-1) approximately 50% lower than the Deputy Chiefs salary, which, as noted, is currently \$177,226.40.

External Comparisons

External comparability consists of comparisons between the group subject to the petition and other public safety employees in similar jurisdictions, other public employees, generally, and private sector comparisons. We have reviewed several Union County municipalities recent settlements, and find as follows. In 2021 the Township of Scotch Plains entered into an Employment Agreement with an individual serving as its Deputy Chief and Fire Official. The current Deputy Chief base salary is \$73,340, currently less than ½ of Hillside's with increases to \$79,907 in 2022; \$86,605 in 2023 and \$93,437 in 2024. Annual salary increases thereafter shall be subject to a minimum of the greater of 2% or the average percentage increase given to all other full-time Union employees of the Township. (See Exh. D) The City of Elizabeth, with a Fire Department approximately comp 260 employees and a City of 11.6 square miles, set the following salaries for Deputy Chiefs for 2018-2021: \$160,100 (2018); \$160,000 (2019); \$167,600 (2020) and \$170,100 (2021). (See Exh. E) The City of Plainfield, with a Fire Division of 105 members, in 2022 agreed upon the following contractual increases: 2018: \$700. Plus 2.0% of base salary; 2019: 2.0% of base salary; 2020: 1.5% of base salary and 2021: 1.5% of base salary. (See Exh. F) The Borough of Roselle, with 33 Fire personnel, agreed upon the following; percentage increases: 2019 - 2%; 2020 - 2%; 2021 - 2%, and 2022 - 2%. (See Exh. G)

Award

In fashioning an award on salary, and in the absence of evidence that statutory limitations and restrictions would interfere with the Township's statutory obligations in regard to appropriations or tax levy,¹ I have given the most weight to the statutory criteria concerning internal comparisons, financial impact and the continuity and stability of employment. While relevant, I have given less weight to cost of living and external comparability.

The current base pay for Deputy Chiefs, without adding any other benefit enhancements to base pay such as longevity, educational incentives, holiday pay and differentials is \$150,860 at time of contract expiration on June 30, 2017. With benefit enhancements added to base pay, the exhibits show existing overall or "extended base pay" for the four (4) Deputy Chiefs to be \$177,226 for three (3) Deputy Chiefs and \$182,581 for one (1).

Comparisons of the parties proposals on base pay salary without and with "extended base pay" are reflected in the following charts:

¹ I am aware that this award on base salary items, pursuant to Section 2 of P.L. 2010, c. 105 (C. 34:14A-16.7), must be in compliance with, and certified by the arbitrator, to be within the two percent (2%) cap on increases to base salary. The parties have not specifically addressed this perhaps based on the belief that their final offers do not exceed the CAP. I need not address this because the terms of the Award are in full compliance with the CAP law which states that it applies to negotiations agreements expiring until or on December 31, 2017 but then becomes inoperative except for agreements that expired prior to or on December 31, 2017. Because the SOA Agreement expired on June 30, 2017, the terms of the Award must fall within the CAP law.

SOA Proposal – Base Salary Alone

Current 6/30/2017	\$150,860
7/1/17 - 2%	\$153,877
7/1/18 - 2%	\$156,954
7/1/19 - 2%	\$160,093
7/1/20 - 2%	\$163,295
7/1/21 - 2%	\$166,561
7/1/22 - 2%	\$169,892
7/1/23 - 2%	\$173,290

Township Proposal

Current 6/30/2017	\$150,860
7/1/17 - 0%	\$150,860
7/1/18 - 0%	\$150,860
7/1/19 - 0%	\$150,860
7/1/20 - 2%	\$153,877
7/1/21 - 2%	\$156,954
7/1/22 - 2%	\$160,093
7/1/23 - 2%	\$163,295

When extended base pay (all base pay enhancements) for the four (4) Deputy Chiefs is considered,² the comparative proposals would reflect the following:

² For this purpose, I have used the salary level of \$177,226.

	<u>SOA</u>	<u>Township</u>
Existing	\$177,226	\$177,226
7/1/17	\$180,741	\$177,226
7/1/18	\$184,326	\$177,226
7/1/19	\$187,983	\$177,226
7/1/20	\$191,713	\$180,741
7/1/21	\$195,517	\$184,326
7/1/22	\$199,398	\$187,983
7/1/23	\$203,356	\$191,713

Because evidence and argument on prior agreements within the Township have been offered and have been deemed relevant by the parties, I set them forth below. Internal comparisons will start within the fire department where the Firefighters, Captains and Deputy Chiefs are employed and then turn to the other Township units which the parties have submitted into evidence, including law enforcement and the Department of Public Works blue collar unit.

In the prior SOA Agreement, there were increases to base pay of 1.0% effective July 1, 2013, 1.50% effective July 1, 2014, 1.5% effective July 1, 2015 and 2.0% effective July 1, 2016 totaling 6% un compounded over the four (4) year agreement.

In the FMBA Local 35 unit for rank and file Firefighters and Captains, in 2020 the parties negotiated a seven year agreement that began on July 1, 2013 and expired on June 30, 2021. The agreement provided no salary increases from July 1, 2013 through June 30, 2020 which left the top step salary at \$93,746.00 during this time period.³ Effective July 1, 2020, the parties revised the salaries for First-Grade Firefighters by increasing the pre-existing top pay from \$93,746.00 to \$102,543.00 in Schedule A. No retroactive payments were made between July 1, 2013 and June 30, 2020. The SOA points out that this July 1, 2020 increase amounted to a 9.38% increase in base pay from \$93,746 to \$102,543. For Captains, salaries were also unchanged from July 1, 2013 through June 30, 2020. Then, as with the rank and file Firefighters, a substantial revision in salaries went into effect on July 1, 2020. Top pay for Captains in the prior contract as of July 1, 2013 was \$118,607. The parties then agreed upon a new Salary Schedule (A-1) for Captains was agreed upon and for the first time provided a salary schedule rather than a single rate of pay. The schedule contains steps of 1st Year in Grade, 2nd Year in Grade and 3rd Year in Grade at salaries of \$111,900, \$121,254 and \$130,608 respectively. Captains in 4th Year in Grade, the new top step, went from the old max of \$118, 607 to the new max of \$139,962. Thus, a newly promoted Captain would go from the Firefighter top step of \$102,543 to \$111,000 and then take three full years to reach the new top step Captain pay of \$139,962 effective July 1, 2020. As was the case for Firefighters, no retroactive payments were made from July 1, 2013 through June 30, 2020. The SOA points out that the increase in

³ It also appears from the record that there were no salary increases for Firefighters and Captains in the prior year beginning July 1, 2012.

top pay for Captains (now 4th Year in Grade) was increased by \$21,354.57 or 15.251%.

I next turn to the FOP Lodge 82 unit (Police Officers Association) Agreement. Its current agreement has effective dates of July 1, 2020 through June 30, 2025. There is no evidence that it provided a wage increase between July 1, 2020 through June 30, 2021. It then provides for a 3% increase effective July 1, 2021, a 2% increase effective July 1, 2022, a 2% increase effective July 1, 2023, a 2% increase effective July 1, 2024 and a 2% increase effective July 1, 2025. In respect to wages prior to the new July 1, 2020 through the June 30, 2025 agreement, the 2018-2020 contract at Article VI – Salaries, Section 2 reflects the following:

2018 – 0.00% increase

2019 – 0.00% increase

2020 – 0.00% increase

However, prior to the new contract for July 1, 2020 through June 30, 2025 being ratified on October 31, 2021, the record reflects that the parties agreed upon a new salary schedule effective July 1, 2019 which provided both salary increases and changes in salary guide structure. First Grade or top step patrolmen, were placed at a Top Scale Senior Officer step and received an increase of \$3,943 from \$98,599 to \$102,542 or approximately 4%. Grade 6 and Grade 7 salaries were unchanged, other steps were reduced and an Academy and a Probationary step

were added at salaries below what the starting salaries had been at the previous Step 7. To illustrate these changes, I compare the salary schedule stated in the 2018-2020 agreement with the salary changes the parties made to be effective July 1, 2019 during the term of their 2018-2020 agreement:

Prior Schedule 2018-2020

First Grade	\$98,599.00
Second Grade	\$90,585.00
Third Grade	\$82,584.00
Fourth Grade	\$74,584.00
Fifth Grade	\$66,575.00
Sixth Grade	\$44,805.00
Seventh Grade	\$37,910.00

New Schedule 2019

Academy Step (until graduation of academy)	\$30,000.00
Probation Step (1 year)	\$34,000.00
Grade 7	\$37,910.00
Grade 6	\$44,805.00
Grade 5	\$55,805.00
Grade 4	\$66,575.00
Grade 3	\$74,584.00
Grade 2	\$82,584.00
Grade 1	\$98,585.00
Top Scale Senior Officer	\$102,542.96

In regard to the contract years prior to the July 1, 2017 Agreement, the FOP received a 2% increase effective July 1, 2013, a 1.50% increase effective July 1,

2014, a 1.50% increase effective July 1, 2015 and a 2% increase effective July 1, 2016.

In the bargaining unit of DPW employees, the Public Works Union, similar to FMBA Local 35, received no wage increases between July 1, 2013 through June 30, 2020. Then, effective July 1, 2020, there was a 5% increase; in July 1, 2021, a 4% increase and in July 1, 2022, a 4% increase. Similar to the Local 35 agreement, there were no retroactive salary payments between July 1, 2013 through June 30, 2020.

The Township cites to case law emphasizing the significance of internal patterns of settlement which it submits favors acceptance of its final offer:

In the Matter of Interest Arbitration between the County of Union and FOP Lodge 103, IA-2010-118, Arbitrator Hundley noted that PERC issued a directive that arbitrators must consider evidence of settlements between the employer and other negotiations units, as well as claims that those settlements constitute a pattern. See Union Cty, P.E.R.C No. 2003-33, 28 NJPER 459 (¶33169 2002) and Union Cty., P.E.R.C. No. 2003-87, 29 NJPER 250 (¶75 2003). Further, arbitrators must fully articulate the rationale for any decisions to deviate from an internal settlement pattern. Union Cty., P.E.R.C. No. 2003-33; Union Cty., No, 2003-87. The principle underlying these decisions is that maintaining an established pattern of settlement promotes harmonious labor relations, provides uniformity of benefits, maintains high morale, and fosters consistency in negotiations. Id.

Although the County has accurately summarized case law on pattern, I find that the record, while showing some similarities in treatment, does not reflect the existence of an internal pattern of settlement within the meaning of Union County.

If it did, a determination would then need to be made as to whether there was any basis in the SOA case for deviation from the pattern. However, because there is an absence of pattern of settlement among the Township's bargaining units, this does not lessen the significance of weighing the evidence on internal comparisons.

Here, there is persuasive evidence that certain units experienced no salary increases either in specific contract years common to the contract years in dispute for the SOA or in the prior contract years. Then, in the cases of longer-term salary freezes, significant prospective wage increases were negotiated while waiving retroactivity for years prior to the increases. A reasonable inference can be drawn that when salary increases were ultimately provided, the parties acknowledged the need to make up of lost ground but without providing the benefit of retroactivity for the wages that had been "lost." In short, while commonalities exist, significant differences appear in the contract terms concerning salary with respect to the treatment of salary, retroactivity and contract duration.

The terms for salary in the SOA unit, in addition to considering internal comparisons, must also consider the continuity and stability of employment for Deputy Chiefs. Two (2) more have recently retired and two (2) are projected by the SOA to retire in time approximate to contract expiration. If the existing staffing complement of four (4) is retained, two (2) would then be promoted. The record reflects that with the Fire Chief position unfilled, the Deputy Chief job title is now the leading rank to manage the department. The salary for a future promotee should be one sufficient to attract qualified candidates for the position and maintain

reasonable differentials between ranks. The differential in salary between Captain pay at 4th Year in Grade at \$139,962 as of July 1, 2020 and the Township's proposal for Deputy Chief at \$153,827 would be \$13,865 or 9%. This stands in sharp contrast to the prior relative base pay salaries (as of June 30, 2020) of \$118,607 and \$150,860 (without extended base pay).

The analysis of internal comparability and continuity and stability of employment has considered the external comparability evidence. This includes data involving fire departments in the municipalities of the City of Elizabeth, City of Plainfield, Borough of Roselle and the City of Perth Amboy. The compensation and benefits for Deputy Chiefs (including base salary and all extended base pay) reflects a package that is reasonable in relation to the others. Thus, adjustments in the new agreement should be based on consideration of the internal comparisons and Township finances rather on evidence that they be based on terms for other fire departments.

After due consideration and weighing criteria I have deemed to carry the most significant weight for existing employees and those retiring under the contract terms, I award the following across the board salary increases as well as a new salary schedule for those employees who will be newly promoted into the rank of Deputy Chief after the execution of this Agreement. For contract year July 1, 2017 through June 30, 2018, I award the Township's proposal to continue the salaries that were in effect as of June 30, 2017 through June 30, 2018. I award an across the board increase of 1.5% effective July 1, 2018 through June 30, 2019. I award

2% annual increases effective July 1, 2019, July 1, 2020, July 1, 2021 and July 1, 2022 followed by a 2.5% increase effective July 1, 2023. The wage increase of 1.5% effective July 1, 2018 shall not include retroactivity and then retroactive payments shall be made for each contract year commencing and effective on July 1, 2019 and thereafter, including those who have retired to their dates of retirement. The base salary adjustments without reference to “extended pay” will reflect the following salaries:

Current 6/30/2017 \$150,860	Award
7/1/17 – 0.00%	\$150,860
7/1/18 – 1.50%	\$153,122
7/1/19 – 2.0%	\$156,184
7/1/20 – 2.0%	\$159,308
7/1/21 – 2.0%	\$162,494
7/1/22 – 2.0%	\$165,744
7/1/23 – 2.5%	\$169,887

I next turn to the salary schedule for newly promoted Deputy Chiefs. The reference to Years 1, 2, 3 and 4 is reflective of the amount of time in grade and corresponds to the salary level on each effective date. Thus, by way of example, a newly promoted Captain on July 1, 2022 would receive \$153,468 during that contract year (July 1, 2022 through June 30, 2023) and advance to \$160,711 during contract year July 1, 2023 through June 30, 2024 after having one year of service at the Year 1 level. This concept is consistent with newly adopted salary

schemes negotiated for Captains and Police Officers. Accordingly, I award a new four step schedule commencing effective July 1, 2022. It shall read as follows:

**Salary Schedule for Newly Promoted Captains
Effective July 1, 2022**

	July 1, 2022	July 1, 2023
Year 1	\$153,468	\$156,537
Year 2	\$157,560	\$160,711
Year 3	\$161,652	\$164,885
Year 4	\$165,744	\$169,059

I find the above salary terms, averaging 1.72% over the course of seven (7) years are within all statutory limitations and funded without adverse impact on the Township, its governing body, taxpayers and residents.

ARTICLE VIII – LONGEVITY

The SOA proposes to retain the existing provision covering longevity for existing Deputy Chiefs but with a revision for those Captains promoted to Deputy Chief after the execution of this Agreement. The existing provision now states the following:

Deputy Fire Chiefs shall receive longevity pay, in accordance with the following schedule, in addition to and separate from annual base salary.

10 th anniversary date	4% of annual base salary
14 th anniversary date	8% of annual base salary
18 th anniversary date	12% of annual base salary
22 nd anniversary date	16% of annual base salary

Longevity payments shall be made within 60 days of the anniversary date. Longevity will be eliminated for all persons newly hired as a firefighter hired after the execution of this Agreement by all parties.

In addition to maintaining the above provision for existing Deputy Chiefs, the SOA has proposed that any Captain promoted to rank of Deputy Chief after execution of this agreement remain at the longevity benefit as negotiated by the FMBA Local 35 contract that is effective through June 30, 2021. The Township has not made any proposal for change. However, prior to the issuance of this Award, the parties have stipulated to the proposal advanced by the SOA. Accordingly, the existing provision will be carried forward along with the language that will require those who are newly promoted to the Deputy Chief position after the execution of the Agreement to remain at the longevity benefit, as set forth in the Local 35 Agreement negotiated by FMBA Local 35 that they are now covered by. The Local 35 Agreement on longevity eliminated longevity for new hires, froze longevity for existing employees and credited a new schedule capping at 10% for employees who had not exceeded the 10% longevity step.

Award

The SOA proposal is awarded pursuant to stipulation. Article VIII – Longevity in the new Agreement shall incorporate any carry forward the terms of Article VIII – Longevity. It shall also include the language in the FMBA Local 35 Agreement except for any reference the parties may wish to make that references the SOA.

Article VIII – Longevity

There shall be no longevity for any new hires of the Hillside Fire Department covered by this MA as of the date of full execution of this MOA. Longevity shall be frozen for all employees of the Hillside Fire Department covered by this MOA who are at 12% and 14% longevity as of the date of the full execution of this MOA. Such employees shall remain frozen at their respective 12% and 14% longevity levels. For employees of the Hillside Fire Department covered by this SOA who have not exceeded the new 10% longevity cap and who are employed as of the date of the full execution of this MOA, the following longevity calculations shall apply:

5 th anniversary date	2%
10 th anniversary date	4%
14 th anniversary date	8%
18 th anniversary date	10%

ARTICLE IX – HEALTH INSURANCE

Section 1: Hospitalization for Active Members

The SOA proposes that the language concerning the providing of health insurance be changed to reflect the name of the present health insurance provider. The Township proposes that the existing language concerning its health insurance program be deleted and replaced with language that is identical to the language that exists in the FMBA Local 35 contract.

The existing language in the agreement states the following:

The Township shall continue to provide all employees covered by this Agreement and their families with full coverage under the Horizon Blue Cross Blue Shield of New Jersey (“Horizon”) Hospitalization plans and Major Medical Insurance, the premiums of which shall be paid for by the Township except as set forth in this Article VII. The Township will continue to maintain the Horizon traditional indemnity and Direct Access PPO plans. Employees hired

after June 30, 2008 must enroll in the Direct Access PPO plan and will not be eligible for the traditional indemnity plan. Employees hired on or before June 30, 2008, continuously employed with the Township and promoted into the bargaining unit after June 30, 2008 will remain eligible to retain the traditional indemnity plan. The PPO Company-pay for office visits will be increased to \$15 as soon as practicable for the Township. In the event the Township changes its health insurance carrier, it shall provide comparable health insurance with no less coverage than the level currently in existence on July 1, 2008.

Neither party submits argument in support of its position on Section 1 with the exception that the Township notes that Section 1 should provide that “health insurance shall be pursuant to the New Jersey State Health Benefits Plan or its equivalent.” The SOA acknowledges that the language needs to be updated to reflect “current health insurance.”

Both parties acknowledge the need to revise Section 1 to reflect the current health insurance program. I agree. This would be accomplished by awarding the Township’s proposal to delete the now outdated language and replace it with the identical language set forth in the Local 35 agreement. The interests and welfare of the public are served by having common benefits for all paid firefighters and an ability for the Township to administer a uniform health insurance program.

Award

Article IX – Health Insurance, Section 1 – Hospitalization for Active Members shall be modified to state language identical to the language that exists in the FMBA Local 35 Agreement.

Section 4: Contributions

The SOA proposes to reduce the amount of contributions towards health insurance by providing that the percentage be stated as in Tier 2 of Chapter 78. The Township seeks to maintain the existing contribution level as reflected in Tier 4 of Chapter 78.

The existing provision in Section 4 does not speak to Chapter 78 which was enacted after the contract's reference to premium contributions effective July 1, 2010. Section 4 now states:

Effective July 1, 2010, employees will contribute \$50.00 per month towards the cost of their health benefits. The monthly contribution shall be deducted by payroll deduction in even amounts throughout each year.

The SOA argues:

With the expiration of Chapter 78, contribution to cost of health insurance is negotiable. The Union seeks Tier 2 percentage contribution, which for its current members would be 17.50%. It is significant to note that for seven years the Deputy Chiefs have been contributing at Tier 4 without a salary increase. Again, since two (2) members are retired, this provision would only apply to four (4) members of the Association (See Exhibit SOA 13).

The Township disagrees. It submits:

Notwithstanding current Contract language, since 2012, Deputy Chiefs have been contributing the percentage of their Health Insurance reflected in Tier 4 of Chapter 78. The Township proposes that the contribution in the new Contract remain at the percentage reflected in Tier 4 of Chapter 78.

As previously stated, the existing language in Article IX, Section 4 was included prior to the enactment of Chapter 78. Since Chapter 78, the parties were mandated to administer the rates of employee contributions as required by law despite there being no referenced to Chapter 78. The Tier 4 contributions reflect the status quo.

In order to provide proper context to the issue of Chapter 78 employee contributions, I set forth below the statutory scheme that sets the contribution rates that unit members are now in effect. As noted, because of their salaries, unit employees are now subject to Year or Tier 4 levels. Chapter 78 provides the linkage between salary and percentages of employee contribution toward premium cost. As evident from the charts, each employee's salary range dictates the percentage of premium cost each must pay depending on whether the coverage and its cost is Single, Family or Member/Spouse/Partner or Parent/Child. The Years reflect the Tier levels which are now at Tier 4.

**HEALTH BENEFITS PREMIUM CONTRIBUTION RATES
FOR SINGLE COVERAGE**

Salary Range	Year 2	Year 3	Year 4
Less than 20,000	2.25%	3.38%	4.50%
20,000-24,999.99	2.75%	4.13%	5.50%
25,000-29,999.99	3.75%	5.63%	7.50%
30,000-34,999.99	5.00%	7.50%	10.00%
35,000-39,999.99	5.50%	8.25%	11.00%
40,000-44,999.99	6.00%	9.00%	12.00%
45,000-49,999.99	7.00%	10.50%	14.00%
50,000-54,999.99	10.00%	15.00%	20.00%
55,000-59,999.99	11.50%	17.25%	23.00%

60,000-64,999.99	13.50%	20.25%	27.00%
65,000-69,999.99	14.50%	21.75%	29.00%
70,000-74,999.99	16.00%	24.00%	32.00%
75,000-79,999.99	16.50%	24.75%	33.00%
80,000-94,999.99	17.00%	25.50%	34.00%
95,000 and over	17.50%	26.25%	35.00%

**HEALTH BENEFITS PREMIUM CONTRIBUTION RATES
FOR FAMILY COVERAGE**

Salary Range	Year 2	Year 3	Year 4
Less than 25,000	1.50%	2.25%	3.00%
25,000-29,999.99	2.00%	3.00%	4.00%
30,000-34,999.99	2.50%	3.75%	5.00%
35,000-39,999.99	3.00%	4.50%	6.00%
40,000-44,999.99	3.50%	5.25%	7.00%
45,000-49,999.99	4.50%	6.75%	9.00%
50,000-54,999.99	6.00%	9.00%	12.00%
55,000-59,999.99	7.00%	10.50%	14.00%
60,000-64,999.99	8.50%	12.75%	17.00%
65,000-69,999.99	9.50%	14.25%	19.00%
70,000-74,999.99	11.00%	16.50%	22.00%
75,000-79,999.99	11.50%	17.25%	23.00%
80,000-84,999.99	12.00%	18.00%	24.00%
85,000-99,999.99	13.00%	19.50%	26.00%
90,000-94,999.00	14.00%	21.00%	28.00%
95,000-99,999.00	14.50%	21.75%	29.00%
100,000-109,999.99	16.00%	24.00%	32.00%
110,000 and over	17.50%	26.25%	35.00%

**HEALTH BENEFITS PREMIUM CONTRIBUTION RATES
MEMBER/SPOUSE/PARTNER OR PARENT/CHILD COVERAGE**

Salary Range	Year 2	Year 3	Year 4
Less than 25,000	1.75%	2.63%	3.50%
25,000-29,999.99	2.25%	3.38%	4.50%
30,000-34,999.99	3.00%	4.50%	6.00%
35,000-39,999.99	3.50%	5.25%	7.00%
40,000-44,999.99	4.00%	6.00%	8.00%
45,000-49,999.99	5.00%	7.50%	10.00%
50,000-54,999.99	7.50%	11.25%	15.00%
55,000-59,999.99	8.50%	12.75%	17.00%
60,000-64,999.99	10.50%	15.75%	21.00%
65,000-69,999.99	11.50%	17.25%	23.00%

70,000-74,999.99	13.00%	19.50%	26.00%
75,000-79,999.99	13.50%	20.25%	27.00%
80,000-84,999.99	14.00%	21.00%	28.00%
85,000-99,999.99	15.00%	22.50%	30.00%
100,000 and over	17.50%	26.25%	35.00%

The SOA's proposal to reduce employee percentage rates by changing the rates from Year 4 or Tier 4 to Year 2 or Tier 2 and the actual amount of contributions made is an economic issue and not a philosophical issue. Contributions are required by law and were imposed without negotiated agreement. The contributions are currently accounted for as revenue in the Township's budget. Because the Tier 4 level was reached and the contract has expired, the law now allows the parties to negotiate revisions in the levels of contributions. Chapter 78 clearly states that the contribution levels in Year 4 of the phase-in constitute the status quo for the purpose of negotiating any changes. Thus, any proposed change for more or for less of a contribution would, if accepted or awarded, alter the status quo.

The record does not reflect that any bargaining unit in the Township has successfully negotiated a reduction in employee contribution rates. This includes FMBA Local 35 whose contract expired on June 30, 2021, the Hillside Township Public Works Association whose contract will expire on June 30, 2023 and the FOP Lodge 82 contract that will expire on June 30, 2025. Other Township agreements are not in the record and there is no evidence of any changes having been made to status quo contribution levels in any bargaining unit.

The SOA asserts that by halving contributions (Tier 4 to Tier 2) for only four (4) Deputy Chiefs, the actual overall impact on the Township's revenues would be insignificant. While this argument is accurate insofar as it concerns the four (4) Deputy Chiefs, it does not take other factors into account which I conclude weigh against awarding the SOA proposal. I note that the FMBA Local 35 negotiations are pending and that its bargaining unit of over forty-five (45) employees is well in excess of the four (4) Deputy Chiefs. The issue for change is potentially significant for the Fire Department as a whole (as well as for all Township employees) given the fact that the status quo post 78 is in effect for all employees. This does not bar the SOA from making the proposal to reduce contribution levels but I do not find that the change in this issue, if awarded, would potentially have significant Township-wide impact should it awarded for this unit. I also find that this unit would be undermined by freezing their contribution levels through June 30, 2024 in the event the Township agrees to a reduction in any other bargaining unit. Accordingly, I award:

Award

I find that the interests and welfare of the public would best be served by not awarding this proposal and instead, awarding negotiations re-opener language which would allow for immediate negotiations for the SOA on demand, pursuant to the terms of the interest arbitration statute if, during the course of this agreement (Expiration June 30, 2024), the Township and any other bargaining unit agrees to a reduction in, or any modification to, existing Tier 4 contribution levels.

Section 8: Sick Leave Incentive

The Township proposes to delete the existing language concerning sick leave incentives and substitute it with replacement language. The existing language states the following:

Effective January 1, 1990, each employee shall accumulate for retirement twelve (12) hours pay for every six calendar months of consecutive work without sick time off.

The Township's replacement language states:

No individual promoted to Deputy Chief after the date of execution of this Agreement shall be entitled to Sick Leave Incentive. No current Deputy Chiefs may accumulate any additional pay after 6/30/22.

The Township makes the following argument in support of its proposal:

The existing provision represents a significant financial burden on the Township. Assuming a member accrues 24 hours of time per year times 25 years at an approximate hourly rate of \$81.25, each retiring Deputy Chief would receive an additional payment of approximately \$48,690.00 at retirement.

The SOA rejects the Township's proposal and seeks that the existing language in Section 8 remain the same as in the prior agreement.

The current language of the sick leave incentive shall remain the same. The Township takes the draconian approach that not only should future Deputy Chiefs not have this incentive, but the four (4) current members should give up this benefit. The Township fails to recognize that an absence of a Deputy Chief due to illness would incur significant overtime costs to replace the absent Deputy Chief.

Award

This provision has been in effect since January 1, 1990. The Township seeks to freeze sick leave incentive amounts for existing Deputy Chiefs and eliminate it for individuals newly promoted to the Deputy Chief position. I do not award the proposal as it relates to existing Deputy Chiefs. However, for newly promoted Deputy Chiefs after the date of this Award, I award a modification requiring qualification for the sick leave incentive to be revised to reflect twelve (12) calendar months. The new provision shall read:

Effective January 1, 1990, each employee shall accumulate for retirement twelve (12) hours pay for every six calendar months of consecutive work without sick time off.

Effective July 28, 2022, each employee shall accumulate for retirement twelve (12) hours pay for every twelve calendar months of consecutive work without sick time off.

ARTICLE XIV – EDUCATIONAL INCENTIVE PAY FOR DEPUTY CHIEFS

The Township proposes that the existing provision regarding educational incentive pay be deleted in its entirety. The existing provision states the following:

Section 1:

Each full-time unit member who is a permanent employee of the Fire Department and who successfully and satisfactorily completes the number of courses hereinafter set forth in a program in Fire Science at a recognized college or university which is part of a program leading to an Associate Degree in Fire Science shall be entitled hereinafter to additional compensation at the rate specified.

Section 2:

Upon the successful and satisfactory completion of fifteen (15) credit hours for an Associate Degree in Fire Science or 220 hours of vocational and technical fire science training, the employee shall receive a salary increase of \$345.00 per year.

Upon the successful and satisfactory completion of thirty (30) credit hours for an Associate Degree in Fire Science or 440 hours of vocational and-technical Fire Science training, the employee shall receive a salary increase of \$550.00 per year.

Upon the successful and satisfactory completion of forty-four (44) credit hours for an Associate Degree in Fire Science or 660 hours of vocational and technical fire science training, the employee shall receive a salary increase of \$775.00 per year.

Section 3:

Upon the successful and satisfactory completion of the required credit hours and upon attainment of an Associate Degree in the Fire Science or 990 hours of vocational technical fire science training, the employee shall receive a salary increase of \$975.00 per year.

Upon the successful and satisfactory completion of an Associate Degree in Fire Science, plus a Bachelor of Arts degree or a Bachelor of Science Degree, or 1,200 hours of vocational and technical fire science training or a four-year degree in Fire Science, the employee shall receive a salary increase of \$1,125.00 per year.

Upon the successful and satisfactory completion of three hundred (300) credit hours beyond 27 Associate Degree in Fire Science, plus a Bachelor of Arts Degree or a Bachelor of Science Degree, or 1,500 hours of vocational and technical fire science training, the employee shall receive a salary increase of \$1,275.00 per year.

Section 4:

An education program to be accepted under this Article shall be equivalent or substantially similar to the degree program in Fire Science offered by Union County College, which now requires 66 credit hours of approved courses for such degree. The Township Committee or Mayor and Council, as applicable, shall determine whether any degree or course program is equivalent to the program now offered by Union County College or New Jersey City University

and shall have final approval as to its applicability and appropriateness.

Section 5:

The additional compensation herein provided shall be payable upon presentation to the Township Committee or Mayor and Council, as applicable, of a proper certificate from the institution setting forth the number of credit hours completed and the requirements for conferring a degree in Fire Science.

Section 6:

A Deputy Chief who successfully completed County, State or Federal Fire Science Training Course or other such school to which he is assigned by the Fire Chief shall receive a salary increase of between \$295.00 and \$1,275.00 per year upon successfully and satisfactorily attaining such hours of schooling as set forth in Section 2.

Section 7:

The employee shall be credited for such education as described in Sections 2-4 and 6 hereof that he has heretofore received while a member of the department, or such college credits as described in Sections 2-4 as he may have accrued in his lifetime. The Township Committee or Mayor and Council, as applicable, shall determine which such prior credits, if any, shall be applicable for including in this plan. There shall be no compensation for basic training.

Section 8:

Priority for attendance shall be determined by the Fire Department as follows:

- A. The individual who is in need of specialized training to fill the needs of the Department or maintain required licenses and certification.
- B. Deputy Chiefs may attend fire courses on their own time even though not assigned by the Department and receive credit for them as long as they are recognized courses and are sanctioned by the Fire Department.

Section 9:

The maximum salary increase that can be obtained under the program is \$1,275.00. However, the non-college course referred to in Section 6 may be used to establish eligibility for the compensation referred to herein on the basis of fifteen (15) hours of such courses representing and equivalent of one (1) credit hour in a recognized college or university course.

Section 10:

The Department shall continue its policy of ordering its members to attend specialized schools. Members of the department so ordered to attend said courses shall be considered on duty while attending school and they shall do so on departmental time. Should the member fail to successfully complete the course, he shall not receive credit or compensation for the course.

Section 11:

In the area of college training! the employee must attain a mark of "C" or its equivalent or better to qualify for compensation under this program. Whenever an employee successfully completes any such fire science course, he will be reimbursed the tuition costs of each course by the Township unless same was previously reimbursed by another source.

Section 12:

The employee shall have the right to combine college course credits with vocational and technical training credits in order to be eligible for the salary increase as set forth in Sections 2, 3, and 6 of this Article. If the employee desires to combine these two categories, the following criteria will apply: One (1) college credit is equal to 15 hours of vocational and technical training. The maximum salary increase that can be obtained by accumulating college, vocational and technical, by a combination of both, or by any other method is \$1,275.00.

In support of its proposal to delete the existing provision, the Township explains that "The costs associated with this provision costs the Township approximately \$7,650.00 per year added to base salary."

The SOA objects to the deletion of this provision. It explains that “The Township recognizes the benefit of education to its employees and hedges its bet by proposing an alternative stipend. This penalizes the Association member in regard to pension credit.”

Award

The Township has not met its burden to delete Article XIV. There is no evidentiary support to delete this existing benefit beyond seeking to remove the educational incentive, now tied to fire science, which on its face serves to benefit the department and the public by enhancing the department’s obligation to provide fire protection and fire suppression.

Article II, Section 2

The parties have stipulated to maintaining the language in this section which will keep two (2) members on the Grievance Committee.

Article IV, Section 2

The parties have stipulated to changing language in Section 2 to state “no more than two (2) employees.” It is awarded.

Article XII

The parties have stipulated to eliminating reference to “Township Committee” and make all references to “Mayor.” It is awarded.

Based upon all of the above, I respectfully enter the terms of this Award.

AWARD

1. All proposals by the Township and the SOA not awarded herein are denied and dismissed. All provisions of the existing agreement shall be carried forward except for those which have been modified by the terms of this Award or otherwise voluntarily agreed to by the parties.

2. **Duration** – Article XXII – Term and Renewal shall be modified to reflect a contract term of July 1, 2017 through June 30, 2024.

3. **Article III – Hours of Work and Overtime**

Section 4: Pursuant to Stipulation, the reference in this section to 53% shall be revised to fifty-three and three quarters (53 $\frac{3}{4}$) hours

4. **Article VIII – Longevity**

Pursuant to Stipulation, Article VIII – Longevity in the Agreement shall be replaced and incorporate the terms of Article VIII – Longevity in the FMBA Local 35 Agreement except for any reference the parties may make that references the SOA.

5. **Article IX – Health Insurance, Section 1 – Hospitalization for Active Members**

Article IX – Health Insurance, Section 1 – Hospitalization for Active Members shall be modified to state language identical to the language that exists in the FMBA Local 35 Agreement.

6. **Article IX – Health Insurance, Section 4: Contributions**

During the term of this Agreement, if the Township and any of its bargaining units agree to revise employee contributions for health insurance at less

than a Tier 4 level, the SOA and the Township, upon demand of either party, shall reopen negotiations on health insurance contribution levels.

7. **Article IX – Health Insurance, Section 8: Sick Leave Incentive**

Effective January 1, 1990, each employee shall accumulate for retirement twelve (12) hours pay for every six calendar months of consecutive work without sick time off.

Effective upon execution of contract, newly appointed Deputy Chiefs shall accumulate for retirement twelve (12) hours pay for every twelve calendar months of consecutive work without sick time off.

8. **Stipulations of the Parties**

Pursuant to N.J.S.A. 34:13A-16(g)(4), the parties' following stipulations are incorporated into the Award.

Article II, Section 2

The parties have stipulated to maintaining the language in this section which will keep two (2) members on the Grievance Committee.

Article IV – Section 2

The parties have stipulated to changing language in Section 2 to state “no more than two (2) employees.”

Article XII

The parties have stipulated to eliminating reference to “Township Committee” and make all references to “Mayor.”

9. **Salaries**

The salaries for the Deputy Chief rank shall be revised as follows:


7/1/17 – 0.00%
7/1/18 – 1.50%
7/1/19 – 2.0%
7/1/20 – 2.0%
7/1/21 – 2.0%
7/1/22 – 2.0%
7/1/23 – 2.5%

All increases shall be retroactive to their effective dates with the exception of the July 1, 2018 1.5% increases.

There shall be a new salary schedule for newly appointed Deputy Chiefs after execution of this contract.

	July 1, 2022	July 1, 2023
Year 1	\$153,468	\$156,537
Year 2	\$157,560	\$160,711
Year 3	\$161,652	\$164,885
Year 4	\$165,744	\$169,059

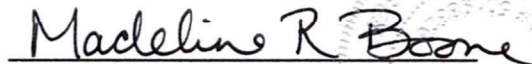
Dated: August 5, 2022
Lincroft, New Jersey



James W. Mastriani

State of New Jersey }
County of Monmouth }ss:

On this 5th day of August, 2022, before me personally came and appeared James W. Mastriani to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed same.



Madeline R. Boone

Madeline R. Boone
NOTARY PUBLIC
State of New Jersey
ID # 50198320
My Commission Expires 6/23/2027

