

**NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION**

In the Matter of Interest Arbitration Between:

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**THE BOARD OF CHOSEN FREEHOLDERS  
OF BURLINGTON COUNTY AND THE  
BURLINGTON COUNTY SHERIFF**

“Public Employer,”

- and -

**FRATERNAL ORDER OF POLICE,  
LODGE #166**

“Union.”

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**INTEREST ARBITRATION  
DECISION AND  
AWARD**

Docket No. IA-2021-07

**Before  
James W. Mastriani  
Interest Arbitrator**

Appearances:

**For the County:**

Evan Crook, Esq.

Malamut & Associates, LLC

**For the FOP:**

Frank M. Crivelli, Esq.

Crivelli & Barbati, LLC

This Award arises out of an impasse between the Fraternal Order of Police, Lodge #166 [the “FOP” or “Union”] and the Board of Chosen Freeholders for the County of Burlington and the Burlington County Sheriff [the “Sheriff” or “County”]. The existing collective negotiations agreement [the “Agreement”] was effective on January 1, 2012 and was to “remain in full force and effect until the later of midnight on the evening of December 31, 2017 (which is January 1, 2018)” or the date on which a substitute or successor agreement is reached.” The parties dispute whether the duration language in the Agreement places this interest arbitration proceeding under the two percent (2%) cap on base salary increases as set by N.J.S.A. 34:13A-16.7 and 16.9. The petition to initiate interest arbitration was filed on October 14, 2020, almost three years after the prior contract’s expiration. No prior impasse procedures were invoked.

The issue as to the applicability of the salary cap was raised after I was randomly selected by the New Jersey Public Employment Relations Commission [“PERC”] on November 6, 2020 to serve as interest arbitrator. During informal discussions with the parties on how to resolve this issue, the parties agreed that the dispute over contract duration was a matter of contract interpretation under Article 48 – Term and Renewal. Each party presented me with an informal statement for informational purposes. No mutual agreement was reached to have this issue decided on an interim basis prior to proceeding with interest arbitration hearings. Evidence on the duration issue was presented during the interest arbitration hearing and was also the subject of formal argument in the parties’ post-hearing briefs.

I conducted pre-interest arbitration mediation with the parties by conference calls on November 11, 2020, November 16, 2020, and November 24, 2020. Due to the State of Emergency that existed at the time, County offices were closed and prevented on-site participation. The parties were unable to reach a voluntary agreement during mediation. Because the impasse remained, interest arbitration hearings were scheduled and held on January 25, February 16, February 23 and March 5, 2021. The hearings were conducted on-site, although due to the pandemic, some of the testimony as well as the transcription was conducted virtually and some scheduled sessions were adjourned for Covid related reasons.

Final Offers were submitted prior to hearing. The FOP and the County revised their final offers before the commencement of the initial January 25, 2021 hearing. The FOP's revision came on January 23, 2021 and submits its request to increase its salary offer in each contract year was to correct a typographical error. On January 24, 2021, the County revised its position by adding numerous issues it had not previously raised. The FOP objected to the County's revisions prior to the opening of the January 25, 2021 hearing and moved to have the County's final offer barred or stricken. After scheduling and receiving formal statements of position on February 1 and February 8 respectively on the FOP's motion, I denied the FOP's motion and allowed the parties to revise their last offers by letter decision on February 15, 2021, prior to the February 16, February 23 and March 5, 2021 hearings. In its post-hearing submission, the FOP renewed its Motion and asks the arbitrator to reverse the February 15, 2021 decision and, as

it argued in its original Motion, seeks to strike all of the County's proposals except for its initial salary proposal and any portion of its revised proposal on issues that remained after the parties engaged in Stipulations during the hearing. The Stipulations of the Parties were reached during the hearings and were formally entered on April 28, 2021. The FOP's original Motion sought to strike the County's proposals other than salary due to its lack of response in identifying issues in dispute after the FOP's petition was filed. In their post-hearing submissions, the parties presented legal argument on the FOP's renewed request for the arbitrator to reverse his February 15, 2021 decision. These issues will be addressed later in this decision.

At the hearings, the parties argued orally, placed documentary evidence into the record and presented witnesses who were examined and cross-examined. The FOP offered the testimony of Lieutenant Diana Rodriguez, FOP President; Sergeant Kenneth Windstein; Officer George Diaz; Officer Mark Sherman; former Senior State FOP Field Representative Danny Schick; Donald Barbati, Esq.; and Dr. Raphael Caprio, an expert in public finance. The County offered testimony from Burlington County Sheriff Anthony Basantis; Burlington County Chief Financial Officer Carolyn Havlick; and Carmen Saginario, Jr., Esq. The parties each filed post-hearing briefs that were received on or about May 1, 2021 and transmitted to the parties simultaneously by the arbitrator.

## **BACKGROUND**

The parties to the collective negotiations agreement are the Burlington County Sheriff and the Fraternal Order of Police Lodge 166. Pursuant to N.J.S.A. 40A:9-117(a), the County Sheriff is a constitutional officer whose duty is to operate the Sheriff's Department. The Sheriff's Office is subject to statutory budget limitations placed on county entities pursuant to P.L. 2015, c. 249. The Department's main mission is to provide security for Court and County facilities. As reflected in testimony and New Jersey Civil Service Commission job specifications, Sheriff's Officers' responsibilities and functions, in addition to providing Court and County facility security, include executing warrants, seizure of weapons, K-9 operations, service of civil process, SWAT operations, foreclosure sales and evictions. As law enforcement officers, they are also authorized, as determined by the Sheriff, to perform patrol duties, traffic control, criminal investigations, among their other public safety related duties. The bargaining unit consists of approximately sixty (60) officers, including Sheriff's Officers, Sergeants and Lieutenants. In addition to the job titles in the bargaining unit, the FOP has proposed to add the title of Sheriff's Investigators to its recognition clause. This proposal was not accepted by the Sheriff and remains in dispute. This issue will be reviewed in the Discussion section of this Award.

### **FINAL OFFERS**

The statute requires each party to submit a last or final offer prior to hearing on a date set by the arbitrator. I have set forth below the last or final offer of each party.

## LAST OFFER OF THE FOP

### 1. Article VI – Salaries

Amend as follows:

Delete Section A. in its entirety and replace with the following:

Section A.:

Effective January 2, 2018, the Appendix A and Appendix B salary guides included in the collective negotiations agreement that expired on January 1, 2018 shall be eliminated from this agreement. Officers who were compensated in accordance with the aforementioned Appendix A and Appendix B salary guides shall be reassigned to a step on the New Salary Guide attached hereto as “New Appendix B” which shall serve as the sole salary guide for the term of this collective negotiations agreement. The transition from the old salary guides to the new salary guide shall occur on January 2, 2018 and is reflected in “New Appendix A” of this Agreement.

Delete Section B. in its entirety and replace with the following:

Section B.:

The base annual salaries for Rank and File Officers covered under this Agreement shall be set forth in the New Salary Guide (New Appendix B) annexed hereto.

1. Effective January 2, 2018 officers shall be reassigned to the new salary guide as reflected in New Appendix A. Effective January 2, 2018 the maximum step on the salary guide shall be increased by 3.5%.
2. Effective January 1, 2019, all officers not at top step shall advance one step on the salary guide. Effective January 2, 2019 the maximum step on the salary guide shall be increased by 3.5%.
3. Effective January 1, 2020, all officers not at top step shall advance one step on the salary guide. Effective January 1, 2020, the maximum step on the salary guide shall be increased by 3.5%.
4. Effective January 1, 2021, all officers not at top step shall advance one step on the salary guide. Effective January

1, 2021, the maximum step on the salary guide, shall be increased by 3.5%.

The base annual salaries for Sergeants covered under this Agreement shall be set forth in the New Salary Guide annexed hereto as "New Appendix B". The "steps" on the Sergeant's salary guide shall be increased on the same dates that the maximum step on the Rank and File salary guide is increased. Sergeants' step movement shall occur on their respective dates of promotion to the rank.

The base annual salaries for Lieutenants covered under this Agreement shall be set forth in the New Salary Guide annexed hereto as "New Appendix B". Lieutenants shall receive their annual increases on the same dates that the maximum step on the salary guide is increased.

All Step movement (advancement on the salary guide) shall occur on January 1st of each year of the contract for all Employees not at the maximum pay.

It is the specific intent of the parties that the continuation of step movement shall expressly survive the expiration of this Agreement and any and all officers that are not at the top step of the salary guide upon the date of expiration shall continue to advance on the salary guide until a new agreement has been ratified and executed.

**NEW APPENDIX A**

**Appendix A Salary Guide Transition Chart**

<b>Step</b>	<b>2017 Salary</b>	<b>Step Transition to 2018 13 Step Guide</b>
Academy	\$36,500.00	Academy
FTO (0-2 mos)	\$38,500.00	FTO (0-2 mos)
1	\$40,346.00	1
2	\$42,829.00	1
3	\$45,046.00	2
4	\$47,230.00	3
5	\$49,685.00	4
6	\$52,140.00	5
7	\$54,622.00	6
8	\$57,105.00	8
9	\$60,001.00	9
10	\$62,897.00	10

11	\$65,793.00	11
12	\$73,011.00	13

**Appendix B Salary Guide Transition Chart**

<b>Step</b>	<b>2017 Salary</b>	<b>Step Transition to 2018 13 Step Guide</b>
Academy	\$38,500.00	Academy
FTO (0-2 mos)	\$40,000.00	FTO (0-2 mos)
1	\$45,046.15	1
2	\$46,172.15	2
3	\$47,326.45	3
4	\$48,509.62	4
5	\$49,722.36	4
6	\$51,089.72	5
7	\$52,494.69	6
8	\$53,938.29	6
9	\$55,421.59	7
10	\$56,945.69	8
11	\$58,654.06	8
12	\$60,413.68	9
13	\$62,226.09	10
14	\$64,092.87	11
15	\$66,015.66	12
16	\$67,996.13	12

**NEW APPENDIX B**

**13 Step Salary Guide**

2018 Step	2018 Base Salary	2018 3.5% TSO	2019 3.5% TSO	2020 3.5% TSO	2021 3.5% TSO
Academy	\$38,500.00	\$38,500.00	\$38,500.00	\$38,500.00	\$38,500.00
FTO (0-2 mos)	\$40,000.00	\$40,000.00	\$40,000.00	\$40,000.00	\$40,000.00
1	\$45,046.15	\$45,046.15	\$45,046.15	\$45,046.15	\$45,046.15
2	\$47,326.00	\$47,326.00	\$47,326.00	\$47,326.00	\$47,326.00
3	\$48,509.62	\$48,509.62	\$48,509.62	\$48,509.62	\$48,509.62
4	\$51,089.72	\$51,089.72	\$51,089.72	\$51,089.72	\$51,089.72
5	\$52,494.69	\$52,494.69	\$52,494.69	\$52,494.69	\$52,494.69
6	\$55,421.59	\$55,421.59	\$55,421.59	\$55,421.59	\$55,421.59
7	\$56,945.69	\$56,945.69	\$56,945.69	\$56,945.69	\$56,945.69
8	\$60,413.68	\$60,413.68	\$60,413.68	\$60,413.68	\$60,413.68
9	\$62,226.09	\$62,226.09	\$62,226.09	\$62,226.09	\$62,226.09

10	\$64,092.87	\$64,092.87	\$64,092.87	\$64,092.87	\$64,092.87
11	\$66,015.66	\$66,015.66	\$66,015.66	\$66,015.66	\$66,015.66
12	\$69,513.00	\$69,513.00	\$69,513.00	\$69,513.00	\$69,513.00
13	\$74,013.00	\$76,603.46	\$79,284.58	\$82,059.54	\$84,931.62
Sgt 1-2 Yrs (Step 1)	\$78,453.78	\$81,199.66	\$84,041.65	\$86,983.11	\$90,027.52
Sgt 3-4 Yrs (Step 2)	\$80,674.17	\$83,497.77	\$86,420.19	\$89,444.89	\$92,575.47
Sgt 5+ Yrs (Step 3)	\$82,894.56	\$85,795.87	\$88,798.73	\$91,906.68	\$95,123.41
Lieutenant	\$87,868.23	\$90,943.62	\$94,126.65	\$97,421.08	\$100,830.82

## 2. Article 1 – Recognition

Amend as follows:

- A. Recognition. The Sheriff and the County recognize the Association as the exclusive bargaining agent for the purpose of establishing salaries, wages, hours and other conditions of employment for Sheriff's Officers, **Sheriff's Investigators**, Sergeants and Lieutenants. ~~Specifically excluded from this bargaining unit are all Sheriff's Investigators pursuant to N.J.S.A. 40A:9-117a and all other classifications of employees employed by the County of Burlington not listed above.~~ This recognition, however, shall not be interpreted as having the effect of or in any way abrogating the rights of employees as established under Chapter 303, P.L. 1968, as amended. The rules and regulations of the ~~New Jersey Department of Personnel~~ Civil Service Commission that apply to Officers or other employees covered by this Agreement are hereby acknowledged to be part of this Agreement.

## 3. Article 3 – Collective Negotiations

Amend Section D. as follows:

- D. The Employer shall permit **four (4)** members of the Association's negotiating Committee to attend Collective Negotiating meetings during the duty hours of the members. ~~However, only three (3) members of such Committee shall be permitted to attend such meetings without loss of pay or time.~~

## 4. Article 7 – Work Schedules

Amend Sections A., B. and D. as follows:

- A. The regular schedule for Sheriff's Officers shall be Monday through Friday ~~8:30 AM to 5:00 PM~~ **7:00 AM to 3:00 PM, 8:00 AM to 4:00 PM, 8:30 AM to 4:30 PM, or 9:00 AM to 5:00 PM.**

The work day shall be eight (8) ~~and one-half~~ consecutive hours per day including one-half hour ~~unpaid~~ lunch break. **During the paid one-half hour lunch break all officers shall be subject to immediate recall.** The work week shall be forty (40) hours per week. Said work days shall be followed by two (2) consecutive days off except as otherwise provided in paragraphs D. & E.

- B. The Sheriff in his sole discretion shall have the right, for efficiency of operations, to make changes in the starting and stopping time of the regular schedule as set forth in Paragraph B. of this Article between the hours of 7:00 AM to ~~8:00 PM~~ **7:00 PM**, Monday through Friday upon seven (7) calendar days' notice to the affected employee.
- D. Nothing within the provisions of this Article shall be interpreted or construed to modify or alter the flexible work hours or schedules of Sheriff's officers who work in the Civil Service Process Unit, Community Services Unit, the Warrants Unit, **and** Special Investigations Unit. ~~and the Fugitive Unit.~~

## 5. Article 8 – Overtime

Delete Section A. in its entirety and replace with the following:

- A. Except as specified in paragraph "D" below, all overtime shall be distributed equally and by seniority, whenever practicable, from a list maintained by the Sheriff's Department for the Officers covered by this agreement who have been certified by the Police Training Commission and those Officers employed prior to the enactment of the Police Training Act of 1968 provided that such Officers qualify annually in the handling of their weapons. **Outside overtime shall be posted in a detail specific manner (i.e. consecutive days and/or weekends for the same detail shall be posted on the same signup sheet).**

Delete Section B. in its entirety and replace with the following:

- B. **All in-house overtime shall be distributed on a rotating basis in order of seniority. Each Division of the Sheriff's Department (i.e. courts, Civil Process, Warrant Unit, etc.) shall maintain a list of officers for purposes of overtime selection. If overtime position cannot be accommodated by the respective Division, then said overtime position shall be offered to other Divisions for consideration and fulfillment.**

In Section C., replace the phrase "Paragraph 'A'" with **"Paragraph 'B'"**.

In Section D., replace the phrase “Door 4, 50 Rancocas and the First Floor” with “main entrance”.

Delete Section F. in its entirety.

Amend Section L.1. as follows:

- L. 1. An officer may accrue up to a maximum of one hundred eighty (180) hours of compensatory time tin any calendar year, which may be paid to the officer upon request and approval by the Sheriff. Officers will not be paid for any compensatory time over and above the one hundred eighty (180) hours limit. ~~No more than 130 hours of unpaid compensatory time may be carried over to the following calendar year.~~ Officers shall not accrue more compensatory time after the maximum of one hundred eighty (180) hours has been reached.

## 6. Article 9 – Holidays

Amend Section A. as follows:

A. The following paid holidays will be observed:

1. ~~January 1, known as~~ New Year’s Day
2. ~~Third Monday in January, known as~~ Martin Luther King’s Birthday
3. ~~February 12, known as~~ Lincoln’s Birthday
4. ~~Third Monday in February, known as~~ Washington’s Birthday
5. Good Friday
6. ~~Last Monday in May, known as~~ Memorial Day
7. ~~July 4, known as~~ Independence Day
8. ~~First Monday in September, known as~~ Labor Day
9. ~~Second Monday in October, known as~~ Columbus Day
10. General Election Day
11. ~~November 11, known as~~ Veteran’s Day
12. ~~Fourth Thursday in November, known as~~ Thanksgiving Day
13. Friday after Thanksgiving
14. ~~December 25, known as~~ Christmas Day

**The holidays shall be celebrated in line with the dates celebrated by the Burlington County Superior Court.**

## 7. Article 10 – Vacation

Amend Section A. and Section B. as follows:

- A. New employees shall receive one (1) working day vacation day for the initial month of employment, and each month

~~thereafter for the first calendar year of employment. if he/she begins work on the 1st through the 8th day of the calendar month. Employees who begin work on the 9th through 23rd day of the month shall receive one-half (1/2) working day for the month. Employees who begin work after the 23rd day of the month shall not receive any paid vacation for that month. All such time shall be credited on the 1st day of the following month.~~

- B. After the initial ~~calendar year month~~ of employment ~~and up to the end of the first calendar year, all employees shall receive one (1) working day, credited on the first day of the following month, for each month of service.~~ Thereafter, all employees shall receive paid vacation as follows:

<del>1 year and up to 5 years</del>	<del>12 days</del>
<del>After 5 years and up to 12 years</del>	<del>15 days</del>
<del>After 12 years and up to 20 years</del>	<del>20 days</del>
<del>After 20 years and over</del>	<del>25 days</del>

<del>From commencement of the 2nd year to completion of the 4th year</del>	<del>12 days</del>
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<del>From commencement of the 5th year to completion of the 11th year</del>	<del>15 days</del>
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<del>From commencement of the 12th year to completion of the 19th year</del>	<del>20 days</del>
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<del>From commencement of the 20th year to completion of the 24th year</del>	<del>25 days</del>
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<del>From commencement of the 25th year and thereafter</del>	<del>30 days</del>
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Amend Section F.7. as follows:

- F.7. Vacation time requests ~~of five (5) days or more~~ made by February 1<sup>st</sup> of any year, and granted, shall vest, shall not be subject to bumping, and shall not be subject to cancellation except in the event of a dire emergency requiring mobilization of the entire Department.

## 8. Article 11 – Sick Leave

Amend Sections A.1.and A.2. as follows:

- A.

1. New employees shall receive eight (8) hours sick leave credit for the initial month of employment. ~~if he/she begins work on the 1st through the 8th day of the calendar month. Employees who begin work on the 9th through 23rd day of the month shall receive four hours credit for that month. Employees who begin work after the 23rd day of the month shall not receive any paid sick leave for that month. All such time shall be credited on the 1st day of the following month.~~
2. After the initial month of employment and up to the end of the first calendar year, employees shall have eight (8) hours of sick leave credited for on the first day of ~~the next~~ each month for each month of service. After completion of the first calendar year of service one (1) year of service, each employee shall be credited on January 1st of each year with ~~be eligible for one hundred twenty (120) hours for each of year of service.~~ of paid sick leave per year.

Insert the following new Section:

**Any employee on injury leave, resulting from injury on duty, shall continue to accrue sick leave and vacation credits while said employee remains on the County payroll.**

## **9. Article 20 – Education Benefits**

Add the following language to the Article:

**Effective January 1, 2018, the employer agrees to pay each employee covered by this Agreement an annual educational incentive in addition to the employee’s annual base salary as set forth below:**

- i) For an Associate’s Degree \$ 500.00
- ii) For a Bachelor’s Degree \$1,000.00
- iii) For a Master’s Degree \$1,500.00
- iv) For a Doctoral Degree or its equivalent \$2,000.00

**Said educational incentive shall be payable within the regular paycheck in equal increments per calendar year and shall be deemed to be pensionable salary. The Officer will begin to receive the appropriate stipend in their regular bi-weekly pay within thirty (30) days after notification is made to the Employer.**

## **10. Amend Article 21 – Uniforms**

Amend Sections E., I. and J. as follows:

- E. Personal items destroyed or damaged by violent and intentional acts during the course of employment shall be replaced and repaid by the County and reimbursement shall be made to the employee based on voucher submission and proof of loss. Personal items include eyeglasses, prescription sunglasses, contact lenses, dentures, wedding bands, engagement rings, **and watches, and cellular phones. Replacement and repayment for watches shall not exceed one hundred fifty dollars (\$150).** Such reimbursement shall require appropriate receipts for the cost of equal replacement.
- I. If the Sheriff should decide at any time to change the style and/or the color of the uniform, each Officer shall receive an initial issue of the newly designated uniform as prescribed in the uniform issue of this Article and such issue shall be made at County expense. **In addition, the cost of any modification or addition to the uniform or any part thereof, shall also be borne by the County.**
- J. ~~Commencing January 1, 2015, the Department will begin a quartermaster (or similar) system for uniforms and equipment that is damaged and/or have outlived their useful life. Each Officer is eligible to receive up to a \$250 credit every other year to purchase or replace damaged or worn uniform/equipment items. A written request shall be submitted to the Sheriff for such replacement.~~

**Commencing January 1, 2018, each Officer shall receive one thousand two hundred dollars (\$1,200.00) annually for the purchase and maintenance of uniforms. Said allowance shall be payable in a lump sum in the first pay period in January of each year by separate check and not be included in the employee's regular payroll check.**

## 11. Article 22 – Health Benefits

Amend Section 1. as follows:

1. Health Insurance Plan Offerings. Eligible employees shall be given the option of coverage for themselves and their dependents through one of the four contributory, comprehensive County-funded medical, optical and prescription plans which are described below. **Commencing on January 1, 2021 and thereafter, the cost of said coverage shall be borne by the County with employees paying the percentage designated in Exhibit A below as an annual contribution towards the cost of health benefits:**

**EXHIBIT A**

**HEALTH BENEFITS ANNUAL PREMIUM CONTRIBUTION RATES  
FOR SINGLE COVERAGE AS OF JANUARY 1, 2020**

<b>Salary Range</b>	
Less than 20,000	3.38%
20,000-24,999.99	4.125%
25,000-29,999.99	5.625%
30,000-34,999.99	7.50%
35,000-39,999.99	8.25%
40,000-44,999.99	9.00%
45,000-49,999.99	10.50%
50,000-54,999.99	15.00%
55,000-59,999.99	17.25%
60,000-64,999.99	20.25%
65,000-69,999.99	21.75%
70,000-74,999.99	24.00%
75,000-79,999.99	24.75%
80,000-94,999.99	25.50%
95,000 and over	26.25%

**HEALTH BENEFITS ANNUAL PREMIUM CONTRIBUTION RATES  
FOR FAMILY COVERAGE AS OF JANUARY 1, 2020**

<b>Salary Range</b>	
Less than 25,000	2.25%
25,000-29,999.99	3.00%
30,000-34,999.99	3.75%
35,000-39,999.99	4.50%
40,000-44,999.99	5.25%
45,000-49,999.99	6.75%
50,000-54,999.99	9.00%
55,000-59,999.99	10.50%
60,000-64,999.99	12.75%
65,000-69,999.99	14.25%
70,000-74,999.99	16.50%
75,000-79,999.99	17.25%
80,000-84,999.99	18.00%
85,000-89,999.99	19.50%
90,000-94,999.99	21.00%
95,000-99,999.99	21.75%
100,000-109,999.99	24.00%
110,000 and over	26.25%

**HEALTH BENEFITS ANNUAL PREMIUM CONTRIBUTION RATES  
FOR PARENT/CHILD COVERAGE AS OF JANUARY 1, 2020**

<b>Salary Range</b>	
Less than 25,000	2.625%
25,000-29,999.99	3.375%
30,000-34,999.99	4.50%
35,000-39,999.99	5.25%
40,000-44,999.99	6.00%
45,000-49,999.99	7.50%
50,000-54,999.99	11.25%
55,000-59,999.99	12.75%
60,000-64,999.99	15.75%
65,000-69,999.99	17.25%
70,000-74,999.99	19.50%
75,000-79,999.99	20.25%
80,000-84,999.99	21.00%
85,000-99,999.99	22.50%
100,000 and over	26.25%

The specific copays, deductibles, coinsurance, limits and other terms of each plan shall not be altered except through agreement of the parties. To the extent the County proposes to alter any of the foregoing, the parties agree to meet in good faith to address such proposed modifications. The four plans to be offered are as follows:

**12. Article 26 – Safety and Health**

Amend Sections D. and E. as follows:

- D. The Employer agrees to provide the hepatitis A and hepatitis B series of three (3) inoculations to all bargaining unit members if they have not previously received this vaccine. The Employer shall also provide free medical tests **and treatment** for any employee who has on the job exposure to, contact sufficient to raise a concern for contraction of a contagious disease, including but not limited to AIDS, tuberculosis, Lyme disease, herpes; but excluding colds, flu and other minor illnesses. Should the Sheriff or designee following an investigation of the matter determine that the exposure was not as a result of the officer's unique duties, the officer may be required to repay the County for the cost of such test.
  
- E. The Employer shall make safety equipment available in vehicles, holding cell areas, **lobbies of all** County buildings, and the first floor of all three (3) County courthouses, to which officers are assigned. The safety equipment shall include, but not limited to:

CPR vomit masks (Lateral Model 830011 or better)  
Eye Goggles  
Face Shields  
First Aid Kits (as determined by the Sheriff)  
Latex Rubber Gloves  
**Disposable Surgical Masks**  
**Hand Sanitizer**

Equipment shall be inspected and repaired, replaced, or refilled, if found, in the opinion of the Sheriff, to be deficient in operation or supply.

**13. Article 12 - EMT Certification**

Amend Article 12 – EMT Certification

Officers holding a valid and current EMT Certification shall receive a yearly ~~\$350~~ **one thousand dollars (\$1,000.00)** stipend to be paid ~~on~~ **November 1 on the first (1st) pay period in November** of each year beginning on November 1, ~~2012~~ **2018**.

**14. New Article – Hazard Pay**

**Add New Article—Hazardous Duty Pay**

- A. Hazard differential pay shall be considered additional pay for any employee assigned to perform hazardous duty or work involving physical hardship. A duty shall be considered hazardous if it involves extreme physical discomfort or distress especially if protective devices will not entirely mitigate the danger or hardship involved; and/or it could result in serious injury/illness or death.**
- B. The County shall compensate an employee in the performance of a hazardous duty with a 20% premium over the employee's regular hourly wage. This differential shall be paid for all of the hours in which the employee is scheduled to work said hazardous duty. Furthermore, an employee shall receive hazard pay differential for any work performed during overtime hours associated with the hazardous duty.**
- C. Hazard pay differential shall be warranted under the following conditions:
  - 1) whenever a State or County Emergency is declared;**
  - 2) for exposure to a physical hardship;**
  - 3) for exposure to a hazardous condition.****

In circumstances where hazardous pay is warranted, the employer has a responsibility to initiate positive action to eliminate any danger and risk which may contribute to or cause the physical hardship or hazard.

**15. Article 31 – Equipment and Vehicle Safety**

Insert new Section C. as follows:

- C. Proper safety equipment shall be included in the vehicles including, but not limited to: hand sanitizer, rubber gloves, N95 Respirator Masks, EMT bags, etc.**

**16. Article 48 – Term and Renewal**

This Agreement shall have a term retroactive to January 2, 2018 and shall be in full force and effect and as of January 1, 2012 to remain in full force and effect until later of midnight on the evening through midnight of December 31, ~~2017~~ **2021. (which is January 1, 2018). or the date on which a substitute or successor agreement shall be entered into by and between the parties** If the parties have not executed a successor Agreement by December 31, 2021, then this Agreement shall continue in full force and effect until a successor Agreement is executed in accordance with the then applicable statutes and rules and regulations of the Public Relations Commission.

**17. Article 8 – Overtime**

Delete Section P. and replace with the following as a new Article:

- ~~**P. Officers working extra jobs (e.g., to assist local law enforcement) will be paid at the same rate as officers from the jurisdiction(s) in which they are working the same detail. This applies when an outside contractor (example PSE&G) is paying the jurisdiction or the County.**~~

**18. New Article – Extra-Duty**

- A. In all cases where an outside party seeks to have police work performed through the Department of the Sheriff, then such service shall be considered as covered by this Article. For all purposes a Sheriff's officer so employed shall be considered as in the employ of the County during such service. Said officer shall be subject to all of the rights, duties ad limitations of the Department ad shall be considered to be on duty by the Department. All aspects of the employer/employee relationship between the office and the Department are applicable to such duty. The officer on**

duty shall receive compensation from the employer subject to all appropriate deductions. It is the specific intent of the parties that said officer while so engaged shall be considered for all purposes to be on duty and under the control and employ of the Burlington County Sheriff's Department.

- B. Effective January 1, 2020, the rate shall be a minimum of eighty-five dollars (\$85.00) per hour for work for a third party vendor. The employer shall be entitled to keep ten dollars (\$10.00) per hour, charged against the above stated rate, as an administrative fee to defray such costs as workers' compensation, liability insurance, social security deductions, pension contributions, etc. Should the County increase the administrative charge, the hourly rate paid to the officer shall be raised by a similar amount. A flat rate of fifty dollars (\$50.00) per day will be charged to the vendor for use of a vehicle that shall be separate and apart from the hourly rate expressed above.**
- C. Each employee shall receive compensation for each hour of extra-duty performed with a minimum of two (2) hours of compensation per assignment. If an extra-duty assignment is cancelled by a third party vendor two (2) hours prior to the scheduled start time, the employee assigned shall receive payment for a minimum of four (4) hours of work. In the event emergency extra-duty assignment is required, the employee assigned said duty shall receive compensation in the amount of ninety-five dollars (\$95.00) per hour and shall be guaranteed a minimum of three (3) hours of pay per emergency assignment. An emergency shall be defined as any assignment made with less than four (4) hours notice.**
- D. In the event a third party vendor fails to appear to the job location or leaves earlier than scheduled, the employee assigned the extra-duty shall receive full compensation for the scheduled assignment.**
- E. All moneys due and owing to the individual employee by reason of his/her performance of extra-duty shall be paid on the payroll date next succeeding the completion of the date of such extra-duty assignment. An additional one dollar (\$1.00) per hour shall be added for the use of an Employee's personal automobile when required. All work over eight (8) hours shall be paid at the time and one-half (1-1/2) hourly wage.**

**19. New Article – Bereavement Leave**

All officers shall receive up to three (3) days paid leave in the event of the death of a spouse, child, son-in-law, daughter-in-law, parent, father-in-law, mother-in-law, brother, brother-in-law, sister, sister-in-law, grandparent, grandchild, aunt, uncle, common law spouse and any other member of the immediate household. All employees shall be entitled to a leave of one (1) paid day to attend the funeral of a spouse's aunt, uncle or grandparent. Such leave is separate and distinct from any other leave time. All such leave shall not be taken until the immediate supervisor is notified of the instance of bereavement.

In addition to the foregoing, should the funeral, services, or death of the qualified family member be held out of State, the member shall be permitted to utilize an additional three (3) days off of his or her own banked vacation, personal or comp time.

**20. New Article – Funeral Expenses**

In the event an officer is killed in the line of duty or from injuries sustained while working, the County shall pay without delay the sum of ten thousand dollars (\$10,000.00) toward funeral and related expenses to the employee's surviving spouse and/or dependents, regardless of the amounts for such expenses received from other sources. If there is no immediate family, the ten thousand dollars (\$10,000.00) sum shall be paid to the employee's estate.

**21. New Article – Officer in Charge**

At any time during an Officer's tour of duty, should he/she be assigned the work, duties and/or responsibilities of an acting supervisor, Sergeant, or Lieutenant, said officer shall be entitled to compensation at the minimum hourly rate of pay for the rank so assigned after two (2) hours on the assigned duty.

**FINAL OFFER OF COUNTY OF BURLINGTON/  
BURLINGTON COUNTY SHERIFF**

**1. Throughout Entire Agreement:**

Change "Freeholders" to "Commissioners".

Change "New Jersey Department of Personnel" with "Civil Service Commission".

**2. Amend Article 2 – Dues Check Off and Agency Shop as follows:**

Delete all references to “Agency Shop” and related provisions (Paragraph B, subparagraphs 1-4) as a result of the US Supreme Court Janus decision.

In the first sentence of Paragraph A. replace the phrase “each month” with “bi-weekly.”

**3. Amend Article 3 – Collective Negotiation as follows:**

Amend Paragraph A. as follows: “Commissioners” instead of “Freeholders”.

Replace Paragraph D. as follows:

Paragraph D. The Sheriff agrees with Union proposal No. 3, to read “The Employer shall permit four (4) members of the Association’s negotiating Committee to attend Collective Negotiating meetings during the duty hours of the members.” **\*\*Agrees with Union Proposal.**

**4. Amend Article 5 – Administrative Rules and Regulations as follows:**

Replace the phrase “New Jersey Department of Personnel” with “Civil Service Commission.”

**5. Amend Article 6 – Salaries as follows:**

1. Five-year deal (2018-2022).
2. Effective July 1, 2018, each officer, Sergeant and Lieutenant moves one step on the applicable 2017 Salary Guide (Guides A & B for Officers and the separate Guides for Lts. & Sgts). Top tier gets 1.90% increase to base salary.
3. On January 1, 2019, each officer will remain frozen on the step they moved to as of July 1, 2018; however, effective January 1, 2019, each officer, Sergeant and Lieutenant will receive a 1.90% increase to base salary.
4. On January 1, 2020, each officer will remain frozen on the step they moved to as of July 1, 2018; however, effective January 1, 2020, each officer, Sergeant and Lieutenant will receive a 1.90% increase to base salary.
5. On January 1, 2021, each officer will remain frozen on the step they moved to as of July 1, 2018; however, effective January 1, 2021, each officer, Sergeant and Lieutenant will receive a 1.90% increase to base salary.

6. On January 1, 2022, each officer will remain frozen on the step they moved to as of July 1, 2018; however, Effective January 1, 2022, each officer, Sergeant and Lieutenant will receive a 1.90% increase to base salary.

**6. Amend Article 7 – Work Schedules as follows:**

Amend Paragraphs A., B., D., and E. as follows:

- A. The regular schedule for Sheriff's Officers shall be Monday through Friday 6:30 AM to 2:30 PM, 7:00 AM to 3:00 PM, 7:30 AM to 3:30 PM, 8:00 AM to 4:00 PM, 8:30 AM to 4:30 PM, or 9:00 AM to 5:00 PM. The workday shall be eight (8) consecutive hours per day including a one-half (1/2) hour paid lunch break. During the one-half (1/2) hour paid lunch break, all officers shall be subject to immediate recall. The work week shall be forty (40) hours per week. Said work days shall be followed by two (2) consecutive days off except as otherwise provided in this article.
- B. The Sheriff in his sole discretion shall have the right to make changes in the starting and stopping time(s) of the regular schedule as set forth in Paragraph A. of this Article between the hours of 12:00 AM to 11:59 PM upon seven (7) calendar days' notice to the affected employee, unless in emergent circumstances.
- D. DELETE Existing PARAGRAH D and replace with: "K-9 Officers shall have a 37.5-hour workweek."
- E. DELETE PARAGRAH Existing PARAGRAH E and replace with: "Training days will be exempt from work schedule parameters as set forth in Paragraph A."

**7. Amend Article 8 – Overtime as follows:**

Delete Paragraph A. in its entirety and replace with the following:

- A. All outside overtime details shall be posted in a detail specific manner (i.e. consecutive days and/or weekends for the same detail shall be posted on the same signup sheet) and shall be distributed on a rotating basis in order of seniority from a list maintained by the Sheriff's Department for the Officers.

Delete Paragraph B. in its entirety and replace with the following:

- B. All in-house overtime shall be distributed on a rotating basis in order of seniority. Each Division/Unit of the Sheriff's Department (i.e. Courts, Civil Process, Warrant Unit, etc.) shall maintain a list of officers for

purposes of overtime selection in their own Division or Unit. If the overtime position cannot be accommodated by the respective Division/Unit, then said overtime position shall be offered to other Divisions/Units for consideration and fulfillment.

In Paragraph C., replace the phrase "Paragraph 'A'" with "Paragraphs A & B".

Delete Paragraph D. in its entirety and replace with the following:

- D. When relief cannot be provided, or whenever overtime is required on a given assignment, said overtime shall be offered first to the Officer already working on that job assignment at that time. Overtime up to 14 minutes past the Officer's regular shift shall not be compensated. Any overtime of 15 minutes or more shall be compensated at 15-minute intervals and can be taken as compensatory or paid overtime.

Delete Paragraph F. in its entirety.

Paragraph G, it shall be modified to read: Overtime compensation shall be granted for any time worked outside the regular shift as set forth under Article 7, Paragraph A. with the exception of a change in an Officer's regular shift pursuant to Article 7, Paragraph B.

Delete all of Paragraph H. in its entirety.

Amend Paragraph L. as follows:

- L(1). An officer may accrue and/or maintain a maximum of one hundred eighty (180) hours of compensatory time. Compensatory time is earned in lieu of paid overtime and shall not be cashed in. Officers will not be paid for any compensatory time over and above the one hundred eighty (180) hour limit.

L(2). Delete.

- L(3). Becomes L(2) and will be replaced as follows: Requests for the use of accrued compensatory time can be requested at any time and shall be granted like vacation time unless such time off interferes with the proper and efficient operations of the Department.

M. Delete.

- N. Delete and replace as follows: "If an Officer is required to be "on call", the Officer will receive one (1) hour of overtime for every (24) twenty-four hours being "on call". The "on call" overtime must be taken as compensatory time as described in Article 8 Paragraph L.1."

- O. Delete and replace as follows: "Officers assigned to the K-9 Unit will receive an additional two (2) hours of pay weekly, at the overtime rate,

for off-duty care of their canine partners and for answering telephone inquiries. All off-duty K-9 service call outs must be approved by the Unit Supervisor or the Sheriff. Upon leaving their residence and signing on to central, the officer will be compensated at the appropriate rate. The Sheriff shall retain the discretion to select officers to whom to assign K-9 duties.”

**8. Amend Article 9 – Holidays as follows:**

Amend Sections A., D. and E. as follows:

A. The following paid holidays will be observed:

1. January 1, known as New Year’s Day
2. Third Monday in January, known as Martin Luther King’s Birthday
3. February 12, known as Lincoln’s Birthday
4. Third Monday in February, known as Washington’s Birthday
5. Good Friday
6. Last Monday in May, known as Memorial Day
7. July 4, known as Independence Day
8. First Monday in September, known as Labor Day
9. Second Monday in October, known as Columbus Day
10. General Election Day
11. November 11, known as Veteran’s Day
12. Fourth Thursday in November, known as Thanksgiving Day
13. Friday after Thanksgiving
14. December 25, known as Christmas Day \*\*Agrees with Union Proposal Solely on designation of days.

D. Replace “Freeholders” with “Commissioners”  
Replace “unit” with Department.

E. Delete.

**9. Amend Article 10 – Vacation as follows:**

F1. Delete and Replace as follows: “In order not to hamper proper and efficient Sheriff’s operations, both parties agree that the scheduling of vacations must be left to the Employer. Vacation requests shall be based on seniority and handled by each unit’s supervisor of the Sheriff’s Department in accordance with subparagraphs 2 and 3 below.”

F2. Delete and Replace as follows: “Vacation time submitted before February 1<sup>st</sup> of any year will be awarded in the following manner:

- a. Requests for five (5) days or more, will be given preference over requests for four (4) days or less, regardless of seniority.

- b. Requests for five (5) days or more, will be awarded based on seniority.
- F3. Delete and Replace as follows: “Vacation time submitted after February 1<sup>st</sup> of any year, will be awarded in the order it is received regardless of the number of days requested.”
- F4. Delete and Replace as follows: “A minimum of one (1) weeks’ notice shall be given to the Sheriff or designee of any officer’s intent to take two (2) to four (4) days, inclusive of vacation.”
- F5. Delete and Replace as follows: “A minimum of two (2) weeks’ notice will be given to the Sheriff or designee of any officer’s intent to use five (5) days or more vacation.”
- F6. Delete and Replace as follows: “A minimum of twenty-four (24) hours’ notice will be given to the Sheriff of an officer’s intent to use one (1) day of vacation.”
- F7. Delete and Replace as follows: “Granted vacation time requests shall vest and shall not be subject to bumping or cancellation except in the event of an emergency.”

**10. Amend Article 11 – Sick Leave as follows:**

Amend Sections H. and L. as follows:

Paragraph H. Add in first sentence “...shall notify his immediate supervisor, by telephone or personal message at least one (1) hour before prior to the commencement of the normal working day.”

Insert the following new Paragraphs L., M, and O as follows:

- L. Any employee on injury leave, resulting from injury on duty, shall continue to accrue sick leave and vacation credits while said employee remains on the County payroll. \*\* Agrees with Union Proposal

**11. Amend Article 16 – Breaks as follows:**

Delete and replace with:

“All employees working Courts detail shall receive two (2) fifteen (15) minute breaks, one in the morning and one in the afternoon. Said breaks are to be requested by the employee or to be scheduled at the discretion of their supervisor. If the employee cannot take their break due to being out on the

road, or if the supervisor does not grant the break due to efficiency of operations, said time may be added to the officer's lunch break."

**12. Amend Article 17 – Military Duty as follows:**

Add the following language to existing paragraph: "Officers must provide their official orders to their supervisors."

**13. Amend Article 19 – Jury Duty as follows:**

"If an employee is called to serve on a Jury, such employee shall continue to receive his regular pay and the service time will not be deducted from his vacation if his Jury check is turned over to the County Treasurer's Office for the number of days absent from his employment. This time must be reported on the daily report form. Once an employee has been dismissed by Jury Management for the day, said employee shall not be required to return to work and may leave for the remainder of the day."

**14. Amend Article 20 – Education Benefits as follows:**

Change "Rutgers" to "Rowan College of Burlington County".  
Add: "Reimbursement is limited to undergraduate classes only".

**15. Amend Article 21 – Uniforms as follows:**

Amend Paragraphs A., C., D., and E. as follows:

A. The parties expressly recognize that it is the employer's exclusive and unilateral right to determine whether any or all of its employees shall be required to wear uniforms, **the "class type" of uniform**, and/or adhere to other dress requirements.

C. Amend as follows:

The standard uniform issue shall include the following:

1. Class "A" Uniform Items
  - a. Long Sleeve Black Button-down Shirt (2)
    - i. Brand and Model to be determined by Sheriff
  - b. Short Sleeve Black Button-down Shirt (2)
    - i. Brand and Model to be determined by Sheriff
  - c. Pants – Black with gray stripe (2)

- i. Brand and Model to be determined by Sheriff
  - d. Class "A" shirt badge
  - e. B.C. / S.D. Collar Brass
    - i. Silver – Officer
    - ii. Gold – Sergeant and Above
  - f. Tie
  - g. Tie Bar
    - i. Silver – Officer
    - ii. Gold – Sergeant and Above
  - h. Hat
  - i. Hat Badge
    - i. Silver – Officer
    - ii. Gold – Sergeant and Above
  - j. Name Tag
    - i. Silver - Officer
    - ii. Gold – Sergeant and Above
- 2. Class "B" Uniform Items
  - a. Long Sleeve Black Button-down shirt (3)
    - i. Brand and Model to be determined by Sheriff
  - b. Short Sleeve Black Button-down shirt (3)
    - i. Brand and Model to be determined by Sheriff
  - c. Pants – Black with gray stripe (3)
    - i. Brand and Model to be determined by Sheriff
- 3. Outerwear / Footwear
  - a. Duty Jacket – Black

- i. Brand and Model to be determined by Sheriff
  - b. Raincoat – Reversible
    - i. Brand and Model to be determined by Sheriff
  - c. Hat Cover – Reversible
    - i. Brand and Model to be Determined by Sheriff
  - d. Shoes or Boots
    - i. Brand and Model to be determined by Sheriff
- 4. Equipment
  - a. Ballistic Vest – To be determined by Sheriff
  - b. Duty Weapon – To be determined by Sheriff
  - c. Duty Weapon Holster – To be determined by Sheriff
  - d. Ammunition Pouch – Black Nylon & Black Smooth Leather
  - e. Single Handcuff Pouch – Black Nylon & Black Smooth Leather
  - f. One set of Handcuffs with key
  - g. Latex glove pouch – Black Nylon & Black Smooth Leather
  - h. Baton – Make and Model determined by Sheriff
  - i. Baton Holder – Make and Model determined by Sheriff
  - j. Belt Keepers – Black Nylon (4) & Black Leather (4)
  - k. OC Spray – Type and Model determined by Sheriff
  - l. OC Spray Holder – Black Nylon & Black Smooth Leather
  - m. Outer Duty Belt – Black Nylon & Black Smooth Leather
  - n. Inner Belt – Black Nylon & Black Smooth Leather

- o. Wallet Badge – Make and Style to be determined by Sheriff
- p. Wallet - Make and Style to be determined by Sheriff
- q. Portable Radio – Make and Model to be determined by Sheriff
- r. Portable Radio Charger – Make and Model to be determined by Sheriff

D. Add: “uniforms” and equipment.

E. Personal items destroyed or damaged by violent and intentional acts during employment shall be replaced and repaid by the County. Reimbursement shall be made to the employee based on voucher submission and proof of loss. Personal items include eyeglasses, prescription sunglasses, contact lenses, dentures, wedding bands, and engagement rings. Replacement and repayment for watches, and cellular phones shall not exceed four hundred (\$400) dollars. Such reimbursement shall require appropriate receipts for the cost of equal replacement.

**16. Amend Article 26 – Safety & Health as follows:**

Modify Paragraph E. as follows: “The employer shall make safety equipment available in vehicles, holding cell areas, lobbies of all County buildings, and the first floor of all (3) County Courthouses, to which officers are assigned. The safety equipment shall include, but not limited to: CPR Vomit Masks

- Eye Goggles
- Face Shields
- First Aid Kits
- Latex Rubber Gloves
- Disposable Surgical Masks
- Hand Sanitizer

Equipment shall be inspected, repaired, replaced, or refilled, if found, in the discretion of the Sheriff, to be deficient in operation or supply. \*\*Agrees with Union Proposal

**17. Amend Article 27 – Training as follows:**

Remove: “Beginning on January 1, 2015”  
 Add: “Training may take place outside of regular work schedules without compensation.”

**18. Amend Article 29 – Field Training Officers as follows:**

Remove: “Commencing November 1, 2013”

Add: Stipend is to be paid on the First (1<sup>st</sup>) Pay Period of November.

**19. Amend Article 31 – Equipment & Vehicle Safety as follows:**

Insert new Paragraph C as follows:

C. Proper safety equipment shall be included in the vehicles including, but not limited to hand sanitizer, rubber gloves, N95 Respirator Masks, EMT bags, etc.

**20. Amend Article 33 – Grievance & Arbitration Procedures as follows:**

Step 1: Delete reference to “Board of Freeholders”.

Delete Step 2.

Change reference in first sentence of Step 3 from “Board” to “Sheriff or designee”.

**21. Amend Article 37 – Seniority as follows:**

C. Change “New Jersey Department of Personnel” to “Civil Service Commission”

D. Delete.

**22. Amend Article 38 – Layoff & Recall as follows:**

Change “Department of Personnel” to “Civil Service Commission”.

**23. Amend Article 39 – Vacancies as follows:**

Change “Department of Personnel” to “Civil Service Commission”.

**24. Amend Article 40 – Promotions as follows:**

A. Change “Department of Personnel” to “Civil Service Commission”

B. Change “Department of Personnel” to “Civil Service Commission”

**25. Amend Article 48 – Term & Renewal as follows:**

Amend Paragraph as follows:

This Agreement shall be in full force and effect as of January 1, 2018 to remain in full force and effect up to and including the last second of the evening of

December 31, 2022 or the date on which a substitute or successor agreement shall be entered into by and between the parties in accordance with the then applicable statutes and rules and regulations of the Public Employment Relations Commission, or applicable New Jersey Superior Court decisions.

**26. Proposed New Article:**

Article 30 "Bereavement & Funeral":

Employees shall be entitled to utilize paid bereavement leave of up to three (3) working days for the death of an immediate family member, which shall not exceed fifteen (15) total bereavement days in a calendar year. "Immediate family" shall be defined per the sick leave article of this Agreement. The definition of "immediate family" may be expanded by County Administrator with approval of Human Resources. If bereavement leave is exhausted, an employee may utilize sick, holiday, comp, personal and vacation time in that order may be used for bereavement.

**STIPULATIONS**

During the course of the arbitration hearings, the County and the FOP entered into many agreements which resolved, in whole or in part, various issues set forth in the parties' final offers. Although some of these stipulations were reached on the record during the proceeding, I requested the parties to formalize their stipulations by entering them into the record by separate document after the close of the hearing. On April 28, 2021, the County and the FOP executed a document setting forth the Stipulations of the Parties. Pursuant to N.J.S.A. 34:13A-16(g)(4), the stipulations will be incorporated into the terms of this Award along with the individual awards on the individual disputed issues.

Stipulations of the Parties

**1. ARTICLE 2- DUES CHECK OFF AND AGENCY SHOP**

Delete all references to "Agency Shop" and related provisions (Paragraph B, subparagraphs 1-4) as a result of the US Supreme Court Janus decision.

In the first sentence of Paragraph A. replace the phrase "each month" with "bi-weekly".

**2. AMEND ARTICLE 3 – COLLECTIVE NEGOTIATIONS**

Amend Section D. as follows:

- D. The Employer shall permit four (4) members of the Association's negotiating Committee to attend Collective Negotiating meetings during the duty hours of the members. ~~However, only three (3) members of such Committee shall be permitted to attend such meetings without loss of pay or time.~~

**3. AMEND ARTICLE 7 – WORK SCHEDULES**

Amend Section A., as follows:

- A. The regular schedule for Sheriff's Officers shall be Monday through Friday, with starting and ending times between the hours of 6:30 AM and 5:30 PM as designated by the Sheriff in his sole discretion. The work day shall be eight (8) consecutive hours per day including one-half hour paid lunch break. During the paid one-half hour lunch break all officers shall be subject to immediate recall. The work week shall be forty (40) hours per week. Said work days shall be followed by two (2) consecutive days off.

Add K-9 Officers shall have a 37.5-hour workweek.

- E. Delete Existing Paragraph E and replace with: "Range days will be exempt from work schedule parameters as set forth in Paragraph A."

**4. AMEND ARTICLE 8 – OVERTIME**

In Section D., replace the phrase "Door 4, 50 Rancocas and the First Floor" with "main entrance".

Delete Section F. in its entirety.

- O. Delete and replace as follows: "Officers assigned to the K-9 Unit will receive an additional two (2) hours of pay weekly, at the overtime rate, for off-duty care of their canine partners and for answering telephone inquiries. All off-duty K-9 service call outs must be approved by the Unit Supervisor or the Sheriff. Upon leaving their residence and signing on to central, the officer will be compensated at the appropriate rate. The Sheriff shall retain the discretion to select officers to whom to assign K-9 duties."

**5. ARTICLE 9 – HOLIDAYS**

Amend Paragraph A. as follows:

- A. The following paid holidays will be observed:

1. January 1, known as New Year's Day
2. Third Monday in January, known as Martin Luther King's Birthday
3. February 12, known as Lincoln's Birthday
4. Third Monday in February, known as Washington's Birthday
5. Good Friday
6. Last Monday in May, known as Memorial Day
7. July 4, known as Independence Day
8. First Monday in September, known as Labor Day
9. Second Monday in October, known as Columbus Day
10. General Election Day
11. November 11, known as Veteran's Day
12. Fourth Thursday in November, known as Thanksgiving Day
13. Friday after Thanksgiving
14. December 25, known as Christmas Day

**6. AMEND ARTICLE 10 – VACATION**

Amend Section A. and Section B. as follows:

- B. After the initial calendar year month of employment and up to the end of the first calendar year, all employees shall receive one (1) working day, credited on the first day of the following month, for each month of service. Thereafter, all employees shall receive paid vacation as follows:

~~1 year and up to 5 years 12 days~~

After 5 years and up to 12 years 15 days

~~After 12 years and up to 20 years 20 days~~

~~After 20 years and over 25 days~~

From commencement of the 2nd year to completion of the 4th year 12 days

From commencement of the 5th year to completion of the 11th year 15 days

From commencement of the 12th year to completion of the 19th year 20 days

From commencement of the 20th year to completion of the 24th year 25 days

Amend Section F.7. as follows:

- F.7. Vacation time requests of ~~five (5) days or more~~ made by February 1st of any year, and granted, shall vest, shall not be subject to bumping, and shall not be subject to cancellation except in the event of a dire emergency requiring mobilization of the entire Department.

**7. AMEND ARTICLE 11 – SICK LEAVE**

Insert the following new Section:

Any employee on injury leave, resulting from injury on duty, shall continue to accrue sick leave and vacation credits while said employee remains on the County payroll.

**8. ARTICLE 19 – JURY DUTY**

Amend as follows:

“If an employee is called to serve on a Jury, such employee shall continue to receive his regular pay and the service time will not be deducted from his vacation if his Jury check is turned over to the County Treasurer’s Office for the number of days absent from his employment. This time must be reported on the daily report form. Once an employee has been dismissed by Jury Management for the day, said employee shall not be required to return to work and may leave for the remainder of the day.”

**9. ARTICLE 21 – UNIFORMS**

Delete Paragraph J. Replace with new Paragraph J. : Commencing January 1, 2021, each Officer shall receive seven hundred and fifty dollars (\$750.00) annually for the purchase and maintenance of uniforms. Said allowance shall be payable in a lump sum in the first pay period in January of each year by separate check and not be included in the employee’s regular payroll check.

**10. AMEND ARTICLE 26 – SAFETY AND HEALTH**

Amend. E. as follows:

E. The Employer shall make safety equipment available in vehicles, holding cell areas, lobbies of all County buildings, and the first floor of all three (3) County courthouses, to which officers are assigned. The safety equipment shall include, but not limited to:

- CPR vomit masks (Lateral Model 830011 or better)
- Eye Goggles
- Face Shields
- First Aid Kits (as determined by the Sheriff)
- Latex Rubber Gloves
- Disposable Surgical Masks
- Hand Sanitizer

Equipment shall be inspected and repaired, replaced, or refilled, if found, in the opinion of the Sheriff, to be deficient in operation or supply.

**11. AMEND ARTICLE 28 – EMT CERTIFICATION**

Officers holding a valid and current EMT Certification shall receive a yearly ~~\$350~~ five hundred dollar (\$500.00) stipend to be paid ~~on November 4~~ on the first (1st) pay period in November of each year beginning on November 1, ~~2012~~ 2018.

**12. AMEND ARTICLE 31 – EQUIPMENT AND VEHICLE SAFETY**

Insert new Section C. as follows:

C. Proper safety equipment shall be included in the vehicles including, but not limited to: hand sanitizer, rubber gloves, N95 Respirator Masks, EMT bags, etc.

**13. ADD NEW ARTICLE – BEREAVEMENT LEAVE**

Employees shall be entitled to utilize paid bereavement leave of up to three (3) working days for the death of an immediate family member, which shall not exceed fifteen (15) total bereavement days in a calendar year. “Immediate family” shall be defined per the sick leave article of this Agreement. The definition of “immediate family” may be expanded by County Administrator with approval of Human Resources. If bereavement leave is exhausted, an employee may utilize sick, holiday, comp, personal and vacation time in that order may be used for bereavement.

**14. PROPOSED NEW ARTICLE – FUNERAL EXPENSES**

In the event an officer is killed in the line of duty or from injuries sustained while working, the County shall pay without delay the sum of ten thousand dollars (\$10,000.00) toward funeral and related expenses to the employee’s surviving spouse and/or dependents, regardless of the amounts for such expenses received from other sources. If there is no immediate family, the ten thousand dollars (\$10,000.00) sum shall be paid to the employee’s estate.

**15. THROUGHOUT THE ENTIRE CONTRACT THE FOLLOWING CHANGES SHALL BE MADE**

Change “Freeholders” to “Commissioners”

Change “New Jersey Department of Personnel” with “Civil Service Commission”

**Effect of Stipulations on the Parties’ Final Offers**

As a result of the stipulations reached during the hearings, the parties’ final offers presented at hearing must be reviewed and decided based only on those portions of the parties’ final offers on the issues which remain in dispute.<sup>1</sup> The stipulations may have fully resolved an entire proposal of either party or only partially resolved a proposal leaving the remaining language in the proposal in

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<sup>1</sup> Some issues referenced in the parties’ post-hearing briefs as being in dispute appear in the Stipulations of the Parties. Where this exists, the Stipulations will govern.

dispute. This will be addressed upon review of each disputed issue in the Discussion section of this award.

### **FOP MOTION TO STRIKE AND/OR BAR COUNTY PROPOSALS**

At the January 25, 2021 hearing, the FOP objected to the County's January 24, 2021 request to revise its final offer and also sought to bar the County from submitting any proposal other than salary because of its lack of response or answer to the FOP's Petition to Initiate Interest Arbitration.<sup>2</sup> In its October 14, 2020 petition the FOP identified the issues in dispute<sup>3</sup> as:

#### **Economic Issues:**

Salaries and Compensation, Hours of Work, Overtime, Holidays, Vacation, Sick Leave, Education Benefits, Uniforms, Health and Fringe Benefits, Retirement, EMT Certification, Extra Duty Compensation, Funeral Expenses, Officer in Charge Compensation

#### **Non-Economic Issues:**

Recognition, Collective Negotiations Procedures, Administrative Rules and Regulations, Work Schedules, Association Rights and Privileges, Safety and Health, Equipment and Vehicle Safety, Grievance and Arbitration Procedures, Employee Bill of Rights, Seniority, Copies of the Agreement, Term and Renewal, Bereavement Leave

The County did not submit a response to the Issues/Articles the FOP identified as being in dispute. During the January 25, 2021 hearing, and at my request, the parties agreed to provide written statements of position on the merits of the FOP's motion to allow for a decision prior to the hearings that were scheduled to continue

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<sup>2</sup> The Sheriff voiced no objection to the FOP's January 23, 2021 request to revise its position.

<sup>3</sup> The identification of issues did not include the substance of the proposals on the issues.

on February 16, 2021. The FOP's arguments were submitted on February 1, 2021 and the County's statement of opposition on February 8, 2021.

After receiving and reviewing the parties' submissions, on February 15, 2021, I issued the following letter decision denying the FOP's Motion:

The submissions concerning the FOP Lodge No. 166 Objection and/or Motion to Bar the County's January 24, 2021 Final Offer have been received and considered.

After full consideration of your respective positions pursuant to the schedule I set at the January 25, 2021 hearing, the FOP's Motion has been denied.

The hearing is scheduled to continue on February 16 and 18, 2021 with the completion of the FOP's case in chief, followed by the presentation of the County, including whatever rebuttal each party wishes to make. The hearing will not close until each party has been provided an opportunity to fully present evidence and argument on all unresolved issues.

I deny the FOP's Motion to renew its request as set forth in its post-hearing brief to strike and/or bar consideration of the County's revised final offer and for me to reverse my February 15, 2021 decision denying its initial Motion. That decision was not an interim decision pending award. No motion for reconsideration was made to the arbitrator to the February 15, 2021 decision denying the FOP's Motion nor was an interlocutory appeal to that decision filed with PERC. The hearings then proceeded on all issues included in both parties' revised final offers on February 16, February 23 and March 5, 2021. Each party was provided with full opportunity to make complete presentations, including rebuttal testimony, on

all unresolved issues. Accordingly, the renewed Motion to strike and/or bar is denied.

**APPLICABILITY OF THE STATUTORY CAP  
ON BASE SALARY INCREASES**

Between the date of my appointment and prior to the commencement of this proceeding, the parties advised me of a dispute over whether the 2% statutory interest arbitration CAP on base salary increases applied to this impasse. The disagreement centers on the meaning of Article 48 concerning contract duration. I first place this issue in context. The parties agree on the law. In pertinent part, N.J.S.A. 34:13A-16.9 states that the CAP is applicable to those contracts which expire "...until or on December 31, 2017" and "whereupon, after December 31, 2017," the CAP provision "shall become inoperative" ... "except those whose collective negotiations agreements expired prior to or on December 31, 2017." The parties disagree on whether the language in Article 48 – Term and Renewal means, as the Sheriff contends, that the Agreement expired, or remained in full force and effect through December 31, 2017 or, as the FOP contends, on January 1, 2018. The relevant language in Article 48 states:

This Agreement shall be in full force and effect as of January 1, 2012 to remain in full force and effect until the later of midnight on the evening of December 31, 2017 (which is January 1, 2018) or the date on which a substitute or successor agreement shall be entered into by and between the parties in accordance with the then applicable statutes and rules and regulations of the Public Employment Relations Commission.

This CAP issue surfaced after my appointment during pre-hearing conference calls when, during the Covid-19 State of Emergency, efforts were being made, unsuccessfully, to schedule onsite mediation sessions. I asked, and received, preliminary informal statements from the County and the FOP to inform me as to the nature of this disagreement. The parties acknowledged that the issue centered on the meaning and interpretation of the language in Article 48. Options were explored as to the process to resolve the CAP issue. One option was to resolve this issue on an interim basis prior to the conduct of hearings on the substantive issues at impasse. This option would allow the parties to shape their final offers consistent with the resolution of the CAP issue. The parties did not mutually agree to decide the issue in advance of the beginning of hearings causing the impasse issues, including salary and other base and non-base salary economic issues, to proceed to hearings without the contract interpretation issue being resolved. For this reason, evidence pertaining to the CAP issue was incorporated into the same interest arbitration hearings covering the substantive issues at impasse. The parties understood that they would present evidence on the interpretation of Article 48 during the interest arbitration hearings and then offer argument in their post-hearing briefs both on the CAP issue and the substantive impasse issues. I confirmed that absent an agreement to resolve this disagreement as a threshold issue, the process to do so would proceed pursuant to preliminary comments I made at the onset of the initial hearing held on January 25, 2021.

Just a couple of preliminary matters. The record, you know, will be open for the development of evidence towards allowing the arbitrator upon completion of the record to issue an award which will include an award on all disputed issues for a new collective negotiations agreement.

This particular collective bargaining agreement expired on December 31, 2017 or January 1, 2018, depending upon the perspectives of the parties. That issue is in dispute in this proceeding, and it's a dispute of potentially some significance, because it could affect the authority of the arbitrator in terms of the amount of base salary increases that can be awarded, depending upon whether the statutory cap applies to this proceeding, which the county contends that it does, and the FOP contends that it doesn't.

I did receive informal<sup>4</sup> statements of position from the parties on that issue, just for the purpose of educating me about what the nature of that dispute was, and I thank counsel very much for those submissions. The record will include some evidence concerning the parties' positions on that.

I did note in correspondence to the parties that in my view it is not a statutory issue as much as it's an interpretation issue of the language in the expired agreement, which must be applied to the statutory issue, and the parties will formally be presenting written argument on that during the course of this proceeding as well as any evidence that they wish to submit in either testimony or documentary. So that will be an issue of interpretation that needs to be decided as opposed to a new contract term issue of substance.

I just want the record to reflect our understanding on that, and I invite the parties, if they have anything to add to anything that I say, you have the opportunity to do that.

...

I'm going to turn the record over to the FOP, and I want the record also to reflect to reinforce what I initially said. I expect the evidence in presentations that will deal with the interpretation issue on the salary cap as well as the evidence on the substantive contract proposals, and I don't need to weed them out as we proceed, but just the record as a whole will contain evidence dealing with both aspects of this case.

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<sup>4</sup> I have corrected the transcript to reflect that the statements received prior to hearings were "informal."

Evidence on the CAP issue was first presented by the FOP. George Diaz, Sheriff's Officer and former President and Vice-President of Lodge #166, was on the negotiations team for the current contract. At the January 25, 2021 hearing, he testified in support of the FOP's position that the CAP was not applicable. On direct examination he testified:

Q. Were there representations made by Mr. Schick<sup>5</sup> in regard to the two percent cap and when it expired?

A. Yes.

Q. Tell us what, in fact, you learned?

A. Well, we were advised by Danny Schick that the two percent would be going into expiration in December of 2017, and one of our main concerns was that the language of the contract would be specific so that we would not fall under the time frame of the expiration where we would still be liable to be held under the two percent cap.

Q. And in order to get outside of that cap, when would the contract have to expire?

A. It would have to expire past midnight of 2017, December 31, 2017.

Q. And did Mr. Schick assist the FOP in negotiating language into the contract that had that representation that it would in fact expire in 2018?

A. Yes, yes.

Q. Turn to page 35, if you would. Article 48 term and renewal, do you see that?

A. Yes.

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<sup>5</sup> Mr. Schick was identified as the Senior Field Representative for the State FOP Labor Council.

Q. Do you have the specific recollection of actually negotiating that language?

A. Yes.

Q. Tell us, if you would, again, how that came about?

A. Well, through discussions among ourselves with Danny Schick and then discussions at the table, negotiating table, it was brought up and there was some back and forth given on it, and the language was agreed upon. As you can see it was signed by everyone involved, so the language was written into the contract and was agreed upon.

Q. And as far as the expiration, what was your understanding in regard to when this contract expired in accordance with this provision?

A. Our understanding in regards to the language of this contract was that our contract would expire the later part of midnight, which would be January 1st.

Q. 2018?

A. 2018.

Q. And that language, which is January 1, 2018, is, in fact, in there?

A. Yes, it is.

Q. Do you have a recollection of who represented the County of Burlington?

A. I believe Carmen was the attorney for the county.

Q. So they did have counsel?

A. Yes.

Q. And Carmen, I'm going to give you a last name see if that rings a bell. Saginario?

A. That's it.

Q. And he was present at the table when this was negotiated?

A. Yes. He was present through all negotiations.

Upon questioning by County Counsel, Officer Diaz acknowledged that he did not have any notes or any contemporaneous records relating to discussions he testified to having had with FOP representative Mr. Schick.

The County presented testimony on the CAP issue from Carmen Saginario, Jr., Esq. at the February 16, 2021 hearing. He testified virtually. Mr. Saginario is an attorney who testified to having represented the County in various capacities and said he was the lead negotiator for the County during negotiations for the prior Agreement. His testimony on direct examination as to Article 48 was as follows:

Q. And do you have any recollection as to any discussions or negotiations that took place in terms of this language?

A. Actually, I don't recall that this language was actually negotiated. What I do recall is that I had proposed this language and it was very little discussion, if any, around this language and, as I said, it wasn't negotiated, it was just proposed by me, in an effort to make clear that this agreement was in effect from January 1st, 2012 through the end of and including December 31st, 2017.

Q. And there has been some issues in the present proceeding regarding the parenthetical language which is included in that provision which is "(which is January 1st, 2018.)" Do you recall how that language or why that language was included in the contract?

A. Yeah, I wanted to make sure from the county's perspective that there was no mistaking that this agreement went till, essentially, the very last second of December 31st, 2017 and ended exactly when the clock struck midnight on January 1st, 2018 so there would be no misunderstanding that the day of December 31st, 2017, in full, would be included because, as

you know, many of these agreements provide, for example, it says January 1st, 2012 and then there's a lot of times there's a dash that says December 31st, 2017. And I've had situations where someone said, well, it ended on midnight of December 31st, 2017 and does not include December 31st, 2017. So on behalf of the county, I wanted to make sure that there was no misunderstanding that this agreement included the full day of December 31st, 2017.

Q. Okay. In terms of this provision was there any discussion in negotiations regarding any impact, if any, this language may have in terms of applicability of the 2% interest arbitration cap?

A. Absolutely not. There was no discussion on the cap and, in fact, I would not have entertained, on behalf of the county, addressing the cap issue in this particular contract because the county had no interest, frankly, in not having the cap continue beyond the expiration of this contract, so there was no discussion whatsoever about the cap.

Q. And the follow-up question to that, in terms of this specific language of this paragraph, was there ever any intention on behalf of yourself as the attorney or, to the best of your understanding, the sheriff's negotiation team to agree to language by which it was agreed the cap would not apply to the successor agreement?

A. There was absolutely no agreement to that effect and, in fact, if that were to have been proposed, we would have rejected it and if there was any consideration given to it, the language that you just read to me would have been inserted in the contract directly.

FOP counsel cross-examined Mr. Saginario as to his recollections concerning Article 48. Mr. Saginario acknowledged that the language in the current Agreement differed from that in the past. He testified:

Q. It's your testimony that this particular change to Article 48, term and renewal, that was a proposal that was made by your office?

A. I believe it was, yes.

Q. And you understand Article 48 is the term and renewal provision of the contract, correct?

A. Yes, sir.

Q. And in regard to this particular term and renewal provision, meaning the one from 2C, which is the January 1, 2012, 12/31/17 contract, you would agree that that's different than the previous agreement, correct? ... And you would agree with me that the primary change is it reads in the contract that's in front of you, meaning the '09 -- or excuse me -- yeah, the '09 to '11 agreement it says, "it remains in full force effect until the latter<sup>6</sup> of either December 31, 2011 or the date on which a substitute or successor agreement shall be entered into by and between the parties in accordance with then applicable statutes and rules and regulations of the Public Employment Relations Commission." The difference being between this provision and the one that's at issue is the language latter of midnight on the evening of December 31, 2007 and then the parenthetical language, which is January 1, 2018?

A. Correct.

Q. Now, you do understand and you would agree with me given the fact you are a contract attorney, words mean everything as far as the meaning of contracts, correct?

A. Well, I would say that if there's a dispute over what the words mean, the intent of the parties is governing.

Q. That's one opinion. However, would you not agree that the plain meaning or the plain reading of the contract is what -- in fact, how the contract is to operate?

A. Which contract are you talking about, Frank?

Q. The one that's at issue, Carmen, the one that says it expires on January 1st, 2018?

A. Well, that contract -- it doesn't say expires on January 1st, 2018. It says until midnight on the evening of December 31st,

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<sup>6</sup> All references to the word "latter" that appears on the transcript will be replaced by the word "later" due to transcription error.

2017, which, again, I insisted on because the previous contract actually creates a problem when it says "it shall remain in full force and effect until December 31st, 2011," which suggests that that contract expired on the -- on midnight of December 31st, 2011 which was the evening of December 30th and that's why I insisted that this language be in here, so it was made clear that every single second of December 31st was included.

Q. Let me pull the contract up. Do you have a contract in front of you, Carmen?

A. I'm looking at it, yes, sir.

Q. Under Article 48, Term and Renewal, you do see that, correct?

A. Yep.

Q. All right. The language in parentheses, which is January 1, 2018, you see that as well, correct?

A. I do see that.

Q. Would you not agree with me that the parenthetical language defines what is the latter of midnight on the evening of December 31, 2017?

A. Yes.

On redirect examination Mr. Saginario testified:

Q. Carmen, the reference which is January 1st, 2018, was that put in the contract to indicate that that would be the end date of the contract?

A. Absolutely not. It was put in -- as I said earlier, it was put in the contract to make clear that the contract included every single second of December 31st, 2017 up until, essentially, midnight, which was January 1st, 2018.

And I want to make clear that if the intention of the parties or my intention was to have the contract expire on January 1st, 2018, then the contract would have included the day January

1st, 2018, the title page would have reflected that, as would the salary guides would have reflected that date. So there was never an intention that January 1st, 2018 would be an operative date for purposes of inclusion into the contract.

The FOP offered rebuttal testimony from Danny Schick, former Senior Field Representative for the State FOP Labor Council. Mr. Schick had been referenced in the testimony offered by Officer Diaz. He testified virtually with exhibits placed on the screen. Mr. Schick testified he has participated in excess of sixty (60) negotiations, including his representation of Lodge 166. On direct examination he testified to his recollections as to the development of Article 48:

Q. ... Dan, this particular contract, I'm scrolling through it, it reads on the front page, it reads: "January 1, 2012 through December 31, 2017." Do you see that?

A. Yes, sir, I do.

Q. And in looking at that, Dan, is that the time period of the contract that you assisted in negotiating with FOP 166?

A. Yes, sir. That is definitely one of the contracts I negotiated.

Q. All right. Very good. Now, Dan, I want to bring you, if I may, to the end of the document, to Article 48, "Term and Renewal." Do you see that, Dan?

A. Yes, sir, I do.

Q. Okay. The Term and Renewal Clause, Dan, all right, I'm going to read to you, actually the whole thing, it's one sentence.

It says: "This agreement shall be in full force and effect as of January 1, 2012, to remain in full force and effect until the latter of midnight on the evening of December 31, 2017, parentheses, which is January 1, 2018, closed parenthesis, or the date on which a substitute or successor agreement shall be entered into by and between the parties in accordance with

then applicable statutes of rules and regulations of the Public Employment Relations Commission.” Period.

Dan, what I'm going to ask you, do you have a recollection of negotiating specific language into the Term and Renewal Clause, which is Article 48, that I just read to you?

A. Yes, sir, I do.

In response to a question from FOP counsel as to why Article 48 was included as written, Mr. Schick testified:

A. Okay. That clause was put in because of the 2 percent hard cap, which was, our understanding, going to expire in December 31st of 2017. And any contracts that expired in 2017 would automatically fall under that hard cap for the next contract. Even if that contract was negotiated in 2008 or later, because the previous contract had expired as of December 31, 2011.

So, it was put in the -- to be clear that the contract effectively expired on January 1st of 2018. And it was our understanding by having that language, the new contract would not fall under for the 2 percent hard cap.

Q. All right. Dan, in regard to that particular language that you just told us about, was that the union's proposal to put that language into the contract?

A. Yes, it was, 100 percent.

Q. All right. Dan, do you have a recollection of negotiating this contract with Carmen Saginario on behalf of the county?

A. Yes, sir, I do.

Q. And, Dan, what I'll represent to you is Mr. Saginario testified that the language, which you just quoted, meaning the parenthetical language, which is January 1, 2018, was a proposal made by the county. Is, in fact, that statement true to the best of your recollection?

A. That statement is not true. That proposal was not made by the county, it was made by the union.

On cross-examination, Mr. Schick offered the following responses to questions from County Counsel:

Q. Sir, do you see the cover page to the 2012/2017 contract; is that correct?

A. Yes, sir.

Q. And, in fact, the date for that, the term is set forth right at the bottom, January 1st, 2012 through December 31st, 2017; is that correct?

A. That's what it says, yes, sir.

Q. It doesn't say anything about January 1st, 2018, does it, sir?

A. Not in that section, no, sir.

Q. Okay. And also, Frank, if you could pan back -- I believe this attachment would also have, the appendices to the salary provisions, which I think is all the way at the end.

Thank you, Frank.

MR. CRIVELLI: You're welcome.

BY MR. CROOK:

Q. And, sir, what you're seeing right now -- could you pan just a little bit, Frank, so I can be accurate for the record? I think this is Appendix A, but I just want to double-check. Yes.

Sir, do you see Appendix A on this screen?

A. Yes, sir, I do.

Q. Okay. And, again, is it your understanding that this was supposed to be one of the step systems that was set up as part of this contract; is that correct?

A. That is correct, yes, sir.

Q. I draw your attention to the line directly under the Appendix A designation. That says: "Officers Guide 2012 to 2017;" is that correct?

A. That's correct.

Q. Doesn't say anything about January 1st, 2018, does it, sir?

A. Not in that spot, no, sir.

MR. CROOK: Frank, will you pan down to about the middle of the page? Keep going just a little bit more.

BY MR. CROOK:

Q. Sir, you'll see here it sets out the salary guides for sergeant, the salary guides for lieutenant, also under Appendix A.

Do you see those, sir?

A. Yes, sir, I do.

Q. And for both of those, they both say 2012 to 2017, correct?

A. Yes, sir.

Q. Again, they say nothing about January 1st, 2018, correct?

A. Not -- not in that spot, no, sir.

MR. CROOK: All right. If you could then pan over to the next page, which I believe is Appendix B.

BY MR. CROOK:

Q. And, sir, do you see Appendix B in front of you; is that correct?

A. Yes, sir, I do.

Q. Again, this says: "Guide 2015 to 2017," correct, the New Officer Guide?

A. Yes, sir.

- Q. No reference to January '18 -- January 1st, 2018, correct?
- A. Not at that spot, no, sir.

Mr. Schick then responded to questions from County counsel as to whether there was any documentation to support his understanding that the CAP would no longer apply upon contract expiration:

- Q. So you have no documentation to produce that would support that it was your understanding, as the staff representative to FOP at that time, that the cap -- that this was being put in for the reasons you say; is that correct?
- A. The only documentation I have is actually the contract, which has that wording in it. Otherwise, the contract would have simply read: "Expires on midnight December 31st."
- Q. So essentially nothing more than the contractual language and your testimony as to what you believed it meant; is that correct?
- A. As far as other documentation at this time, that would be correct. I don't have anything else.
- Q. And when you say "our understanding," are you referring to yourself and the negotiating team and members of FOP on or about -- on or before February 20th, 2015; is that correct?
- A. That is correct. We -- the negotiating team and myself talked regularly on the contract and what was the need for putting certain things in and removing other items from the contract.
- Q. You don't have any knowledge, do you, in terms of what the discussions were, what the -- what may have transpired in terms of the sheriff's negotiating team and their belief as to what this provision may mean; is that correct?
- A. My belief would be that they were following my advice as I was the lead negotiator and representing the Labor Council, so for the most part, the gentleman, we would speak it over, and I would offer them suggestions and explain to them what

-- why I was making such suggestions, so this issue would have been --

Q. Are you referring to Mr. Saginario?

A. No, I'm referring to our labor negotiation team.

Q. Okay. Then perhaps maybe I should reword the question, because my question was: Your testimony and what you know or believe you know, is not in any way a reflection of what the sheriff's negotiating team, the sheriff of Burlington County and their counsel, Mr. Saginario, understood or believed this term "January 1st, 2018" meant or what its relevance was.

Do you agree you had no understanding whatsoever what their position was?

A. I can't say for sure what their position was on that. I know that they agreed to the wording.

Q. Did you ever articulate to them that you were doing it for the purpose of having the cap expire for the sheriff's negotiating team or Mr. Saginario?

A. I can't say yes or no to that. I don't remember whether they specifically mentioned it to him. There's probably a good chance that we did not mention it to him, that would have been their responsibility to know what the existing law said.

On redirect, Mr. Schick confirmed that he had specific recollection of putting in the parenthetical language that states "... midnight on the evening of December 31, 2017 (which is January 1, 2018)."

In their post-hearing submissions, the parties offered extensive arguments in support of their positions on the evidence offered at hearing on the applicability of the CAP. They are set forth in full as follows:

## Position of the County

The FOP argues that the 2% Interest Arbitration CAP under N.J.S.A. 34:13A-16.7 does not apply to the present proceedings. This argument has no merit as the provisions of N.J.S.A. 34:13A-16.9, as applied to the clear unambiguous language of the applicable Collective Negotiations Agreement between the Burlington County Sheriff, the Burlington County Board of Chosen Freeholders (now “Commissioners”) and the FOP (“CNA”), mandates that the 2% Interest Arbitration CAP applies. A copy of the applicable 2012-2017 CNA was submitted as Exhibit U-2C at the hearing.

The 2% Interest Arbitration CAP is applicable to all public police and fire department contracts “...expiring on that effective date or any date thereafter **until or on December 31, 2017** ...” N.J.S.A. 34:13A-16.9 (Emphasis added). The New Jersey Courts have consistently held that the guiding principle of “statutory interpretation is to determine and effectuate the legislature’s intent.” Bosland v. Warnock Dodge, Inc., 197 N.J. 543, 553 (2009); citing D’Annunzio v. Prudential Ins. Co. of Am., 192 N.J. 110, 119 (2007); and Daidone v Buterick Bulkheading, 191 N.J. 557, 565 (2007). In carrying out this important role, the Courts have directed, “... look first to the plain language of the statute, seeking further guidance only to the extent that the Legislature’s intent cannot be derived from the words that it has chosen.” Bosland, supra, 197 N.J. at 747. Further, the Courts’ mandate to persons charged with interpreting statutes is to “read the words selected by the Legislature in accordance with their **ordinary meaning** (citation omitted) unless the Legislature has used technical terms, or terms of art, which are construed in accordance with those meanings”. Ibid.; citing D’Annunzio, supra, 192 N.J. at 119-20 (Emphasis added). The language of N.J.S.A. 34:13A-16.9 cannot be any clearer, the 2% Interest Arbitration CAP applies to collective negotiations agreements which expired “... **until or on December 31, 2017**” (Emphasis added).

The New Jersey Courts require a similar approach to the interpretation of contracts holding, “... **we should give contractual terms “their plain and ordinary meaning,”** Kieffer v. Best Buy, 205 N.J. 213, 223 (2011), citing M.J. Paquet, Inc. v. N.J. Dep’t of Transportation, 171 N.J. 378, 396 (2002) (Emphasis added). Further, the New Jersey Supreme Court has given further direction regarding contract interpretation as follows: “**We seek for the intention of the parties; and to this end the writing is to have a reasonable interpretation. Disproportionate emphasis upon a word or clause or a single provision does not serve the purpose of interpretation. Words and phrases are not to be isolated but related to the context and the contractual scheme as a whole and given the meaning that comports with the probable intent and purpose; and thus, the literal sense of terms may be**

**qualified by the context.”** Newark Publishers Ass’n v. Newark Typographical Union, 22 N.J. 419, 426-27 (1956) (Emphasis added).

Throughout the CNA, the clear unambiguous language of the relevant contract provisions establishes that the Agreement expired on December 31, 2017. As an initial matter, the Cover Page to the CNA states that the term of the Agreement is “January 1, 2012 **through December 31, 2017**” (Emphasis added). The ordinary meaning of “**through**” is defined as, “... a function word to indicate a period of time: such as a) during the entire period of (“all *through* her life”), b) from the beginning to the end of (“the tower stood *through* the earthquake), c) to and including (“Monday *through* Friday”). <https://www.merriam-webster.com/dictionary/through>. Also, Article 48 of the CNA states that the term of the Agreement is “... **until the later of midnight on the evening of December 31, 2017** (which is January 1, 2018)” (Emphasis added). The ordinary meaning of “**until**” is defined as, “... a function word to indicate continuance (as of an action or condition) to a specified time (“stayed *until* morning”). <https://www.merriam-webster.com/dictionary/until>. Utilizing the ordinary meanings of “**through**” and “**until**”, the only reasonable interpretation is that the term of the CNA encompassed the entire day of December 31, 2017, but did not exceed it. The CNA expired the very moment before the clock struck midnight, January 1, 2018.

Further, the Salary Guides attached as Appendix A and Appendix B to the CNA are designated as, “Officer Salary Guide **2012-2017**”, “Sergeant Salary Guide **2012-2017**”, Lieutenant Salary Guide **2012-2017**” and New Officer Guide **2012-2017**” (Emphasis added). If the intent of the Parties was to include January 1, 2018, these designations would have read, “Salary Guide 2012-January 1, 2018”.

A comparison of the language of N.J.S.A. 34:13A-16.9 to the relevant language of the CNA is illustrative. The reason N.J.S.A. 34:13A-16.9 states “until or on” is that the term “until” is exclusive of the end point. If the statute simply read “until December 31, 2017”, the statute would not include December 31, 2017. However, N.J.S.A. 34:13A-16.9 reads “until or on” in order to stress that the statute includes December 31, 2017. By contrast, Article 48 of the CNA states, “... **until the later of midnight on the evening of December 31, 2017** (which is January 1, 2018),” meaning January 1, 2018 is excluded from the term of the contract. Had the intent of the parties been to include midnight January 1, 2018, the Agreement would have simply stated “through” midnight, January 1, 2018.

The Sheriff respectfully submits that the language of the relevant sections of CNA is clear and unambiguous that it expired “until or on December 17, 2017” pursuant to N.J.S.A. 34:13A-16.9. As such, it could be argued that the consideration of parole evidence in the form of testimony regarding the interpretation of the subject language would be

contrary to New Jersey Law, specifically the Parole Evidence Rule. The parole evidence rule prohibits the introduction of evidence that tends to alter an integrated written document." Conway v. 287 Corporate Ctr. Assocs., 187 N.J. 259, 268 (2006); Ocean Cape Hotel Corp. v. Masefield Corp., 63 N.J. Super. 369, 378 (App. Div. 1960). Thus, the application of the Parole Evidence Rule may well be warranted in this matter.

**Even considering the parole evidence presented during the hearing, such testimony does not support a finding that the Parties reached a “meeting of the minds” or had a mutual intent to insert the reference to “January 1, 2018” for the purpose of having the CAP not apply to a successor CNA.** The FOP offered the testimony of Officer Diaz, as well as the FOP Field representative Danny Schick, who assisted the FOP in the negotiations leading up to the 2012–2017 CNA (Exhibit U-2C). Officer Diaz testified as to his understanding of why the reference to “January 1, 2018” was included in Article 48 of the CNA. Mr. Diaz explained that Mr. Schick had told the FOP negotiating team that the “January 1, 2018” language would foreclose the application of the 2% CAP to the next contract. Mr. Schick also testified as to his belief that the “January 1, 2018” language would stop the application of the 2% CAP to a successor contract. **However, the essential and key factor in considering the testimony of Officer Diaz and Mr. Schick is that they could only testify as to what was their intent.** There was nothing in their testimony that supports a finding that the Sheriff’s negotiating and the Sheriff’s attorney intended or agreed that the “January 1, 2018” language was included for the purpose of insuring the 2% CAP would not apply to a successor CNA. In fact, during cross examination Mr. Schick testified as follows:

Q. Did you ever articulate to them that you were doing it for the purposes of having the CAP expire, to the Sheriff’s negotiating team or Mr. Saginario?

A. I can’t say yes or no to that. I don’t remember whether they specifically mentioned it to him.

Transcript of March 5, 2021, Page 21, Lines 3-7.

Tellingly, neither Mr. Diaz nor Mr. Schick produced any documentation to support their position that the Parties intended or actually reached agreement to include the “January 1, 2018” language for the purpose of having the CAP not apply to a successor agreement. See, Officer Diaz’s testimony, Transcript of January 25, 2021, page 115, lines 10-19; See Mr. Schick’s Testimony, Transcript of March 5, 2021, Page 18, Lines 16-24.

In contrast, the testimony of Mr. Saginario is unequivocally clear that it was not his intention, nor the intention of the Sheriff’s negotiating team,

that the inclusion of the “January 1, 2018” language in the CNA was made for the express purpose of avoiding the application of the 2% CAP to a successor agreement. Mr. Saginario testified as follows:

Q. And there has been some issues in the present proceeding regarding the parenthetical language which is included in that provision which is “(which is January 1, 2018.)” Do you recall how that language or why that language was included in the contract?

A. Yeah, I wanted to make sure from the County’s perspective that there was no mistaking that this agreement went till, essentially, the very last second of December 31st, 2017 and ended exactly when the clock struck midnight on January 1st, 2018 so there would be no misunderstanding that the day of December 31st, 2017, in full, would be included because, as you know, many of these agreements provide, for example, it says January 1st, 2012 and then there’s a lot of times there is a dash that says December 31st, 2017. And I’ve had situations where someone said, well, it ended on midnight of December 31st, 2017 and does not include the December 31, 2017. So on behalf of the County, I wanted to make sure there was no misunderstanding that this agreement included the full day of December 31st, 2017.

Q. OK. In terms of this provision was there any discussion in negotiations regarding any impact, if any, this language may have in terms of the applicability of the 2% Interest Arbitration CAP?

A. Absolutely not. There was no discussion on the CAP, in fact, I would not have entertained on behalf of the County, addressing the CAP issue in this particular contract because the County had no interest, frankly, in not having the CAP continue beyond the expiration of this contract, so there was no discussion whatsoever about the CAP.

Q. And the follow up question to that, in terms of the specific language of this paragraph, was there any intention on behalf of yourself as the attorney or, to the best of your understanding, the Sheriffs negotiation team to agree to language by which it was agreed the CAP would not apply to the successor agreement?

A. There was absolutely no agreement to that effect and, in fact, if that were to have been proposed, we would’ve rejected it and if there was any consideration given to it, the language that you just read to me would have been inserted in the contract directly.

Transcript of February 16, 2021, Page 85, Line 9 to Page 87, line 9.

In summary, the plain and ordinary meaning of the relevant contractual language when read in context is that the CNA in question expired on December 31, 2017; and thus, this Arbitration is subject to the 2% Interest Arbitration CAP pursuant to N.J.S.A. 34:13A-16.7. Any other interpretation would be unreasonable in the context of the clear language of the CNA including the Cover Page, Article 48 and the Appendices A and B. The FOP's arguments would have the Arbitrator place "disproportionate emphasis" on the parenthetical "(which is January 1, 2018)" in isolation and out of context, contrary to the mandate of the Supreme Court in the Newark Publishers case cited previously. Newark Publishers, Id. At 426-27. Finally, the testimony of Officer Diaz, Mr. Schick and Mr. Saginario establishes that the Parties never reached a "meeting of the minds" or had the mutual intent to insert the reference to "January 1, 2018" for the purpose of having the CAP not apply to a successor CNA. As such, the Sheriff respectfully submits that the Arbitrator must find that the present proceedings are subject to the 2% Interest Arbitration CAP pursuant to N.J.S.A. 34:13A-16.7.

#### Position of the FOP

Now that the two percent (2%) cap and what it includes has been adequately defined, the question becomes which negotiations units are subject to the cap. The logical starting point in addressing this inquiry is reviewing N.J.S.A. 34:13A-16.9, entitled "Effective Date." The statute provides:

This act shall take effect January 1, 2011; provided however, section 2 of P.L. 2010, c.105 (C.34:13A-16.7) shall apply only to collective negotiations between a public employer and the exclusive representative of a public police department or public fire department **that relate to negotiated agreements expiring on that effective date or any date thereafter until or on December 31, 2017, whereupon, after December 31, 2017, the provisions of section 2 of P.L.2010, c.105 (C.34:13A-16.7) shall become inoperative for all parties except those whose collective negotiations agreements expired prior to or on December 31, 2017 but for whom a final settlement has not been reached.**

[N.J.S.A. 34:13A-16.9 (emphasis added).]

According to the express wording of N.J.S.A. 34:13A-16.9, the two percent (2%) cap **shall only apply** to: (1) collective negotiations between a public employer and the exclusive representative of a public police and/or fire department; and (2) those negotiations must relate to a negotiated agreement expiring on the effective date of the act,

January 1, 2011, or any date thereafter until December 31, 2017. In this case, F.O.P. #166 is the exclusive representative of numerous law enforcement officers in a public law enforcement department, namely the Sheriff's Officers, Sheriff's Officer Sergeants, and Sheriff's Officer Lieutenants employed by the County and Sheriff of Burlington County. Moreover, F.O.P. #166 engaged in collective negotiations and is currently in interest arbitration proceedings with a public employer, namely the County and/or Sheriff. As such, the first prong of the criteria for the cap to apply is satisfied.

Significantly, however, the interest arbitration and/or collective negotiations between F.O.P. #166 and the County do not relate to a negotiated agreement expiring on January 1, 2011 or any date thereafter until December 31, 2017. Under the plain wording of the most recently expired collective negotiations agreement between the parties, the agreement expired on January 1, 2018. Specifically, the operative contractual language in the most recently expired collective negotiations agreement between the parties provides as follows:

#### **ARTICLE 48 TERM AND RENEWAL**

This Agreement shall be in full force and effect as of January 1, 2012 to remain in full force and effect **until the later of midnight on the evening of December 31, 2017 (which is January 1, 2018)** or the date on which a substitute or successor agreement shall be entered into by and between the parties in accordance with the then applicable statutes and rules and regulations of the Public Employment Relations Commission.

[Exhibit U-2C (emphasis added).]

As set forth above, the plain wording of the agreement itself specifically indicates the expiration date as being "the later of midnight on the evening of December 31, 2017 (which is January 1, 2018)." To this end, the utilization of the language "which is January 1, 2018" is particularly important as it defines the expiration date as being January 1, 2018. In simple terms, when reviewing the plain language of the expired agreement, it cannot be disputed that it unequivocally expired on January 1, 2018. To illustrate, if the agreement's expiration date was intended and/or is determined to be December 31, 2017 as opposed to January 1, 2018, the entire bolded passage above would, in essence, be ignored, nullified, and of no force and effect. Such a result would contravene accepted and well-established principles of contract interpretation and must not be permitted.

Given that a reading of the contractual language demonstrates that the most recent collective negotiations agreement expired on January 1, 2018, the instant collective negotiations agreement is not subject to the

confines of the two percent (2%) salary cap under the express terms of N.J.S.A. 34:13A-16.9. As set forth above, N.J.S.A. 34:13A-16.9 specifically indicates that the restrictions of the two percent (2%) salary cap apply to all collective negotiations agreements that expired on December 31, 2017 or prior thereto. Thus, had the previous collective negotiations agreement between F.O.P. #166 and the County/Sheriff expired on December 31, 2017 or any time prior, F.O.P. #166 concedes that the instant collective negotiations agreement would be subject to the confines of the two percent (2%) cap. However, that is clearly not the case here as the plain wording of the agreement itself set its expiration on January 1, 2018.

The evidence adduced during the interest arbitration hearings further confirms the inapplicability of the two percent (2%) cap in this matter. To this end, the evidence reveals that F.O.P. #166 specifically negotiated for a January 1, 2018 expiration date in anticipation of expressly avoiding the confines of the two percent (2%) interest arbitration cap as it pertains to the instant collective negotiations agreement. Such evidence illustrates the intent of the parties in including the parenthetical/language "which is January 1, 2018" referenced above. Specifically, F.O.P. #166 presented the testimony of Officer George Diaz, a member of the negotiations team that negotiated the collective negotiations agreement that expired on January 1, 2018, and Danny Schick, who previously served as a Senior Field Representative for the State Fraternal Order of Police Labor Council. (4T4:13-16). In this capacity, Mr. Schick assisted F.O.P. #166 and directly participated in the negotiations of the most recently expired agreement between F.O.P. #166 and the County/Sheriff.

During the course of Officer Diaz's testimony, he testified concerning the negotiations that took place as to the term of the agreement and how it was to expire on the date of January 1, 2018. Specifically, Officer Diaz stated:

...This [the contract that expired on January 1, 2018] was negotiated oh, my God, back in -- well, we started in 2012, but it continued past the three-year contract time and into the second set of three years, so we went from January 2012 to December 2017. There was a five-year period.

Q. All right. And when this contract was negotiated, did the FOP have representation?

A. Yes.

Q. Who represented the FOP?

A. We were represented by the FOP, Danny Schick was our representative.

Q. And during these negotiations, were there conversations with Mr. Schick in regard to the application of the two percent salary cap?...

Q. Were there representations made by Mr. Schick in regard to the two percent cap and when it expired?

A. Yes.

Q. Tell us what, in fact, you learned?

A. Well, we were advised by Danny Schick that the two percent would be going into expiration in December of 2017, and one of our main concerns was that the language of the contract would be specific so that we would not fall under the time frame of the expiration where we would still be liable to be held under the two percent cap.

Q. And in order to get outside of that cap, when would the contract have to expire?

A. It would have to expire past midnight of 2017, December 31, 2017.

Q. And did Mr. Schick assist the FOP in negotiating language into the contract that had that representation that it would in fact expire in 2018?

A. Yes, yes.

Q. Turn to page 35, if you would. Article 48 term and renewal, do you see that?

A. Yes.

Q. Do you have the specific recollection of actually negotiating that language?

A. Yes.

Q. Tell us, if you would, again, how that came about?

A. Well, through discussions among ourselves with Danny Schick and then discussions at the table, negotiating table, it was brought up and there was some

back and forth given on it, and the language was agreed upon. As you can see it was signed by everyone involved, so the language was written into the contract and was agreed upon.

Q. And as far as the expiration, what was your understanding in regard to when this contract expired in accordance with this provision?

A. Our understanding in regards to the language of this contract was that our contract January 25, 2021 would expire the later part of midnight, which would be January 1st.

Q. 2018?

A. 2018.

Q. And that language, which is January 1, 2018, is, in fact, in there?

A. Yes, it is.

[1T80:10-83:7.]

Taking this one step further, Mr. Schick was also called to testify in this matter. During the course of his testimony, Mr. Schick corroborated the testimony of Officer Diaz when he specifically recalled proposing, negotiating, and, ultimately, securing the inclusion of the “which is January 1, 2018” parenthetical/language. (4T8:14-12:9).

Specifically, Mr. Schick was questioned as to his rationale in proposing and ultimately obtaining the “January 1, 2018” parenthetical/language. In response, Mr. Schick testified as follows:

Q. ...And, Dan, can you tell us why, in fact, did you attempt and successfully succeed in negotiating that language into the contract?...

A. **...That clause was put in because of the 2 percent hard cap, which was, our understanding, going to expire in December 31<sup>st</sup> of 2017. And any contracts that expired in 2017 would automatically fall under the hard cap for the next contract.** Even if that contract was negotiated in 2008 or later, because the previous contract had expired as of December 31, 2017.

**So, it was put in the—to be clear that the contract effectively expired on January 1, 2018. And it was our**

**understanding by having that language, the new contract would not fall under for the 2 percent hard cap.**

[4T10:24-11:17 (emphasis added).]

During the course of their testimony, Mr. Schick and Officer Diaz made it unmistakably clear that the “January 1, 2018” parenthetical/language was specifically proposed by F.O.P. #166, negotiated by the parties, and agreed upon in order to have the successor collective negotiations agreement between the parties (for our purposes the instant collective negotiations agreement) fall outside the confines and/or restrictions of the two percent (2%) cap. Quite simply, F.O.P. #166 was extremely cognizant of the two percent (2%) cap’s sunset date and what was needed in order for the following collective negotiations agreement to not be subject to the same. Ultimately, F.O.P. #166 was able to negotiate and secure the parenthetical/language referenced above, thereby expressly excluding the instant collective negotiations agreement from the cap’s restrictions.

On the other hand, the evidence submitted by the County and/or Sheriff in support of its position that the agreement expired on December 31, 2017 and, thus, the confines of the two percent (2%) cap are applicable, did nothing to enhance the viability of its argument. Specifically, the County presented the testimony of Carmen Saginario, Jr., Esq., the attorney who negotiated on behalf of the County with regard to the most recently expired collective negotiations agreement. During the course of his testimony, Mr. Saginario indicated that he did not specially recall negotiating the provision at issue, yet, inexplicably, somehow recalled proposing the “January 1, 2018” language on the County and/or Sheriff’s behalf. (2T Volume II 84:22-85:8).

According to Mr. Saginario, he proposed the “January 1, 2018” language on the County/Sheriff’s behalf to ensure the collective negotiations agreement included “every single second” of December 31, 2017, as opposed to actually fixing the expiration date to be January 1, 2018. (2T Volume II 95:5-10). Mr. Saginario’s position, however, is illogical and must be rejected by the Arbitrator. First, as referenced above, Mr. Schick and Officer Diaz both unequivocally testified that it was F.O.P. #166’s proposal to include the “January 1, 2018” parenthetical/language. (1T80:10-83:7; 4T12:2-9). Simply put, it would make absolutely no sense for the County to propose language indicating an expiration date of January 1, 2018 or, at the very least, causing confusion regarding the same. If the County/Sheriff truly wanted to keep the cap restrictions in place for the successor agreement between the parties, the language would have remained unchanged from the prior agreement with the exception of the dates referenced therein. Tellingly, however, this did not occur. Instead, the

parties expressly negotiated and included the parenthetical/language “which is January 1, 2018.”

Clearly, the inclusion of such a parenthetical/language must have been proposed on F.O.P. #166’s behalf and, surely, would not have been sought by the County and/or Sheriff. As such, Mr. Saginario’s recollection of proposing the language on the County’s behalf must be mistaken or, at very least, not credible. Given he does not recall specifically negotiating the provision at issue, his testimony, especially as it relates to proposing such a parenthetical/language on the County’s behalf, must not be given any weight by the Arbitrator.

Moreover, F.O.P. #166’s position that the most recent agreement between the parties expired on January 1, 2018 is well supported by Commission case law on the subject. To this end, the Commission has addressed contract expiration date issues in Burlington County Prosecutor’s Office, P.E.R.C. No. 2012-061, 39 NJPER 20 (¶4 2012) and Borough of Bloomingdale, P.E.R.C. No. 14 2011-70, 37 NJPER 143 (¶43 2011). In Burlington County, the Commission rejected the County Prosecutor’s argument that because the agreement continued until midnight of December 31, 2010, it actually expired on January 1, 2011. For the Arbitrator’s reference, the P.B.A. in Burlington County had argued the cap contained in P.L. 2010, c. 105 did not apply to that arbitration proceeding and both the Interest Arbitrator and the Commission agreed with their interpretation of the statute and the plain wording of the contract language at issue.

In Borough of Bloomingdale, the Borough made the same argument as the Burlington County Prosecutor stating that, despite the fact that the contract had an expiration date of December 31, 2010, it effectively expired on January 1, 2011. In this case, the Commission again upheld the Interest Arbitrator’s ruling that the contract was not subject to the two percent (2%) base salary cap because it expired on December 31, 2010. The Commission further stated that the Interest Arbitrator’s ruling was in full conformance with the clear directive of the new law that the two percent (2%) hard cap did not start to apply until January 1, 2011. Finally, the Commission also noted that the argument that the contract effectively expired on January 1, 2011 was contrary to the plain wording and meaning of the contract language at issue in that matter.

In reaching their conclusions in both matters, the Commission looked to the expiration date of the parties’ prior agreement – not the would-be expiration date of the successor agreement currently being negotiated – to determine if the hard cap applied. Moreover, the Commission made it clear that the expiration date and the language set forth in the agreement itself is dispositive. In this case, the expiration date of the agreement is clearly set forth in Article 48 and, under the plain wording of the agreement, the expiration date is January 1, 2018. Thus, a finding

that the most recent agreement between the parties expired on January 1, 2018 is well supported not only factually, but legally as well.

For all of the factual and legal reasons set forth herein, F.O.P. #166 submits the most recent agreement between the parties expired on January 1, 2018. The contract language is crystal clear that the contract expired on January 1, 2018 as the parties intended and, in fact, negotiated. Significantly, the negotiations history testified to by Officer Diaz and Mr. Schick illustrates the language at issue was specifically negotiated by the parties to ensure the instant collective negotiations agreement fell outside the cap's restrictions, thereby illustrating the intent of language in the event the plain language pertaining to the expiration date is ambiguous. Moreover, since the expiration date surpasses December 31, 2017, it is evident the two percent (2%) cap and the restrictions associated therewith are not applicable to this matter as a matter of law. Any determination to the contrary would contravene the plain wording of the most recent collective negotiations agreement, the negotiations history between the parties, and the applicable law. Such a result must not be permitted.

### **DECISION ON APPLICABILITY OF THE CAP**

The parties agree that whether the statutory CAP on base salary increases applies in this interest arbitration proceeding depends on an interpretation of Article 48 in conjunction with the statutory language that directed when the CAP would be inoperative for future contracts. Because there was no mutual agreement to authorize this issue to be decided on an interim basis prior to evidentiary hearings on the impasse issues, this issue must be decided as a threshold issue before deciding the merits of the parties' substantive proposals due to its potential impact on the scope of the arbitrator's authority.

The nature of this issue, unlike that in a grievance arbitration alleging a contract violation, is such that the burden of proof does not rest on one party. Instead, each party shares the burden to present credible evidence to persuade

that its position has merit. After review of all of the relevant contract language, the testimony and the parties' arguments, I find that the language in Article 48 is not clear and unambiguous and must be given practical construction based on the totality of the record. I also note that the three year passage of time after contract expiration prior to the filing for interest arbitration is not a relevant factor as to whether or not the CAP applies to the prior agreement because the same analysis would have been required even if the petition had been filed prior to or shortly after contract expiration.

Each party contends that its interpretation is required, or the more reasonable, because the other party could have, but did not, negotiate language that more clearly would have expressed its intent. The FOP asserts that if the Agreement's date of duration was intended to be on December 31, 2017, as opposed to on January 1, 2018, the parenthesized words (**which is January 1, 2018**), that appear after the words **to remain in full force and effect until the later of midnight on the evening of December 31, 2017** would be ignored, nullified, and have no force and effect.<sup>7</sup> The County disagrees. It asserts that if the intent of the parties was to have the Agreement expire on January 1, 2018, the Agreement would have simply stated January 1, 2012 through January 1, 2018 or "on January 1, 2018" without any need to reference "midnight on the evening of December 31, 2017." The meaning of Article 48 cannot be discerned based on

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<sup>7</sup> I note that the use of the word "later" is without relevance to this dispute because its use is simply to denote an either/or selection between "midnight on the evening of December 31, 2017 or a different later date if the parties were to so choose.

whether the parties could have more clearly defined contract duration, but instead on the language they mutually chose and which interpretation is more reasonable than the other in light of all of the relevant evidence produced at hearing.

The current Agreement, including Article 48, was executed some three and one half years after the December 31, 2011 expiration of the prior agreement and some two and one half years prior to when it would next expire. The record clearly reflects that the parties did not engage each other in verbal or written exchanges during negotiations over whether the CAP would apply to the next Agreement. In addition to the absence of evidence of any negotiations exchanges on the CAP issue, the record is also absent of any written proposals or counterproposals during negotiations that led to the language in Article 48. After reaching tentative agreement on all contract terms that would be in effect through December 31, 2017, the record is also absent of any memorandum of agreement or any draft contract language that led to the inclusion of the language in Article 48. Witness testimony as to who proposed the language during negotiations directly conflicts. There is no underlying support for how the language was developed or agreed upon except for the recollection of the witnesses as to what each “understood” the language to mean without any evidence that any such understanding was ever verbalized between the parties as opposed to internally.

While each party contends that the “plain meaning rule” favors its own interpretation, I do not find on this record that a focus on any individual word in

Article 48 is dispositive even if it appears to be plain when viewed in isolation. Rather, consideration and weight must be given to all of the words expressed, the context of all of the language, not only in Article 48, but also in the totality of the terms of the collective negotiations agreement. The word “midnight” refers to a precise moment in time that is consistent with both the time that a day ends and when the next day will begin. The legislature did not use the word “midnight” and instead stated “prior to or on December 31, 2017.” The language in Article 48 in respect to duration does not parallel the language in N.J.S.A. 34:13A-16.9 and is unique to the prior agreement. The Agreement at issue defined the dates for the contract’s duration without use of the word “expire.” Its terms were stated to remain in full force and effect until the later of midnight on the evening of December 31, 2017, which is January 1, 2018, but not after midnight or on or through January 1, 2018. Midnight on the evening of December 31 was the exact moment in time that December 31, 2017 ended, along with the terms that were negotiated in the January 1, 2011 through December 31, 2017 agreement.

Based on the totality of the evidence, I find that the County’s position as to contract duration is the more reasonable interpretation of the meaning of Article 48. It is more consistent with all of the terms of the Agreement that concern effective and end dates, all of which provide guidance as to the meaning of the language in Article 48. The effective terms of the Agreement is clearly expressed on its cover page to be “January 1, 2012 through December 31, 2017” and not on, or through, January 1, 2018. This is consistent with the language referencing the

dates of several other subjects which provide annual terms that commenced, began, or became effective, “on or after January 1” and ended on December 31 of each year, through December 31, 2017. These terms extended annually through December 31 of each year and not on or through January 1 of the ensuing year. (See Article 6 – Salaries, Article 21 – Uniforms, Article 27 – Training, and Appendix A and Appendix B – Salary Guides). Accordingly, I find the 2012-2017 Agreement expired at the precise point in time that December 31, 2017 concluded which Article 48 defined as midnight January 1, 2018 but not beyond the moment in time that the full twenty-four hour period of December 31 ended as well as all of the Agreement’s substantive terms. In this regard, I find no difference between the end of the contract’s duration in contract year 2017 from each of the years of the 2012-2017 Agreement whose annual terms ended upon the termination of, and through the date of December 31. Consistent with N.J.S.A. 34:13A-16.9, the cap remained operative for the new Agreement after the Agreement whose terms extended through the last day of the Agreement on December 31, 2017 but not beyond.

### **DISCUSSION OF DISPUTED ISSUES**

The evidentiary record is broad and comprehensive and has been thoroughly reviewed. The County and FOP Lodge #166 have submitted voluminous exhibits, offered extensive testimony and detailed post-hearing briefs. The parties urge that the statutory criteria be applied in a manner favorable to their substantive proposals. The relevance and weight to be given to the criteria is

impacted by the applicability of the CAP. The arbitrator must make a reasonable determination of the issues when awarding any or part of the respective proposals or by deciding to maintain the status quo. The party seeking change to the status quo has the burden to establish the basis for its proposal. That burden is more substantial when a provision has been in existence for a lengthy period of time. Each issue in dispute will be described individually in the Discussion section of this decision, including an award resolving each issue. The totality of the issues awarded will be set forth in a separate Award section.

The statutory criteria 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).

## **DISCUSSION OF IMPASSE ISSUES**

### **Duration**

The parties disagree on the length of what the new contract should be. The FOP has proposed a four (4) year agreement beginning January 1, 2018 and extending through December 31, 2021 while the County has proposed a five (5) year agreement beginning January 1, 2018 and extending through December 31, 2022. Based on the facts unique to this case, and exercising my authority under the conventional arbitration process, I find that the interests and welfare of the public, and the parties, will be served by awarding a three (3) year contract beginning January 1, 2018 and extending through December 31, 2020.

I recognize that contract terms for a shorter length of time than the parties have proposed may not, at first blush, appear to be warranted. However, a reasoned explanation for this decision flows from the unusual circumstances of this case, the manner in which this impasse evolved and the disagreement over CAP applicability and the inability of the parties to mutually agree to have this issue resolved on an interim basis. The parties, for reasons beyond the scope of this record, did not confront economic or non-economic issues for a lengthy period of time after contract expiration. Even at the time of the invocation of arbitration, the issues to be addressed were not defined or articulated in specific proposals, other

than an identifying general economic subject matters such as “health and fringe benefits,” “salaries and compensation” and non-economic subject matters such as “safety and health.” There were no tentative agreements on any issues during the three years prior to arbitration and not until testimony was well underway. An aggravating factor in the presentation of base salary issues was the dispute over the applicability of the CAP. The inability to resolve the applicability of the CAP prior to the submissions on substantive issues affected the presentation of issues as they were not tailored to the certainty of the scope of the arbitrator’s authority on base salary issues. A shorter contract duration than what the parties have proposed is desirable in light of the applicability of the CAP. This would provide the parties with greater flexibility to negotiate over base salary issues earlier and in the absence of CAP applicability and with sufficient available evidence on salaries for years beyond 2020 which have yet to be determined for internal County law enforcement units. The parties can promptly resume negotiations for a new contract that will begin on January 1, 2021 and beyond for whatever duration that can be agreed to voluntarily or to invoke statutory impasse proceedings in the absence of the CAP if voluntary bargaining efforts do not succeed. Accordingly, I award the following language to be set forth in the new Article 48:

This Agreement shall be in full force and effect as of the beginning of January 1, 2018 and remain in full force and effect up, to including and through the full date of December 31, 2020 or any other date on which a substitute or successor agreement shall be entered into by and between the parties in accordance with the then applicable statutes and rules and regulations of the Public Employment Relations Commission, or applicable New Jersey Superior Court decisions.

## Base Salary and Economic Issues

The evaluation of base salary increases and non-salary schedule economic issues that fall within the statutory definition of base salary, must be made within the confines of the arbitrator's lawful authority. N.J.S.A. 34:13A-16(g)(1), (5) and (9) directly require the arbitrator to consider and apply statutory restrictions and limitations and must be given overriding weight. In this case, N.J.S.A. 34:13A-16.7(a) defines the limitation on the amounts of increase that can be awarded. The salary award will be for a three year contract period effective January 1, 2018 extending through December 31, 2020 for reasons explained above in the award on contract duration.

Base salary is defined under the salary cap provisions:

(a) As used in this section:

"Base salary" means the salary provided pursuant to a salary guide or table and any amount provided pursuant to a salary increment, including any amount provided for longevity or length of service. It also shall include any other item agreed to by the parties, or any other item that was included in the base salary as understood by the parties in the prior contract. Base salary shall not include non-salary economic issues, pension and health and medical insurance costs.

"Non-salary economic issues" means any economic issue that is not included in the definition of base salary.

(b) An arbitrator shall not render any award pursuant to section 3 of P.L.1977, c.85 (C.34:13A-16) which, in the first year of the collective negotiation agreement awarded by the arbitrator, increases base salary items by more than 2.0 percent of the aggregated amount expended by the public employer on base salary items for the members of the affected employee organization in the twelve months immediately preceding the expiration of the collective negotiation

agreement subject to arbitrator. In each subsequent year of the agreement awarded by the arbitrator, base salary items shall not be increased by more than 2.0 percent of the aggregate amount expended by the public employer on base salary items for the members of the affected employee organization in the immediately preceding year of the agreement awarded by the arbitrator.

The parties may agree, or the arbitrator may decide, to distribute the aggregate monetary value of the award over the term of the collective negotiation agreement in unequal annual percentage increases, which shall not be greater than the compounded value of a 2.0 percent increase per year over the corresponding length of the collective negotiation agreement. An award of an arbitrator shall not include base salary items and non-salary economic issues which were not included in the prior collective negotiation agreement.

L. 2010, c. 105, s. 2., eff. Jan. 1, 2011; Amended L. 2014, c. 11, § 4, eff. June 24, 2014, retroactive to April 2, 2014.

Before addressing increases to be awarded to base salary I note, irrespective of the CAP, the parties do not agree on the method to calculate the amounts of increase in their respective wage proposals. The Sheriff's method of cost-out has been calculated by setting a baseline from the aggregate amount the County expended on base salaries for the twelve months preceding the expiration of the labor agreement. The twelve month period in this case is the beginning of January 1, 2017 through the end of December 31, 2017. Then, the amount of increase, not to exceed 2% of that amount, would be distributed or applied to the salaries of unit employees and the salary schedule on the employer's roster as they were on through the last day of that base year, or December 31, 2017. By way of example, its proposal of 1.9% to top step pay would result in top step being 1.9% above what the salary schedule set in the prior year. The baseline figure is \$4,135,390. While adopting this method, the Sheriff's proposal does not fully

expend the full amounts that can be awarded. It calculates its five year proposal as costing \$370,418 compared to the full CAP amount of \$430,414.

The County asserts that the method it has used is consistent with established PERC case law for awards subject to the CAP. [See Borough of New Milford, P.E.R.C. No. 2012-53, 38 NJPER 340 (¶116 2012) and Borough of Ramsey, P.E.R.C. No. 2012-60, 39 NJPER 17 (¶3 2012)]. By utilizing this method, the County contends its offer, while less than the full CAP amount, virtually expends all of its authority to increase base salaries for contract years 2018 and thereafter.

The FOP disagrees. Because it contends that the 2% CAP does not apply, it rejects the Sheriff's calculation method. It submits no proposal that would address the full amounts of funds available if the CAP were found applicable, although it does not quarrel with the base amount of salaries expended in 2017. It also contends, notwithstanding the CAP, that the methodology used by the Sheriff is incorrect because bargaining unit employees should receive credit in their salaries for any payroll savings the County accrued from any reduction in payroll costs beginning on January 1, 2018 due to the turnover of personnel after December 31, 2017. While no technical legal term exists for this type of "savings," it is commonly referred to as "breakage," the difference in the amounts that were projected to be spent after December 31, 2017 and the amounts that were actually spent.

The Sheriff's calculation of its wage proposal is encased in its view of established case law relating to CAP compliance. It explains its methodology, costs and specific proposal as follows:

The key PERC case giving direction as to the calculation of the Interest Arbitration CAP is **In Re Borough of New Milford, P.E.R.C. No. 2012-53, 38 NJPER 340 (¶116 2012)**. Pursuant to that case the costs of increases are be applied using the bargaining unit census as of the last day of the base year (here, 2017), and then, carrying those unit members through the successor award. The bargaining unit is not to be credited for savings through retirements, nor is it debited for the costs of new hires or promotions. Thus, in this matter the Arbitrator must first determine the total cost of base salaries paid in the base year. Then, the Arbitrator must calculate the costs of the award. In New Milford the Commission stated:

The Commission believes that the better model to achieve compliance with P.L. 2010 c. 105 is to utilize the scattergram demonstrating the placement on the guide of all of the employees in the bargaining unit as of the end of the year preceding the initiation of the new contract, and to simply move those employees forward through newly awarded salary scales and longevity entitlements. Thus, both reductions incosts resulting from retirements or otherwise, as well as any increases in costs stemming from promotions or additional new hires would not affect the costing out of the award required by the new amendments to the Interest Arbitration Reform Act. (emphasis added).

Exhibit A-2(B) is a spreadsheet that the County submitted to set out the necessary base salary information and calculation of the Interest Arbitration CAP. However, subsequent to the conclusion of the Hearing, it was discovered that three (3) individuals that retired during calendar year 2017 (Sexton, Salmestrelli and Purkett) were inadvertently not included on the spreadsheet. Attached to this brief is a revised version of the spreadsheet that includes the base salaries for these individuals. As a result this correction, the total base salaries for 2017 is \$4,135,390.89. Applying the 2% CAP to the total salaries of the base year and then compounding it year for year, results in the following CAP amounts for the designated years:

<u>2% CAP</u>	
2018	\$82,707.82
2019	\$84,361.97
2020	\$86,049.21
2021	\$87,770.20
2022	\$89,525.60

Thus, the total CAP dollars available under the 2% CAP for a four (4) year contract is \$340,889.20 and for a five (5) year contract is \$430,414.81. Pursuant to **New Milford**, PERC has instructed that the 2% CAP allotment does not get added to the 2017 salary budget but rather is applied to the contractual salaries of the unit employees as of the last day of the base year. To do otherwise would credit the union with the savings from retirements. **The statute refers to limitations on salary increases, not budget increases.**

The Revised Final Offer submitted by the Sheriff, Marked as Exhibit A-2 (Also C-2) set forth the following salary proposal:

**1. ARTICLE 6 – SALARIES**

1. Five-year deal (2018-2022).
2. Effective July 1, 2018, each officer, Sergeant and Lieutenant moves one step on the applicable 2017 Salary Guide (Guides A & B for Officers and the separate Guides for Lts. & Sgts). Top tier gets 1.90% increase to base salary.
3. On January 1, 2019, each officer will remain frozen on the step they moved to as of July 1, 2018; however, effective January 1, 2019, each officer, Sergeant and Lieutenant will receive a 1.90% increase to base salary.
4. On January 1, 2020, each officer will remain frozen on the step they moved to as of July 1, 2018; however, effective January 1, 2020, each officer, Sergeant and Lieutenant will receive a 1.90% increase to base salary.
5. On January 1, 2021, each officer will remain frozen on the step they moved to as of July 1, 2018; however, effective January 1, 2021, each officer, Sergeant and Lieutenant will receive a 1.90% increase to base salary.
6. On January 1, 2022, each officer will remain frozen on the step they moved to as of July 1, 2018; however, Effective

January 1, 2022, each officer, Sergeant and Lieutenant will receive a 1.90% increase to base salary.

The total costs and associated percentage increases of this Final Offer are reflected in C-4; as summarized on Page 3 of 3 of that document. As indicated, the total increase in base salary over the five (5) years of the proposed CNA is \$370,418.00. Thus, the Sheriff's proposal does not exceed the statutory Interest Arbitration CAP for a five-year contract; that is, \$430,414.81. Further, as indicated on page 3 of 3 of C-4, the average percentage increase over the five-year term is essentially 2% per year.

The Sheriff's Final Salary offer is also consistent with the settlement reached with the County's largest bargaining unit, CWA Local 1036 ("CWA"). The Memorandum of Agreement with CWA is in evidence as C-8 and reflects:

1. For 2020 – 1% percent increase to base salary plus a \$500.00 not to base payment.
2. For 2021 – 1.95% increase to base salary.
3. For 2022 – 1.95% increase to base salary.

As such, the Sheriff's salary offer is fair and reasonable in light of the most recent union contract settlement agreed to by the County.

The FOP does not agree that the CAP is applicable. While it acknowledges that there is a dispute over this issue, no proposal or calculation aligned with that limitation has been offered. It agrees on the baseline amount for the aggregate amount of salaries that were spent during the last contract year through December 31, 2017. However, it submits a methodology for the calculation of costs different than the County and at odds with New Milford. Its approach to cost calculations results in decreases in the projected cost of the wage proposals "as a result of the actual, known and verifiable "breakage" within the negotiations unit." Put another way, the FOP submits that by utilizing the savings from "breakage," the cost of its wage proposal for merging officers into a single guide, advancing those who

progress on the salary schedule one (1) step in 2019, in 2020 and in 2021, creating new salary guides for Sergeants and Lieutenants and providing them and all rank and file sheriff's officers who are at top step with wage increases of 3.5% for each of the four (4) years in its proposed Agreement, would result in an actual decrease in salary costs of \$18,164.03 or -0.3% over the course of the Agreement. It reaches this figure with cost-out calculations showing a \$123,082.87 decrease in salary costs in 2018, a \$189,551.96 increase in salary costs in 2019, a \$71,778.50 decrease in salary costs in 2020 and a \$12,854.63 decrease in salary costs in 2021. The FOP argues that even if "breakage" is not adopted as the Award's cost out methodology, its financial expert, Dr. Caprio, has established that its salary proposal is affordable due to many factors included in his Report, but not limited to, its minimal actual impact of the FOP's proposal on taxpayers, the County's demonstrated stable sources of major revenue and the County's growing unencumbered fund balance. Dr. Caprio acknowledged that without the offsets due to breakage, the cost of the FOP's salary proposals would be \$923,277.51 over four years or 20.4%, averaging 5.1% annually.

Due to the finding of CAP applicability, salary terms must be awarded consistent with the CAP limitations. The terms to be awarded are generally consistent with the method and structure of the County's offer which allocates a majority of salary costs to Top Step salaries for Officers, Sergeants and Lieutenants. I adopt that approach with modifications to accommodate the shorter duration of contract, to fully expend the amounts allowable and, to the extent

allowable, maintain salaries at the top of the salary schedules at the most attractive levels for employees now at top step and for those who will reach that level in the future. I find that continuity and stability of employment is best furthered by enhancing salaries at the more experienced levels as an incentive for officers to remain employed by the Sheriff. The terms of the award will fully expend the aggregate amounts that can be awarded based on the well established method for calculating salary increases.

Accordingly, I award salary terms as follows to be included in the new Article 6 – Salaries and salary appendices. Employees on the salary schedule below Top Step will receive two steps during the three year period, one at the first year and the second in the third year. Employees at Top Step will receive increases of 1.95% in each of the three years. Article 6 – Salaries and the Salary Guides shall be:

1. Effective and retroactive to the beginning of January 1, 2018, each Officer, Sergeant and Lieutenant shall move one step on the applicable 2017 Salary Guide (Guides A & B for Officers and the separate Guides for Lts. & Sgts). No increase shall be applied to the steps before Top Step. Effective and retroactive to January 1, 2018, Top Step on the Officer, Sergeant and Lieutenant Salary Guides shall be increased by 1.95%.
2. Effective and retroactive to January 1, 2019, Top Step on the Officer, Sergeant and Lieutenant Salary Guides (Guides A & B for Officers and the separate Guides for Lts. & Sgts) shall receive a 1.95% increase to base salary. No increase shall be applied to the steps before Top Step. Officers, Sergeants and Lieutenants below top step shall remain on the step they moved to as of January 1, 2018.

3. Effective and retroactive to January 1, 2020, each Officer, Sergeant and Lieutenant shall move one step on the applicable 2019 Salary Guide (Guides A & B for Officers and the separate Guides for Lts. & Sgts). No increase shall be applied to the steps before Top Step. Effective and retroactive to July 1, 2020, Top Step on the Officer, Sergeant and Lieutenant Salary Guides shall be increased by 1.95%.
  
4. Retroactive payments shall be made only to active employees or employees who have retired after December 31, 2017 on a regular or disability pension.

**Appendix A  
Officers Salary Guide  
January 1, 2018 through December 31, 2020**

<b>Step</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
<b>Academy</b>	\$36,500	\$36,500	\$36,500
<b>FTO (0-2 Months)</b>	\$38,500	\$38,500	\$38,500
<b>1</b>	\$40,346	\$40,346	\$40,346
<b>2</b>	\$42,829	\$42,829	\$42,829
<b>3</b>	\$45,046	\$45,046	\$45,046
<b>4</b>	\$47,230	\$47,230	\$47,230
<b>5</b>	\$49,685	\$49,685	\$49,685
<b>6</b>	\$52,140	\$52,140	\$52,140
<b>7</b>	\$54,622	\$54,622	\$54,622
<b>8</b>	\$57,105	\$57,105	\$57,105
<b>9</b>	\$60,001	\$60,001	\$60,001
<b>10</b>	\$62,897	\$62,897	\$62,897
<b>11</b>	\$65,793	\$65,793	\$65,793
<b>12</b>	\$74,435	\$75,886	\$77,365

**Sergeant Salary Guide  
January 1, 2018 through December 31, 2020**

<b>Year</b>	<b>Less than or equal to 2 years</b>	<b>3-4 yr. Sergeant</b>	<b>Equal to or Greater than 5 years</b>
<b>2018</b>	\$78,901	\$81,133	\$83,326
<b>2019</b>	\$80,439	\$82,715	\$84,950
<b>2020</b>	\$82,007	\$84,327	\$86,606

**Lieutenant Salary Guide  
January 1, 2018 through December 31, 2020**

<b>Year</b>	<b>Salary</b>
<b>2018</b>	\$88,368
<b>2019</b>	\$90,091
<b>2020</b>	\$91,847

**Appendix B  
New Officer Salary Guide  
January 1, 2018 through December 31, 2020  
For New Officers hired after January 1, 2015**

<b>Step</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Academy	\$38,500	\$38,500	\$38,500
FTO (0-2 Months)	\$40,000	\$40,000	\$40,000
1	\$45,046.15	\$45,046.15	\$45,046.15
2	\$46,172.15	\$46,172.15	\$46,172.15
3	\$47,326.45	\$47,326.45	\$47,326.45
4	\$48,509.62	\$48,509.62	\$48,509.62
5	\$49,722.36	\$49,722.36	\$49,722.36
6	\$51,089.72	\$51,089.72	\$51,089.72
7	\$52,494.69	\$52,494.69	\$52,494.69
8	\$53,938.29	\$53,938.29	\$53,938.29
9	\$55,421.59	\$55,421.59	\$55,421.59
10	\$56,945.69	\$56,945.69	\$56,945.69
11	\$58,654.06	\$58,654.06	\$58,654.06
12	\$60,413.68	\$60,413.68	\$60,413.68
13	\$62,226.09	\$62,226.09	\$62,226.09
14	\$64,092.87	\$64,092.87	\$64,092.87
15	\$66,015.66	\$66,015.66	\$66,015.66
16	\$69,321	\$70,672	\$72,050

In impasses involving the CAP, the application of the statutory criteria is necessarily and significantly impacted. As previously indicated, the terms of the Award must be consistent with all references to the lawful authority of the employer and the statutory restrictions on the employer. (N.J.S.A. 34:13A-16(g)(1), (5) and (9)) Where the CAP is applicable, the Award cannot compel the employer to act inconsistent with its legal authority by compelling expenditures beyond that which

are lawfully allowable. The interests and welfare of the public (N.J.S.A. 34:13A-16(g)(1)) are, in this case, furthered by an award that is not only legally compliant but, based on the FOP's presentation concerning the County's finances and external comparability, also expends the maximum funds allowable. I have noted that the Award's distribution of the funds has been directed towards improving levels of pay at senior levels. While I recognize that equitable considerations might argue for lower paid employees to receive more than two step increases over the three year contract period, their longer term interests are better served by achieving higher maximum salaries which they can reach which I find will further the continuity and stability of employment (N.J.S.A. 34:13A-16(g)(8)). Other statutory criteria are relevant but can only be given weight to the extent the Award does not compel the Sheriff to violate statutory limitations imposed upon the Department. For example, although the terms of the Award are generally consistent with the cost of living criterion (N.J.S.A. 34:13A-16(g)(7)) during the contract years, evidence of higher CPI data could not influence an award to a higher amount. A similar observation concerns compensation and benefits received (N.J.S.A. 34:13A-16(g)(3)) and evidence on internal and external comparability (N.J.S.A. 34:13A-16(g)(2)). Here, the salary awarded is comparable to, if not in excess of, the county-wide CWA settlement during common years, but evidence of comparability above what has been awarded cannot serve to influence the full amounts of that which has been awarded. In this regard, much of the evidence the FOP has offered will be entitled to greater review for contract years 2021 and beyond in the absence of the CAP.

The compounded maximum CAP amounts for the three years are \$82,707, \$84,361 and \$86,049, for a total of \$253,117. The County's method of cost calculation is consistent with established case law. The County's proposal in the first three years (2018-2020) of its five year proposal costs \$78,327, \$79,893 and \$81,491, for a total of \$230,711. The Award amounts of 1.95% at Top Step for all three years slightly exceeds the Sheriff's offer of 1.90%. The January 1, 2018 effective date for the 1.95% increase exceeds the Sheriff's proposal for a July 1, 2018 effective date. The awarding of step movement in two years of the three year contract exceeds the Sheriff's proposal to only grant one year of step movement during the first three years of its five year proposal. The increased costs of the terms awarded fill the \$22,406 difference between the allowable costs and the costs of the Sheriff's proposal in order to expend the full amount of salary increases allowable.

I next turn to other proposals that implicate salary. The FOP has proposed to add language to the salary provision to provide "automatic" step movement after contract expiration to those eligible on the salary guide. This language, it contends, is necessary given judicial precedent that such language providing step movement after contract expiration is required to achieve that objective.

I do not award this proposal during this contract term. The contract duration here places the overall salary issue, including step movement, on the table for

immediate negotiations and I find this proposal to alter the status quo should be considered during negotiations for the parties' next agreement.

Due to the applicability of the CAP, FOP proposals which affect base salary cannot be awarded as a matter of law due to statutory constraints. The denial of these proposals is not necessarily based on the merits of the proposals but instead is required based on the prohibition in N.J.S.A. 34:13A-16.7 which precludes an award that exceeds the 2% CAP and the awarding of "base salary items and non-salary economic items not included in the prior collective negotiations agreement." This includes the denial of FOP proposals to merge sheriff's officers now on the existing Appendix A and Appendix B salary guides into a new Appendix A salary guide, the awarding of the New Salary Guides for Sergeants and Lieutenants, the payment of annual educational incentives in dollar amounts in base pay, the addition of Hazardous Duty Pay and the addition of Officer in Charge compensation. Negotiated increases in the Stipulations of the Parties such as a reduction in the workday, increase in clothing allowance, increase in replenishment of provided items, increase in EMT Certification and additional vacation days are outside of any CAP restrictions due to voluntary agreements rather than awards on disputed issues.

### **DECISIONS ON INDIVIDUAL ISSUES THAT REMAIN AFTER STIPULATIONS**

As a result of the parties' stipulations, some of the parties' final offer proposals on individual issues have been fully agreed to and will be awarded under

the Stipulations of the Parties. However, other proposals in the parties' final offers remain at impasse. Further, some of the stipulations include partial agreements leaving other parts of the issue at impasse. The issues that remain will be considered individually.

## ARTICLE 1 – RECOGNITION

The FOP proposes to revise Article 1 – Recognition to add the position of Sheriff's Investigators to the bargaining unit and to remove current language that now excludes the Sheriff's Investigators. The FOP proposal states:

Amend as follows:

- A. Recognition. The Sheriff and the County recognize the Association as the exclusive bargaining agent for the purpose of establishing salaries, wages, hours and other conditions of employment for Sheriff's Officers, Sheriff's Investigators, Sergeants and Lieutenants. ~~Specifically excluded from this bargaining unit are all Sheriff's Investigators pursuant to N.J.S.A. 40A:9-117a and all other classifications of employees employed by the County of Burlington not listed above.~~ This recognition, however, shall not be interpreted as having the effect of or in any way abrogating the rights of employees as established under Chapter 303, P.L. 1968, as amended. The rules and regulations of the ~~New Jersey Department of Personnel~~ Civil Service Commission that apply to Officers or other employees covered by this Agreement are hereby acknowledged to be part of this Agreement.

The FOP's arguments in support of its proposal to include the Sheriff's Investigators as members of the bargaining unit are as follows:

At the onset, it must be noted that this is not a drastic change and by no means would involve a significant increase to membership. There

are currently eight (8) Investigators employed by the County and, thus, the increase to the size of the negotiations unit would be nominal at best. Moreover, each investigator will still retain their individual rights under Janus to refrain from joining if they did not want to.

Secondly, despite the “confidential” status of Investigators, they otherwise function in a substantially similar fashion to Sheriff’s Officers. They both receive the same training when hired, they attend the police academy, and they both work in conjunction with other law enforcement units throughout the State and County. In fact, as stated by Officer Diaz during the underlying arbitration hearing, they perform the “same” work as Sheriff’s Officers. (1T63:4-9). Other than their title and at-will status (which an award of membership would not change), Sheriff’s Investigators do not function any differently than Sheriff’s Officers. Further, Sheriff’s Investigators are already subject to the terms and conditions of the collective negotiations agreement, despite not being “expressly recognized” as members of the negotiations unit.

The County urges rejection of the FOP’s proposal. The Sheriff cites to language in N.J.S.A. 40A:9-117(a) stating that “[a]ll sheriff’s investigators shall serve at the pleasure of the sheriff making their appointment and shall be included in the unclassified service of the civil service.” It submits that the statutory language prohibits their inclusion and to find otherwise would undermine their status as serving “at the pleasure of the sheriff.” It also notes that the parties have, in their collective negotiations agreement, specifically excluded the Sheriff Investigators from inclusion in the recognition clause of their Agreement and that the status quo should not be altered.

This issue implicates the rights of Sheriff Investigators to representation and whether, whether they share a community of interest with the Sheriff Officer that requires their inclusion in the bargaining unit. These issues fall squarely within the

authority of the New Jersey Public Employment Relations Commission to determine whether this disputed job title is eligible for representation and, if so, whether the title should be included in the Recognition Clause. Given the statutory authority of the New Jersey Public Employment Relations Commission to make representation determinations such as this, I decline to award the FOP proposal to modify the parties' Recognition Clause to include the Sheriff's Investigator title. Although the FOP can pursue this in future negotiations, I recommend that the FOP invoke the statutory authority of New Jersey PERC to rule on this representation issue.

#### **ARTICLE 7 – WORK SCHEDULES**

In Article 7, Section A, the parties have stipulated to new language providing the regular schedule for Sheriff's Officers as Monday through Friday with starting and ending times between the hours of 6:30 a.m. and 5:30 p.m. as designated by the Sheriff in his sole discretion. The workday agreed to is defined as eight (8) consecutive hours per day, including a one-half hour lunch break.

Article 7, Section B concerns the authority of the Sheriff to make changes in the starting and stopping time of the regular schedule "for efficiency of operations." Each party has proposed changes to Section B. The FOP seeks to change the discretion of the Sheriff to make changes in the starting and stopping time of the regular schedule from 7:00 a.m. to 8:00 p.m. to 7:00 a.m. to 7:00 p.m. The County has proposed to expand the Sheriff's discretion to make changes to

the starting and stopping times of the regular schedule between the hours of 12:00 a.m. and 11:59 p.m. I find insufficient record evidence that would warrant the awarding of either party's proposal to revise Article 7, Section B.

The FOP also proposes to revise Article 7, Section D. Section D provides for flexible work hours or schedules for the Civil Service Process Unit, Community Services Unit, Warrants Unit, Special Investigations Unit and the Fugitive Unit. The FOP's proposal is to delete reference to the Fugitive Unit. The Sheriff seeks to eliminate the entire existing paragraph D that provides for flexible schedules for all of the designated units presently included in this paragraph. I find insufficient record evidence that would warrant awarding the Sheriff's proposal to eliminate the flexible work hours for the units presently stated in Section D or to delete the Fugitive Unit as proposed by the FOP.

### **ARTICLE 8 - OVERTIME**

Although the parties have reached certain stipulations concerning the overtime provision, several sections of the Article remain in dispute. For the purpose of clarity, I state the stipulations reached by the parties concerning overtime.

Section D.: Replace the phrase "Door 4, 50 Rancocas and the First Floor" with "main entrance".

Section F: Delete in its entirety.

Section O: Delete in its entirety and replace as follows

“Officers assigned to the K-9 Unit will receive an additional two (2) hours of pay weekly, at the overtime rate, for off-duty care of their canine partners and for answering telephone inquiries. All off-duty K-9 service call outs must be approved by the Unit Supervisor or the Sheriff. Upon leaving their residence and signing on to central, the officer will be compensated at the appropriate rate. The Sheriff shall retain the discretion to select officers to whom to assign K-9 duties.”

I next set forth the proposals of each party concerning Overtime that remain in dispute. The FOP’s proposals mainly concern circumstances under which the payment of overtime is required. It proposes the following:

Delete Section A. in its entirety and replace with the following:

- A. Except as specified in paragraph “D” below, all overtime shall be distributed equally and by seniority, whenever practicable, from a list maintained by the Sheriff’s Department for the Officers covered by this agreement who have been certified by the Police Training Commission and those Officers employed prior to the enactment of the Police Training Act of 1968 provided that such Officers qualify annually in the handling of their weapons. **Outside overtime shall be posted in a detail specific manner (i.e. consecutive days and/or weekends for the same detail shall be posted on the same sign up sheet).**

Delete Section B. in its entirety and replace with the following:

- B. **All in-house overtime shall be distributed on a rotating basis in order of seniority. Each Division of the Sheriff’s Department (i.e. courts, Civil Process, Warrant Unit, etc.) shall maintain a list of officers for purposes of overtime selection. If overtime position cannot be accommodated by the respective Division, then said overtime position shall be offered to other Divisions for consideration and fulfillment.**

In Section C., replace the phrase “Paragraph ‘A’” with **“Paragraph ‘B’”**.

Amend Section L.1. as follows:

- L. a. An officer may accrue up to a maximum of one hundred eighty (180) hours of compensatory time in any calendar year, which may be paid to the officer upon request and approval by the Sheriff. Officers will not be paid for any compensatory time over and above the **one hundred eighty (180) hours** limit. **No more than 130 hours of unpaid compensatory time may be carried over to the following calendar year. Officers shall not accrue more compensatory time after the maximum of one hundred eighty (180) hours has been reached.**

Delete Section P. and replace with the following as a new Article:

~~P. Officers working extra jobs (e.g., to assist local law enforcement) will be paid at the same rate as officers from the jurisdiction(s) in which they are working the same detail. This applies when an outside contractor (example PSE&G) is paying the jurisdiction or the County.~~

NEW ARTICLE – **EXTRA-DUTY**

- A. In all cases where an outside party seeks to have police work performed through the Department of the Sheriff, then such service shall be considered as covered by this Article. For all purposes a Sheriff's officer so employed shall be considered as in the employ of the County during such service. Said officer shall be subject to all of the rights, duties and limitations of the Department and shall be considered to be on duty by the Department. All aspects of the employer/employee relationship between the office and the Department are applicable to such duty. The officer on duty shall receive compensation from the employer subject to all appropriate deductions. It is the specific intent of the parties that said officer while so engaged shall be considered for all purposes to be on duty and under the control and employ of the Burlington County Sheriff's Department.
- B. Effective January 1, 2020, the rate shall be a minimum of eighty-five dollars(\$85.00) per hour for work for a third party vendor. The employer shall be entitled to keep ten dollars (\$10.00) per hour, charged against the above stated rate, as an administrative fee to defray such costs as workers'

compensation, liability insurance, social security deductions, pension contributions, etc. Should the County increase the administrative charge, the hourly rate paid to the officer shall be raised by a similar amount. A flat rate of fifty dollars (\$50.00) per day will be charged to the vendor for use of a vehicle that shall be separate and apart from the hourly rate expressed above.

- C. Each employee shall receive compensation for each hour of extra-duty performed with a minimum of two (2) hours of compensation per assignment. If an extra-duty assignment is cancelled by a third party vendor two (2) hours prior to the scheduled start time, the employee assigned shall receive payment for a minimum of four (4) hours of work. In the event emergency extra-duty assignment is required, the employee assigned said duty shall receive compensation in the amount of ninety-five dollars (\$95.00) per hour and shall be guaranteed a minimum of three (3) hours of pay per emergency assignment. An emergency shall be defined as any assignment made with less than four (4) hours notice.
- D. In the event a third party vendor fails to appear to the job location or leaves earlier than scheduled, the employee assigned the extra-duty shall receive full compensation for the scheduled assignment.
- E. All moneys due and owing to the individual employee by reason of his/her performance of extra-duty shall be paid on the payroll date next succeeding the completion of the date of such extra-duty assignment. An additional one dollar (\$1.00) per hour shall be added for the use of an Employee's personal automobile when required. All work over eight (8) hours shall be paid at the time and one-half (1-1/2) hourly wage.

The Sheriff proposes the following changes to Article 8 – Overtime:

Delete Paragraph A. in its entirety and replace with the following:

- A. All outside overtime details shall be posted in a detail specific manner (i.e. consecutive days and/or weekends for the same detail shall be posted on the same signup sheet) and shall be distributed on a rotating basis in order of seniority from a list maintained by the Sheriff's Department for the Officers.

Delete Paragraph B. in its entirety and replace with the following:

- B. All in-house overtime shall be distributed on a rotating basis in order of seniority. Each Division/Unit of the Sheriff's Department (i.e. Courts, Civil Process, Warrant Unit, etc.) shall maintain a list of officers for purposes of overtime selection in their own Division or Unit. If the overtime position cannot be accommodated by the respective Division/Unit, then said overtime position shall be offered to other Divisions/Units for consideration and fulfillment.

In Paragraph C., replace the phrase "Paragraph 'A'" with "Paragraphs A & B".

Delete the first sentence of Paragraph D. and replace with the following:

- D. When relief cannot be provided, or whenever overtime is required on a given assignment, said overtime shall be offered first to the Officer already working on that job assignment at that time. Overtime up to 14 minutes past the Officer's regular shift shall not be compensated. Any overtime of 15 minutes or more shall be compensated at 15-minute intervals and can be taken as compensatory or paid overtime.

Paragraph G, shall be modified to read: Overtime compensation shall be granted for any time worked outside the regular shift as set forth under Article 7, Paragraph A. with the exception of a change in an Officer's regular shift pursuant to Article 7, Paragraph B.

Delete all of Paragraph H. in its entirety.

Amend Paragraph L. as follows:

- L(1). An officer may accrue and/or maintain a maximum of one hundred eighty (180) hours of compensatory time. Compensatory time is earned in lieu of paid overtime and shall not be cashed in. Officers will not be paid for any compensatory time over and above the one hundred eighty (180) hour limit.
- L(2). Delete.
- L(3). Becomes L(2) and will be replaced as follows: Requests for the use of accrued compensatory time can be requested at any time and shall be granted like vacation time unless such

time off interferes with the proper and efficient operations of the Department.

M. Delete.

#### Discussion and Award on Article 8 – Overtime

In respect to Section A, the FOP has proposed to delete Section A in its entirety and to add an additional sentence to the end of the paragraph. However, its proposed deletion of existing language appears in its final offer prior to the addition of the language it seeks to add. The additional language it seeks states: “Outside overtime shall be posted in a detail specific manner (i.e. consecutive days and/or weekends for the same detail shall be posted on the same signup sheet).” The Sheriff’s proposal concerning Section A also seeks to delete the existing language in paragraph A that the FOP has also proposed to delete. Following its proposal to delete the existing paragraph A, the Sheriff, similar to the FOP, has proposed to add language concerning the distribution of overtime. The additional language the County seeks to add states the following: “All outside overtime details shall be posted in a detail specific manner (i.e. consecutive days and/or weekends for the same detail shall be posted on the same signup sheet) and shall be distributed on a rotating basis in order of seniority from a list maintained by the Sheriff’s Department for the Officers.”

The FOP opposes the additional language concerning the distribution of overtime that the County has proposed in favor of the language it has proposed. The FOP contends that the County’s proposal is not practical because an officer

would be required to sign up for an overtime detail each day the detail is going to take place, even if the officer is either unavailable or chooses not to select outside overtime on consecutive days and/or weekends that the detail is performed. It submits that the problem it sees with the County's proposal would be resolved by not including the overtime opportunity on the same signup sheet. The County responds that its language would provide for a fair allocation of outside overtime opportunities and that its proposal incorporates language originally proposed by the FOP.

Because the parties' proposals in paragraph B also deals with the distribution of overtime (although they center on in-house rather than outside overtime), I will address their proposals in conjunction with a review of paragraph A. The FOP's final offer proposal is to delete Section B in its entirety and replace it with the following: "All in-house overtime shall be distributed on a rotating basis in order of seniority. Each Division of the Sheriff's Department (i.e. courts, Civil Process, Warrant Unit, etc.) shall maintain a list of officers for purposes of overtime selection. If overtime position cannot be accommodated by the respective Division, then said overtime position shall be offered to other Divisions for consideration and fulfillment." The Sheriff's final offer proposal concerning Section B mirrors the FOP's proposal, although it does not appear in the Stipulations of the Parties. The FOP, citing testimony from Lodge 166 President Diana Rodriguez, states objection to the unit specific overtime that would be created which allegedly could result in limiting overtime opportunities for officers in particular units. The

County, similar to the rationale it expressed regarding paragraph A, submits that the proposal was in line with that originally proposed by the FOP and that it would result in a fair allocation of overtime.

The Sheriff additionally offers a proposal regarding Paragraph C. Paragraph C now contains reference solely to paragraph A. According to the County, the change it has proposed to paragraph C would only be for the purpose of memorializing reference to the proposed new paragraphs A and B and applying the existing reference to seniority after overtime is refused by another officer.

In respect to Article 8 – Overtime, Paragraph A, I award the Sheriff's proposed language. The FOP's objection as to whether outside overtime opportunities would be limited by posting the opportunity on the same signup sheet can be assessed in the future after the parties' gain experience with the distribution of overtime under the new language.

In respect to Paragraph B, because the parties' final offer proposals are identical, although absent an appearance in their Stipulations, I award the language that each party has proposed. In respect to Paragraph C, it is reasonable to replace the reference to Paragraph A to both Paragraphs A and B, thereby clarifying that the seniority list is applicable to both paragraphs. Accordingly, the County's proposal concerning Paragraph C is awarded.

I next turn to the County's proposal concerning Paragraph D. It proposes to delete Paragraph D in its entirety. The existing language states the following:

Whenever overtime is required on a given assignment, said overtime shall be offered first to the Officer already working on that job assignment at that time, and the remaining Officer or Officers shall be placed in their positions on the list and thereafter personnel shall be selected by seniority as set forth in Paragraph "A" through "C", inclusive, above. The provisions of this paragraph shall remain the same on all posts with the exception of Door 4, 50 Rancocas and the First Floor, as these three overtime posts are excluded from the daily rotation overtime list.

It seeks to replace existing paragraph D with the following language:

When relief cannot be provided, or whenever overtime is required on a given assignment, said overtime shall be offered first to the Officer already working on that job assignment at that time. Overtime up to 14 minutes past the Officer's regular shift shall not be compensated. Any overtime of 15 minutes or more shall be compensated at 15-minute intervals and can be taken as compensatory or paid overtime.

The FOP urges rejection of the Sheriff's proposal which revises the formula for compensating when overtime is earned. It submits, by way of example, that if the Sheriff's proposal were to be awarded, it would reduce overtime compensation pursuant to the existing formula which provides overtime once an officer works eight (8) minutes beyond the tour of duty and receives fifteen (15) minutes of overtime. The Sheriff submits that its proposal is necessary to address situations when relief time cannot be provided or when overtime is required for a given assignment. In respect to the time intervals for earning overtime, the Sheriff

submits that its proposal relates to a prior Memorandum issued by the prior Sheriff in 2016.

I do not award the Sheriff's proposal revising the designated time intervals for earning overtime. Those intervals were set forth in an October 5, 2016 Memorandum issued by a former Sheriff in consultation with the FOP. (C. Ex. 3).

That Memorandum provided the following:

At our last meeting with F.O.P. Lodge #166, we were asked to consider changing the way overtime is earned to a system that would compensate personnel who must remain in working status as shown below:

1 – 7 minutes over = No compensation  
8 – 22 minutes over = 15 minutes of overtime  
23 – 37 minutes over = 30 minutes of overtime  
53 – 67 minutes over = 60 minutes of overtime

I am amenable to granting this request and it will apply both to officers and support staff. We will implement this practice effective Monday, October 10. As always, overtime must be approved in advance by your supervisor. If you have any questions, please consult with your supervisor.

I find insufficient evidence to change the designated time intervals for earning overtime.

The remaining language proposed by the County is consistent with the existing language. The new paragraph D shall state:

When relief cannot be provided, or whenever overtime is required on a given assignment, said overtime shall be offered first to the Officer already working on that job assignment at that time.

The Sheriff proposes to modify Article 8, Section G. It currently reads:

Overtime compensation shall be granted for any time worked outside the regular shift as set forth under Article 8, Paragraph B with the exception of a change in an Officer's regular shift pursuant to Article 8, Paragraph C.

The Sheriff's proposal states:

Overtime compensation shall be granted for any time worked outside the regular shift as set forth under Article 7, Paragraph A. with the exception of a change in an Officer's regular shift pursuant to Article 7, Paragraph B.

According to the Sheriff, this proposal is intended to incorporate language addressing the stipulated change to Paragraph A by replacing the proposed change in Paragraph B instead of Paragraph C. I award the proposed change. It is consistent with the new language in Paragraphs A and B and carries forward the essence of the parties' intent in the previous Agreement concerning overtime compensation.

The Sheriff also proposes to delete Article 8, Paragraph H. Paragraph H now reads:

Whenever an Officer is required to work through such Officer's normal one-half hour lunch, the Officer may request a later lunch break. The granting of such request shall be at the discretion of the Sheriff if the workload permits. If an Officer's request is not granted by the Sheriff, he shall be compensated at the overtime rate pursuant to paragraph L of this Article.

According to the Sheriff, the deletion of Paragraph H is logical and rational in light of the parties' stipulation that provides for a one-half hour paid lunch break. The concerns raised in FOP testimony, if they materialize, would be grievable if proven to be inconsistent with the Sheriff's obligation under the new language. I award the proposal to delete Paragraph H given the new language changing the work schedule from eight and one-half (8 ½) consecutive hours per week, including a one-half hour unpaid lunch break, to eight (8) consecutive hours per day including a one-half hour paid lunch break.

Each party proposes revisions to Paragraph L. The existing provision states:

- L. Any Officer who works "overtime" as defined in this article shall be compensated at the Officer's election either in cash or in the form of compensatory time off under the following conditions:
  - 1. Any officer may accrue up to a maximum of one hundred eighty (180) hours of compensatory time in any calendar year, which may be paid to the officer upon request and approval by the Sheriff. Officers will not be paid for any compensatory time over and above the 180 hour limit. No more than 130 hours of unpaid compensatory time may be carried over to the following calendar year.
  - 2. Requests for the use of accrued compensatory time shall be submitted in writing to the Sheriff no later than forty-eight (48) hours prior to the time the compensatory time is to be taken.
  - 3. Requests for the use of accrued compensatory time shall be granted unless such time off interferes with the proper and efficient operation of the Sheriff's Office.

The FOP proposes to amend Paragraph L(1) to read as a new Paragraph L(a)<sup>8</sup>:

- L. a. An officer may accrue up to a maximum of one hundred eighty (180) hours of compensatory time in any calendar year, which may be paid to the officer upon request and approval by the Sheriff. Officers will not be paid for any compensatory time over and above the one hundred eighty (180) hours limit. ~~No more than 130 hours of unpaid compensatory time may be carried over to the following calendar year.~~ **Officers shall not accrue more compensatory time after the maximum of one hundred eighty (180) hours has been reached.**

The Sheriff's proposal in regard to Paragraph L(1) is as follows:

- L(1). An officer may accrue and/or maintain a maximum of one hundred eighty (180) hours of compensatory time. Compensatory time is earned in lieu of paid overtime and shall not be cashed in. Officers will not be paid for any compensatory time over and above the one hundred eighty (180) hour limit.

Although the FOP has proposed a modification to Paragraph L(1), it emphasizes its opposition to the Sheriff's proposal is that would eliminate the ability of officers to cash in compensatory time earned in lieu of overtime. It points out they can currently carry 130 hours over to the following year and they may cash it in at their request. It regards the Sheriff's proposal as limiting a financial benefit. The Sheriff contends that Paragraph L(1) is "obsolete" because officers do not actually accrue more than 100 hours due to their ability to cash out compensatory time at certain times of the year. The Sheriff expresses the concern

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<sup>8</sup> Reference to L(a) appears to be a typo and appears as intended to be L(1).

over the budget uncertainties present in the existing provision and expresses the belief that unit employees should not have an ability to cash out compensatory time and instead use it solely as compensatory time.

After review of the parties' submissions concerning modification to Paragraph L(1), I conclude that neither party's proposal should be awarded and instead that the status quo on the compensatory time language remain.

The Sheriff has also proposed to delete Paragraph L(2). Paragraph L(2) concerns accrued compensatory time. The sheriff submits that the existing Paragraph L(2) would be obsolete if its proposal regarding the removal of cashing out compensatory time is awarded. Because the Sheriff's proposal in Paragraph L(1) has not been awarded, I also do not award the Sheriff's proposal to delete Paragraph L(2).

The Sheriff also proposes to modify Paragraph L(3). The change would allow request for the use of accrued compensatory time to be granted like vacation time. The Sheriff submits that this proposal represents a positive benefit to employees and would provide them with more flexibility to utilize their compensatory time. The FOP expresses no opposition to this proposal, but it does not appear in the Stipulations of the Parties. I do not award this proposal because the record is not sufficiently clear as to the inter-relationship between the granting of vacation time and how its use would affect the utilization of compensatory time.

If, as the Sheriff contends, this is a positive benefit and would provide more flexibility to officers to utilize compensatory time, the FOP may stipulate to its inclusion in the new agreement.

The Sheriff has also proposed to delete Paragraph M. Paragraph M currently states:

In recognition of flexible schedules of Sheriff's Officers assigned to the Civil Process Unit, the Warrants Unit, Special Investigations Unit and the Fugitive Unit, the entitlement to overtime compensation shall accrue after completion of eight (8) hours of paid service, other than sick leave, in any work day and/or forty (40) hours of paid service, other than sick leave, in any work week.

According to the Sheriff, the deletion of Paragraph M would be appropriate based on its proposal to do away with references to flexible time for designated units under the proposal it made to Article 7 – Work Schedules. Because the Sheriff's proposal concerning the elimination of flexible time for designated units was not awarded, there is no basis to delete the existing Paragraph M.

The FOP has proposed to add a new article to the Agreement it defines as EXTRA DUTY. Currently, extra duty is covered in Article 8, Paragraph P. Paragraph P states:

Officers working extra jobs (e.g., to assist local law enforcement) will be paid at the same rate as officers from the jurisdiction(s) in which they are working the same detail. This applies when an outside contractor (example – PSE&G) is paying the jurisdiction or the County.

Under the FOP's proposal to add a new article concerning EXTRA DUTY, Article 8, Paragraph P would be deleted in favor of the new language. The language in the new article it proposes states the following:

- A. In all cases where an outside party seeks to have police work performed through the Department of the Sheriff, then such service shall be considered as covered by this Article. For all purposes a Sheriff's officer so employed shall be considered as in the employ of the County during such service. Said officer shall be subject to all of the rights, duties and limitations of the Department and shall be considered to be on duty by the Department. All aspects of the employer/employee relationship between the office and the Department are applicable to such duty. The officer on duty shall receive compensation from the employer subject to all appropriate deductions. It is the specific intent of the parties that said officer while so engaged shall be considered for all purposes to be on duty and under the control and employ of the Burlington County Sheriff's Department.
  
- B. Effective January 1, 2020, the rate shall be a minimum of eighty-five dollars(\$85.00) per hour for work for a third party vendor. The employer shall be entitled to keep ten dollars (\$10.00) per hour, charged against the above stated rate, as an administrative fee to defray such costs as workers' compensation, liability insurance, social security deductions, pension contributions, etc. Should the County increase the administrative charge, the hourly rate paid to the officer shall be raised by a similar amount. A flat rate of fifty dollars (\$50.00) per day will be charged to the vendor for use of a vehicle that shall be separate and apart from the hourly rate expressed above.
  
- C. Each employee shall receive compensation for each hour of extra-duty performed with a minimum of two (2) hours of compensation per assignment. If an extra-duty assignment is cancelled by a third party vendor two (2) hours prior to the scheduled start time, the employee assigned shall receive payment for a minimum of four (4) hours of work. In the event emergency extra-duty assignments are required, the employee assigned said duty shall receive compensation in the amount of ninety-five dollars (\$95.00) per hour and shall be guaranteed a minimum of three (3) hours of pay per

emergency assignment. An emergency shall be defined as any assignment made with less than four (4) hours notice.

D. In the event a third party vendor fails to appear to the job location or leaves earlier than scheduled, the employee assigned the extra-duty shall receive full compensation for the scheduled assignment.

E. All moneys due and owing to the individual employee by reason of his/her performance of extra-duty shall be paid on the payroll date next succeeding the completion of the date of such extra-duty assignment. An additional one dollar (\$1.00) per hour shall be added for the use of an Employee's personal automobile when required. All work over eight (8) hours shall be paid at the time and one-half (1-1/2) hourly wage.

I find insufficient record evidence to warrant the deletion of the existing provision and to replace it with the newly proposed article. The existing provision regulates the amount of compensation received based on the rate of compensation officers receive in that jurisdiction. While this may not provide for a uniform rate of hourly compensation, depending on where the extra duty is performed, there is no evidence that the present method is inequitable or has not provided for increases in rates the Sheriff's Officers have received or has otherwise adversely affected unit employees. Accordingly, I do not award the proposal.

### **ARTICLE 9 – HOLIDAYS**

The only remaining issue beyond the Stipulations of the Parties on Article 9 – Holidays, is the Sheriff's proposal to delete Paragraph E. Paragraph E concerns the Community Policing Unit which it represents is no longer maintained in the Sheriff's Department. Accordingly, in the absence of contradiction to this representation, Paragraph E shall be deleted pursuant to the Sheriff's proposal.

## ARTICLE 10 – VACATION

The FOP and Sheriff have stipulated to amend certain sections of the existing Article 10 – Vacation pursuant to the FOP’s proposal. Several other proposals of both parties remain which mainly concern procedural and notice issues concerning the submission of vacation requests. I do not find sufficient basis to award any of the parties’ remaining proposals that would alter the status quo.

## ARTICLE 11 – SICK LEAVE

The parties have stipulated to adding a new section that would allow employees on on-duty injury leave to continue to accrue sick leave and vacation credits while an employee remains on payroll. Other proposals of both parties remain at impasse.

The FOP has proposed to amend Sections A.1 and A.2. Its proposals reflect the additions and deletions it seeks.

1. New employees shall receive eight **(8)** hours sick leave credit for the initial month of employment. ~~if he/she begins work on the 1st through the 8th day of the calendar month. Employees who begin work on the 9th through 23rd day of the month shall receive four hours credit for that month. Employees who begin work after the 23rd day of the month shall not receive any paid sick leave for that month. All such time shall be credited on the 1st day of the following month.~~
2. After the initial month of employment and up to the end of the first calendar year, employees shall have eight **(8)** hours of sick

**leave credited ~~for on~~ the first day of ~~the next each~~ month ~~for each month~~ of service. After completion of the first calendar year of service ~~one (1) year of service~~, each employee shall be credited on January 1st of each year with ~~be eligible for one hundred twenty (120) hours for each of year of service.~~ of paid sick leave per year.**

The FOP submits that the modifications it seeks are consistent in theme with the proposed modifications it has sought in Article 10 – Vacation which the Sheriff has agreed to. While there are similarities in the structures of each proposal, the FOP proposals revising sick leave credit do not sufficiently reflect the different nature of the two distinct types of paid leave provisions. The FOP has not established that the revision to the vacation provision is a basis for crediting an employee with sick leave immediately upon hire rather than prorating the time during the initial month of employment. Accordingly, I do not award the changes the FOP has proposed.

The Sheriff has proposed to add language to Section H that would alter the employee notification period for receipt of sick leave from “prior to the commencement of the normal workday” to “at least one (1) hour before prior to the commencement of the normal working day.” The FOP opposes the changes citing witness testimony from its President that the substance of the proposal is already memorialized in County policies. This being the case, I award the Sheriff’s proposal. The “without just cause” language in Section H continues to be applicable in circumstances where an officer is unable to meet the notice requirement upon proof that exigent circumstances prevented the officer’s ability to meet the notice requirement. Paragraph H shall read:

An employee who does not expect to report for work because of personal illness for any of the reasons included in the definition of sick leave above set forth shall notify his immediate supervisor, by telephone or personal message at least one (1) hour before prior to the commencement of the normal work day. If an employee does not report as stated above without just cause, as determined by the Sheriff, such employee will suffer loss of pay.

## **ARTICLE 16 – BREAKS**

Currently, Article 16 – Breaks provides:

All employees on Court detail shall receive two (2) fifteen (15) minute breaks, one in the morning and one in the afternoon to be scheduled at the discretion of their supervisor. If the supervisor does not permit the break, the Officer is to be paid for the break time at the straight time rate or said time may be added to the officer's lunch break.

The Sheriff proposes to delete the current provision and replace with the following:

All employees working Courts detail shall receive two (2) fifteen (15) minute breaks, one in the morning and one in the afternoon. Said breaks are to be requested by the employee or to be scheduled at the discretion of their supervisor. If the employee cannot take their break due to being out on the road, or if the supervisor does not grant the break due to efficiency of operations, said time may be added to the officer's lunch break.

According to the Sheriff, its proposal would benefit the officers because they would have the right to request when they want to take their breaks.

The FOP objects to the County's proposal. It cites the testimony of Lodge #166 President Rodriguez that an officer may not be able to take a lunch break.

Further, it submits that if lunch has already passed, the County's proposal would not adequately allow an officer to take the break in the afternoon because the officer would have missed out on the opportunity to add it to the lunch break.

I do not award the County's proposal. There is insufficient evidence that the change it seeks would, as it asserts, benefit the officers. The status quo should continue until such time that it is revised in any future negotiations.

### **ARTICLE 17 – MILITARY DUTY**

Currently, Article 17 – Military Duty provides:

The existing federal and state statutes with regard to leave for military service in their present state or as they may be amended will be observed by both parties hereto. The benefits under these applicable statutes shall be provided for any eligible employee in this bargaining unit.

The County seeks to add the following language in a new sentence to the existing terms set forth above:

“Officers must provide their official orders to their supervisors.”

According to the Sheriff, its proposal to require official orders would only apply when an officer requests to receive paid time for the Military Leave. The FOP objects to the proposal. However, its objection appears to be directed to circumstances when an officer requests to receive time off for military activity without reference to the request being connected to one where paid time off has

been requested for the time off. The parties also disagree on what their respective rights are under the Uniformed Services Employment and Reemployment Rights Act (USERRA).

The existing provision already requires the parties to observe existing federal and state statutes with regard to leave for military service. Because this record does not sufficiently reflect that the Sheriff's concerns cannot be met under existing federal and state statutes, its proposal is not awarded.

#### **ARTICLE 20 – EDUCATION BENEFITS**

Article 20 – Education Benefits currently provides for the reimbursement of courses up to the equivalent of the cost of six undergraduate credit hours per semester at Rutgers, the State University. The FOP seeks to add new language that would provide for annual educational incentives to base pay in dollar amounts relating to the type of degree achieved to be added to annual base salary. Based on the statutory limitation in the CAP law to add new base salary provisions to an existing agreement, this proposal is not awarded.

The County has also proposed to modify Article 20 by changing the amount of reimbursement from that at Rutgers, the State University, to Rowan College of Burlington County. The FOP submits that such change would cause a reduction in the amount of reimbursement currently received by almost \$300 per credit hour.

I find that the Sheriff's proposal would provide a disincentive to unit members to continue their educational benefits and accordingly, it is not awarded.

### **ARTICLE 21 – UNIFORMS**

Each party has made proposals to amend Article 21 – Uniforms. Article 21, Section E provides for replacement and reimbursement of certain personal items destroyed or damaged by violent and intentional acts during the course of employment. The FOP's proposal to amend Section E appears in its final offer as follows:

- E. Personal items destroyed or damaged by violent and intentional acts during the course of employment shall be replaced and repaid by the County and reimbursement shall be made to the employee based on voucher submission and proof of loss. Personal items include eyeglasses, prescription sunglasses, contact lenses, dentures, wedding bands, engagement rings, **and watches, and cellular phones. Replacement and repayment for watches shall not exceed one hundred fifty dollars (\$150).** Such reimbursement shall require appropriate receipts for the cost of equal replacement.

As is evident, the FOP seeks to add cellular phones to personal items listed and to lift the dollar cap that now exists for the replacement and repayment of "watches."

The Sheriff has also proposed to modify Section D. It agrees to the FOP's request add "cellular phones" to the personal items listed but rejects the FOP's proposal to have no dollar limitation, as now provided, to the cost of reimbursement and replacement for watches and cellular phones. Instead, it proposes to increase

the existing contractual amount of limitation from one hundred fifty (\$150) dollars to four hundred (\$400) dollars.

I find the Sheriff's proposal to increase the cost of replacement and repayment to be a reasonable adjustment during this contract term. The new Section D shall read:

- E. Personal items destroyed or damaged by violent and intentional acts during employment shall be replaced and repaid by the County. Reimbursement shall be made to the employee based on voucher submission and proof of loss. Personal items include eyeglasses, prescription sunglasses, contact lenses, dentures, wedding bands, and engagement rings. Replacement and repayment for watches, and cellular phones shall not exceed four hundred (\$400) dollars. Such reimbursement shall require appropriate receipts for the cost of equal replacement.

The FOP has also proposed to amend Article 21 – Section I. It would add the underlined sentence to the existing language:

- I. If the Sheriff should decide at any time to change the style and/or the color of the uniform, each Officer shall receive an initial issue of the newly designated uniform as prescribed in the uniform issue of this Article and such issue shall be made at County expense. **In addition, the cost of any modification or addition to the uniform or any part thereof, shall also be borne by the County.**

The FOP has not established that the existing language requiring the County, at its expense, to provide an initial issue of newly designated uniforms insufficient to require the County to bear the cost of any modifications or additions to the uniforms. Accordingly, the proposal is denied.

The County has proposed to add language to Article 21 – Section A to include its right to require the “class type of uniform” to be worn. The added language appears in bold below.

- A. The parties expressly recognize that it is the employer’s exclusive and unilateral right to determine whether any or all of its employees shall be required to wear uniforms, **the “class type” of uniform**, and/or adhere to other dress requirements.

According to the Sheriff, the added language is simply a recognition of its existing prerogative to determine the uniforms to be utilized. I find the Sheriff has not established a need to clarify its authority under the existing language. The proposal is denied.

The County has also proposed to amend Article 21 – Section C. Section C currently provides for the identification of the “standard uniform issue.” The lengthy list of items that are proposed to amend to Section C are represented by the County only to reflect the existing uniforms and equipment as presently provided by the Sheriff’s Department. I also note that the amendment adds to the number of items currently issued under the existing Section C. No objection has been voiced to the Sheriff’s representations. I award the County’s proposal to amend Section C as follows:

- C. Amend as follows:

The standard uniform issue shall include the following:

1. Class "A" Uniform Items
  - a. Long Sleeve Black Button-down Shirt (2)
    - i. Brand and Model to be determined by Sheriff
  - b. Short Sleeve Black Button-down Shirt (2)
    - i. Brand and Model to be determined by Sheriff
  - c. Pants – Black with gray stripe (2)
    - i. Brand and Model to be determined by Sheriff
  - d. Class "A" shirt badge
  - e. B.C. / S.D. Collar Brass
    - i. Silver – Officer
    - ii. Gold – Sergeant and Above
  - f. Tie
  - g. Tie Bar
    - i. Silver – Officer
    - ii. Gold – Sergeant and Above
  - h. Hat
  - i. Hat Badge
    - i. Silver – Officer
    - ii. Gold – Sergeant and Above
  - j. Name Tag
    - i. Silver - Officer
    - ii. Gold – Sergeant and Above
2. Class "B" Uniform Items
  - a. Long Sleeve Black Button-down shirt (3)
    - i. Brand and Model to be determined by Sheriff
  - b. Short Sleeve Black Button-down shirt (3)
    - i. Brand and Model to be determined by Sheriff

- c. Pants – Black with gray stripe (3)
  - i. Brand and Model to be determined by Sheriff
- 3. Outerwear / Footwear
  - a. Duty Jacket – Black
    - i. Brand and Model to be determined by Sheriff
  - b. Raincoat – Reversible
    - i. Brand and Model to be determined by Sheriff
  - c. Hat Cover – Reversible
    - i. Brand and Model to be Determined by Sheriff
  - d. Shoes or Boots
    - i. Brand and Model to be determined by Sheriff
- 4. Equipment
  - a. Ballistic Vest – To be determined by Sheriff
  - b. Duty Weapon – To be determined by Sheriff
  - c. Duty Weapon Holster – To be determined by Sheriff
  - d. Ammunition Pouch – Black Nylon & Black Smooth Leather
  - e. Single Handcuff Pouch – Black Nylon & Black Smooth Leather
  - f. One set of Handcuffs with key
  - g. Latex glove pouch – Black Nylon & Black Smooth Leather
  - h. Baton – Make and Model determined by Sheriff
  - i. Baton Holder – Make and Model determined by Sheriff
  - j. Belt Keepers – Black Nylon (4) & Black Leather (4)
  - k. OC Spray – Type and Model determined by Sheriff
  - l. OC Spray Holder – Black Nylon & Black Smooth Leather
  - m. Outer Duty Belt – Black Nylon & Black Smooth Leather

- n. Inner Belt – Black Nylon & Black Smooth Leather
- o. Wallet Badge – Make and Style to be determined by Sheriff
- p. Wallet - Make and Style to be determined by Sheriff
- q. Portable Radio – Make and Model to be determined by Sheriff
- r. Portable Radio Charger – Make and Model to be determined by Sheriff

The Sheriff has also proposed to add the word “uniforms” to “equipment” in Section D.<sup>9</sup> Section D now refers to the maintaining of inventory of available equipment by the Sheriff and the addition the Sheriff proposes is intended to clarify that the inventory is also meant to include “uniforms.” The proposed change is awarded.

## **ARTICLE 27 - TRAINING**

Article 27 – Training currently provides:

Beginning on January 1, 2015, all officers agree to attend mandatory training as may be scheduled and required by the Sheriff. Training shall be scheduled between January 2 and June 1 of each year (excluding Easter and Thanksgiving weeks) and between September 15 and November 15 of each year. Officers shall be notified of the dates of training no later than two weeks prior to the date officers are required to submit vacation requests to the Sheriff. During the weeks scheduled for training, no time off will be provided except by permission of the Sheriff. Each officer is mandated to attend one week of training.

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<sup>9</sup> Its proposal references Section C but appears to be directed at Section D.

The County proposes to delete “Beginning on January 1, 2015” and add a new sentence stating: “Training may take place outside of regular work schedules without compensation.” The language “beginning on January 1, 2015” is superfluous given the clear language that follows stating “all officers agree to attend mandatory training as may be scheduled and required by the Sheriff.” The deletion is awarded. The remaining language is not awarded due to insufficient evidence reflecting what impact the change, if any, would have to the status quo.

### **ARTICLE 29 – FIELD TRAINING OFFICERS**

Article 29 – Field Training Officers currently provides:

Commencing November 1, 2013, Officers serving in the capacity of Field Training Officer are eligible for a yearly stipend in the amount of \$350 to be paid when an officer performs field training functions (with acceptable documentation) for a period of 120 hours during the year from November 1 through October 31. Officers will receive an additional \$100 stipend for each 120 hours actually expended as a field training officer over and above the initial 120 hours (with no pro-rata payment) per year.

The County proposes to delete “commencing November 1, 2013” and add a sentence stating “Stipend is to be paid on the First (1st) Pay Period of November.”

The language “commencing November 1, 2013” is superfluous given the clear language that provides a process going forward for the payment of a yearly stipend and eligibility for an additional stipend. The deletion is awarded. The

remaining language is not awarded due to insufficient evidence reflecting whether the proposal represents a change to the status quo.

### **ARTICLE 33 – GRIEVANCE AND ARBITRATION PROCEDURE**

The County has proposed modifications to the identity of the public employer as is currently set forth in Article 33. Specifically, the County would delete reference to “Board of Freeholders” in Step 1, delete Step 2 which now provides an appeal from an adverse determination by the Sheriff to the Board of Chosen Freeholders. The Sheriff also proposes to replace language referring to the “Board” to “Sheriff or designee” in Step 3.

The existing Agreement was entered into by the Board of Chosen Freeholders of the County of Burlington and the Sheriff of Burlington County. The legal designation of the Board of Freeholders is now “the Burlington County Board of Commissioners.” The latter reference should be included in Article 33 to reflect the proper legal designation. Absent a stipulation as to replacing the Burlington County Board of Commissioners in Step 2, I decline to make any additional changes to Article 33. This will allow the parties to examine the legal relationship between the Board of Commissioners and Sheriff in respect to the authority to make determinations on pending grievances and to amend Step 2 accordingly.

## ARTICLE 26 – SAFETY AND HEALTH

The parties have stipulated to a modification of Paragraph E which expands safety equipment to include disposable surgical masks and hand sanitizer. The stipulation provides:

Amend. E. as follows:

- E. The Employer shall make safety equipment available in vehicles, holding cell areas, lobbies of all County buildings, and the first floor of all three (3) County courthouses, to which officers are assigned. The safety equipment shall include, but not limited to:

CPR vomit masks (Lateral Model 830011 or better)  
Eye Goggles  
Face Shields  
First Aid Kits (as determined by the Sheriff)  
Latex Rubber Gloves  
Disposable Surgical Masks  
Hand Sanitizer

Equipment shall be inspected and repaired, replaced, or refilled, if found, in the opinion of the Sheriff, to be deficient in operation or supply.

What remains is the FOP's proposal to revise Section D. Its proposal would continue the Sheriff's obligation to provide free medical tests for contagious diseases but would extend the obligation to "treatment." Section D would read:

- D. The Employer agrees to provide the hepatitis A and hepatitis B series of three (3) inoculations to all bargaining unit members if they have not previously received this vaccine. The Employer shall also provide free medical tests **and treatment** for any employee who has on the job exposure to, contact sufficient to raise a concern for contraction of a contagious disease, including but not limited to AIDS, tuberculosis, Lyme disease, herpes; but excluding colds, flu and other minor illnesses. Should the Sheriff or designee following an investigation of the matter determine that the exposure was not as a result of the officer's unique duties, the officer may be required to repay the County for the cost of such test.

Given the fact that the agreement already provides for comprehensive health and medical insurance and benefits, the FOP has not provided sufficient evidence as to what the specific obligations of the Sheriff would be concerning treatment beyond that which is currently provided in the insurance program. Accordingly, this proposal is not awarded.

### **NEW ARTICLE – HAZARD PAY**

The FOP proposes to add a new article titled Hazardous Duty Pay. Its proposal is as follows:

- A. Hazard differential pay shall be considered additional pay for any employee assigned to perform hazardous duty or work involving physical hardship. A duty shall be considered hazardous if it involves extreme physical discomfort or distress especially if protective devices will not entirely mitigate the danger or hardship involved; and/or it could result in serious injury/illness or death.
- B. The County shall compensate an employee in the performance of a hazardous duty with a 20% premium over the employee's regular hourly wage. This differential shall be paid for all of the hours in which the employee is scheduled to work said hazardous duty. Furthermore, an employee shall receive hazard pay differential for any work performed during overtime hours associated with the hazardous duty.
- C. Hazard pay differential shall be warranted under the following conditions:
  - 1) whenever a State or County Emergency is declared;
  - 2) for exposure to a physical hardship;
  - 3) for exposure to a hazardous condition.

In circumstances where hazardous pay is warranted, the employer has a responsibility to initiate positive action to eliminate any danger

and risk which may contribute to or cause the physical hardship or hazard.

In its post-hearing submission, the FOP offers the following arguments in support of its proposal:

The interest and welfare criterion also has direct applicability in another economic proposal being sought by F.O.P. #166, namely its “hazard pay” proposal. In its final offer, F.O.P. #166 seeks “hazard pay” for the most recent conditions that its members have been forced to endure. In particular, F.O.P. #166 proposed the payment of “hazardous duty pay” for members assigned to perform “hazardous” or work involving extreme physical discomfort or distress, particularly if protective devices will not entirely mitigate the danger/hardship, or work that could result in serious injury/illness or death. The County’s duty to pay such hazard pay is specifically triggered when a State or County emergency is declared, for exposure to a physical hardship, or for exposure to a hazardous condition. The proposal provides for hazard pay compensation of twenty percent (20%) premium over the employee’s regular hourly wage. It would be payable only for those shifts actually worked and, in addition, the proposal also provides for hazard differential pay for any hazard duty/work performed when a member is working overtime for every hour worked.

As Officer Diaz indicated during the underlying hearings, F.O.P. #166 members routinely work in less than favorable conditions following the onset of the COVID-19 pandemic. The pandemic has created novel and unique circumstances for the members of F.O.P. #166. Due to their status as “essential employees,” the members of F.O.P. #166 have been required to continue reporting for duty throughout the pandemic, despite the risks posed by COVID-19. In fact, once the pandemic struck, Sheriff’s Officers and County Correctional Police Officers are likely the only County employees that have been required to continually report for duty day in and day out. As such, F.O.P. #166 members were immediately confronted with a substantially increased risk of exposure, right at the start of the pandemic which continues to date.

Officer Diaz provided compelling testimony illustrating this:

Q. ...Over the past year, Officer Diaz, have the men and women employed by the Burlington County Sheriff’s Department had to work in hazardous conditions as a result of the pandemic?

A. Of course because of the pandemic we were dealing with the public before the shutdown, before anyone even knew it was happening we are dealing with the public. We are still dealing with the public now, the few that we are allowing to come in as of the past month or so ago, two months ago, we started to let the public come in. We have had instances where we have been notified that a person that was in the building had tested positive. We weren't made aware of that. It found out after the fact. We have received emails explaining that to us. If you walk in through that front door, even though we have our masks on and...we are cleaning our hands and so on, if someone that comes through and has it and they expose themselves by taking their mask off...it's in the air, so who's to say that we weren't exposed or not, that we weren't exposed, but we get an email a day or two later...and they found out they were positive, but that was it. There was no follow up in regards to having our guys tested or anything like that.

Q. Have you had officers who have contracted COVID-19?

A. Yes.

[1T75:3-76:7.]

The COVID-19 virus has ravaged law enforcement officers in the State of New Jersey unlike any other group of first responders. Many have been infected with the virus resulting in extended hospital stays and, regrettably, many have perished. As a result, certain counties within our State have recognized the sacrifices that its law enforcement officers have been making and have increased their compensation through the award of hazardous duty pay during this outbreak. In addition to the foregoing, seven (7) states and numerous municipalities within those states have raised the pay of first responders in some way or another to compensate for the hazardous duties associated with their employment during this crisis. The difficulties faced by Sheriff's Officers on a daily basis while working with this virus are extreme. Not only must they endure all of the dangers associated with the profession that they normally face, but now they must also worry about contracting this deadly disease, dying from its complications, and bringing it home and placing their families at risk.

More to the point, on April 22, 2020, the Morris County Board of Chosen Freeholders passed County Resolution 2020-296 (RES-2020-296). That resolution authorizes the Morris County Administrator to offer hazard pay to certain bargaining units made up of essential employees and first responders during the COVID-19 pandemic, to include, without

limitation, the County's Sheriff's Officers. RES-2020-296 provides for three (3) months of hazard pay commencing on March 9, 2020, and concluding on June 9, 2020. The Resolution recognized the County's awareness that these men and women have courageously placed their own health at risk by personally addressing and responding to the direct emergency and critical needs of the public.

It is against this backdrop that F.O.P. #166 submits its hazardous duty pay proposal in this matter. It would provide for the compensation of an officer with twenty percent (20%) premium over the officer's regular hourly wage when he or she engages in the performance of a hazardous duty, as defined above. The proposal was submitted on the basis that the men and women who make up F.O.P. #166 have been effectively working without a "safety net" to adjust to significant occupational challenges posed by the COVID-19 pandemic. The hazard pay proposal accounts for this reality and seek to secure appropriate compensation in light of the tireless work of the officers.

Since the onset of the pandemic, officers have worked under anxiety inducing conditions, simply based on the fact that they fear possibly infecting loved ones and bringing the infection home based upon their regular contact with the public or through their obligation to apprehend suspects that may have the virus. Moreover, the additional pay could legally be financed through the Federal CARES Act funding the County received in connection with the pandemic. For all of these reasons, F.O.P. #166 believes this to be a reasonable proposal that should be granted in this matter.

I do not award the FOP's proposal. It cannot be disputed that the onset of the Covid-19 pandemic has created challenges to the performance of law enforcement work. However, there is no evidence that any other County employee, including other law enforcement personnel, receives additional compensation, whether it be 20% premium or any other level of compensation. There are also ambiguities as to when, and under which circumstances, the pay and its amounts would be triggered. Also, given the contract duration that has been awarded, the parties are free to raise this issue anew with greater specificity to the language that has now been proposed.

## **NEW ARTICLE – OFFICER IN CHARGE**

The FOP proposes to add a new article titled Officer in Charge. Its proposal is as follows:

At any time during an Officer's tour of duty, should he/she be assigned the work, duties and/or responsibilities of an acting supervisor, Sergeant, or Lieutenant, said officer shall be entitled to compensation at the minimum hourly rate of pay for the rank so assigned after two (2) hours on the assigned duty.

In its post-hearing submission, the FOP offers the following support for its proposal:

The last proposal sought by F.O.P. #166 concerns out of title work and applies when an officer is assigned the work, duties, or responsibilities of an acting supervisor, Sergeant, or Lieutenant during their particular tour of duty. This newly proposed article would provide for payment at the rank so assigned to the officer. However, the County's obligation to pay this rate only triggers once the officer has worked two (2) hours in that capacity.

During his testimony Officer Diaz noted that it is not uncommon for these situations to arise at the Department. (1T78:22-79:14). In such instances, this proposal would allow for the officer performing duties at a higher rank to be paid accordingly. Again, this would only apply when he or she has worked in that role for at least two (2) hours. The proposal is indisputably fair, as it otherwise works as a windfall to the County. For instance, if an officer is asked to step into the role of a Sergeant in a given situation, the County currently has no obligation under the collective negotiations agreement to pay that officer at the Sergeant's rate, thus benefitting from the fact that an officer will be filling the role of the Sergeant without having to pay him or her in accordance with that Sergeant's regular rate of pay. Conversely, the proposal recognizes that there are instances where an officer may be asked to step into that role in a limited fashion or for a short period of time and in such situations, the County should not be required to pay that increased rate if the total amount of time is less than two (2) hours.

Accordingly, this is a fair and practical proposal and there is no reasonable basis for refusing it. Thus, F.O.P. #166's Officer in Charge proposal should be granted.

The FOP's proposal is conceptually reasonable. It would provide incentive and reward for an officer who assumes the responsibilities of an acting supervisor, Sergeant or Lieutenant. However, as proposed, the implementation could give rise to uncertainty and unnecessary grievances without further specificity as to whether the duties have actually been assigned or performed. Accordingly, I will award the proposal with modified language. I award the following:

At any time during an Officer's tour of duty, should the Sheriff or his designee formally assign the Officer to perform the job responsibilities of an acting supervisor, Sergeant, or Lieutenant, said Officer shall be entitled to compensation at the minimum hourly rate of pay for the rank so assigned after two (2) consecutive hours that the Officer has performed the assignment.

## **ARTICLE 22 – HEALTH BENEFITS**

The FOP proposes changes to Article 22 that would modify the current level of health benefits annual premium contributions that unit employees presently make. Employees are now subject to Chapter 78 contribution levels at Tier or Year 4 percentages. The percentage contribution levels are linked to the salary range an employee currently receives. The percentage rate for premium contributions at the maximum level is 35%. Contribution levels are now negotiable and constitute the status quo for the purpose of negotiating change. The FOP's proposal would reduce Chapter 78 employee contribution levels to a maximum of 26.25% as reflected in its proposal which states as follows:

Amend Section 1. as follows:

1. Health Insurance Plan Offerings. Eligible employees shall be given the option of coverage for themselves and their dependents through one of the four contributory, comprehensive County-funded medical, optical and prescription plans which are described below. **Commencing on January 1, 2021 and thereafter, the cost of said coverage shall be borne by the County with employees paying the percentage designated in Exhibit A below as an annual contribution towards the cost of health benefits:**

**EXHIBIT A**

**HEALTH BENEFITS ANNUAL PREMIUM CONTRIBUTION RATES  
FOR SINGLE COVERAGE AS OF JANUARY 1, 2020**

<b>Salary Range</b>	
Less than 20,000	3.38%
20,000-24,999.99	4.125%
25,000-29,999.99	5.625%
30,000-34,999.99	7.50%
35,000-39,999.99	8.25%
40,000-44,999.99	9.00%
45,000-49,999.99	10.50%
50,000-54,999.99	15.00%
55,000-59,999.99	17.25%
60,000-64,999.99	20.25%
65,000-69,999.99	21.75%
70,000-74,999.99	24.00%
75,000-79,999.99	24.75%
80,000-94,999.99	25.50%
95,000 and over	26.25%

**HEALTH BENEFITS ANNUAL PREMIUM CONTRIBUTION RATES  
FOR FAMILY COVERAGE AS OF JANUARY 1, 2020**

<b>Salary Range</b>	
Less than 25,000	2.25%
25,000-29,999.99	3.00%
30,000-34,999.99	3.75%
35,000-39,999.99	4.50%
40,000-44,999.99	5.25%
45,000-49,999.99	6.75%
50,000-54,999.99	9.00%
55,000-59,999.99	10.50%
60,000-64,999.99	12.75%
65,000-69,999.99	14.25%
70,000-74,999.99	16.50%

75,000-79,999.99	17.25%
80,000-84,999.99	18.00%
85,000-89,999.99	19.50%
90,000-94,999.99	21.00%
95,000-99,999.99	21.75%
100,000-109,999.99	24.00%
110,000 and over	26.25%

**HEALTH BENEFITS ANNUAL PREMIUM CONTRIBUTION RATES  
FOR PARENT/CHILD COVERAGE AS OF JANUARY 1, 2020**

<b>Salary Range</b>	
Less than 25,000	2.625%
25,000-29,999.99	3.375%
30,000-34,999.99	4.50%
35,000-39,999.99	5.25%
40,000-44,999.99	6.00%
45,000-49,999.99	7.50%
50,000-54,999.99	11.25%
55,000-59,999.99	12.75%
60,000-64,999.99	15.75%
65,000-69,999.99	17.25%
70,000-74,999.99	19.50%
75,000-79,999.99	20.25%
80,000-84,999.99	21.00%
85,000-99,999.99	22.50%
100,000 and over	26.25%

The specific copays, deductibles, coinsurance, limits and other terms of each plan shall not be altered except through agreement of the parties. To the extent the County proposes to alter any of the foregoing, the parties agree to meet in good faith to address such proposed modifications. The four plans to be offered are as follows:

In support of its proposal, the FOP submits that contribution levels are now negotiable. The FOP cites to other law enforcement units and specified municipalities where Chapter 78 contributions toward the cost of health care have been negotiated and reduced through a variety of different ways. The FOP cites this evidence as reflecting a trend and submits that its proposal to reduce contributions from the Tier 4 to the Tier 3 level is consistent with that trend and

reasonable given that its proposal would not be effective until January 1, 2021. The FOP further cites to its cost analysis reflecting that the additional cost to the County would only be approximately \$59,000. The FOP acknowledges that a similar analysis conducted by the County reflected a cost of approximately \$68,000 which it views as a negligible difference in cost.

The County urges that the proposal to reduce health benefit premium contribution rates be rejected. Although it estimates the additional cost to this unit at approximately \$68,000, it submits that an award of the proposal would impact on all of its other unions who would demand the same or similar reductions. On this point, it cites the testimony of its CFO, Carolyn Havlick who testified that the County would incur additional costs of over \$1,000,000 annually if the same reductions were provided to other units on a county-wide basis.

I do not award the FOP's proposal for the following reasons. There is no other unit who has negotiated reductions in contributions. More importantly, its proposal would be effective January 1, 2021<sup>10</sup>. That effective date falls outside of the contract duration that I have awarded. For this reason, the evidence which needs to be developed by the parties to grant or deny this or any similar proposal can be assessed during their negotiations for the agreement that succeeds the one that has been awarded.

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<sup>10</sup> I note that the charts submitted in support of the proposal provide a January 1, 2020 effective date but given the FOP's presentation at hearing and its formal arguments, it appears that the reference to 2020 in its charts is merely a typographical error.

Although I have not awarded the Chapter 78 “relief” proposed by the FOP during the 2018-2020 contract, under all of the circumstances of this case, I award language which will relieve unit employees of making retroactive payments in health insurance premiums as a result of the retroactive salary increases caused by the Award. The status quo on the Chapter 78 Tier 4 schedule shall remain with any increase in contributions commencing on the first pay period after the implementation of the new salary schedules.

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

### **AWARD**

1. All proposals by the County and the FOP 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. **Article 48 – Term and Renewal** – There shall be a three (3) year contract effective January 1, 2018 through December 31, 2020.

Article 48 shall be modified to provide:

This Agreement shall be in full force and effect as of the beginning of January 1, 2018 and remain in full force and effect up, to including and through the full date of December 31, 2020 or any other date on which a substitute or successor agreement shall be entered into by and between the parties in accordance with the then applicable statutes and rules and regulations of the Public Employment Relations Commission, or applicable New Jersey Superior Court decisions.

3. **Stipulations of the Parties**

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

1. **ARTICLE 2- DUES CHECK OFF AND AGENCY SHOP**

Delete all references to "Agency Shop" and related provisions (Paragraph B, subparagraphs 1-4) as a result of the US Supreme Court Janus decision.

In the first sentence of Paragraph A. replace the phrase "each month" with "bi-weekly".

2. **AMEND ARTICLE 3 – COLLECTIVE NEGOTIATIONS**

Amend Section D. as follows:

D. The Employer shall permit four (4) members of the Association's negotiating Committee to attend Collective Negotiating meetings during the duty hours of the members. ~~However, only three (3) members of such Committee shall be permitted to attend such meetings without loss of pay or time.~~

3. **AMEND ARTICLE 7 – WORK SCHEDULES**

Amend Section A., as follows:

A. The regular schedule for Sheriff's Officers shall be Monday through Friday, with starting and ending times between the hours of 6:30 AM and 5:30 PM as designated by the Sheriff in his sole discretion. The work day shall be eight (8) consecutive hours per day including one-half hour paid lunch break. During the paid one-half hour lunch break all officers shall be subject to immediate recall. The work week shall be forty (40) hours per week. Said work days shall be followed by two (2) consecutive days off.

Add K-9 Officers shall have a 37.5-hour workweek.

E. Delete Existing Paragraph E and replace with: "Range days will be exempt from work schedule parameters as set forth in Paragraph A."

4. **AMEND ARTICLE 8 – OVERTIME**

In Section D., replace the phrase "Door 4, 50 Rancocas and the First Floor" with "main entrance".

Delete Section F. in its entirety.

- O. Delete and replace as follows: “Officers assigned to the K-9 Unit will receive an additional two (2) hours of pay weekly, at the overtime rate, for off-duty care of their canine partners and for answering telephone inquiries. All off-duty K-9 service call outs must be approved by the Unit Supervisor or the Sheriff. Upon leaving their residence and signing on to central, the officer will be compensated at the appropriate rate. The Sheriff shall retain the discretion to select officers to whom to assign K-9 duties.”

**5. ARTICLE 9 – HOLIDAYS**

Amend Paragraph A. as follows:

- A. The following paid holidays will be observed:
  - 1. January 1, known as New Year’s Day
  - 2. Third Monday in January, known as Martin Luther King’s Birthday
  - 3. February 12, known as Lincoln’s Birthday
  - 4. Third Monday in February, known as Washington’s Birthday
  - 5. Good Friday
  - 6. Last Monday in May, known as Memorial Day
  - 7. July 4, known as Independence Day
  - 8. First Monday in September, known as Labor Day
  - 9. Second Monday in October, known as Columbus Day
  - 10. General Election Day
  - 11. November 11, known as Veteran’s Day
  - 12. Fourth Thursday in November, known as Thanksgiving Day
  - 13. Friday after Thanksgiving
  - 14. December 25, known as Christmas Day

**6. AMEND ARTICLE 10 – VACATION**

Amend Section A. and Section B. as follows:

- B. After the initial calendar year month of employment and up to the end of the first calendar year, all employees shall receive one (1) working day, credited on the first day of the following month, for each month of service. Thereafter, all employees shall receive paid vacation as follows:

~~1 year and up to 5 years 12 days~~

~~After 5 years and up to 12 years 15 days~~

~~After 12 years and up to 20 years 20 days~~

~~After 20 years and over 25 days~~

From commencement of the 2nd year to completion of the 4th year  
12 days

From commencement of the 5th year to completion of the 11th year  
15 days

From commencement of the 12th year to completion of the 19th  
year 20 days

From commencement of the 20th year to completion of the 24th year 25 days

Amend Section F.7. as follows:

F.7. Vacation time requests of ~~five (5) days or more~~ made by February 1st of any year, and granted, shall vest, shall not be subject to bumping, and shall not be subject to cancellation except in the event of a dire emergency requiring mobilization of the entire Department.

**7. AMEND ARTICLE 11 – SICK LEAVE**

Insert the following new Section:

Any employee on injury leave, resulting from injury on duty, shall continue to accrue sick leave and vacation credits while said employee remains on the County payroll.

**8. ARTICLE 19 – JURY DUTY**

Amend as follows:

“If an employee is called to serve on a Jury, such employee shall continue to receive his regular pay and the service time will not be deducted from his vacation if his Jury check is turned over to the County Treasurer’s Office for the number of days absent from his employment. This time must be reported on the daily report form. Once an employee has been dismissed by Jury Management for the day, said employee shall not be required to return to work and may leave for the remainder of the day.”

**9. ARTICLE 21 – UNIFORMS**

Delete Paragraph J. Replace with new Paragraph J. : Commencing January 1, 2021, each Officer shall receive seven hundred and fifty dollars (\$750.00) annually for the purchase and maintenance of uniforms. Said allowance shall be payable in a lump sum in the first pay period in January of each year by separate check and not be included in the employee’s regular payroll check.

**10. AMEND ARTICLE 26 – SAFETY AND HEALTH**

Amend. E. as follows:

E. The Employer shall make safety equipment available in vehicles, holding cell areas, lobbies of all County buildings, and the first floor of all three (3) County courthouses, to which officers are assigned. The safety equipment shall include, but not limited to:

CPR vomit masks (Lateral Model 830011 or better)  
Eye Goggles

Face Shields  
First Aid Kits (as determined by the Sheriff)  
Latex Rubber Gloves  
Disposable Surgical Masks  
Hand Sanitizer

Equipment shall be inspected and repaired, replaced, or refilled, if found, in the opinion of the Sheriff, to be deficient in operation or supply.

**11. AMEND ARTICLE 28 – EMT CERTIFICATION**

Officers holding a valid and current EMT Certification shall receive a yearly \$350 five hundred dollar (\$500.00) stipend to be paid on November 1 on the first (1st) pay period in November of each year beginning on November 1, ~~2012~~ 2018.

**12. AMEND ARTICLE 31 – EQUIPMENT AND VEHICLE SAFETY**

Insert new Section C. as follows:

C. Proper safety equipment shall be included in the vehicles including, but not limited to: hand sanitizer, rubber gloves, N95 Respirator Masks, EMT bags, etc.

**13. ADD NEW ARTICLE – BEREAVEMENT LEAVE**

Employees shall be entitled to utilize paid bereavement leave of up to three (3) working days for the death of an immediate family member, which shall not exceed fifteen (15) total bereavement days in a calendar year. "Immediate family" shall be defined per the sick leave article of this Agreement. The definition of "immediate family" may be expanded by County Administrator with approval of Human Resources. If bereavement leave is exhausted, an employee may utilize sick, holiday, comp, personal and vacation time in that order may be used for bereavement.

**14. PROPOSED NEW ARTICLE – FUNERAL EXPENSES**

In the event an officer is killed in the line of duty or from injuries sustained while working, the County shall pay without delay the sum of ten thousand dollars (\$10,000.00) toward funeral and related expenses to the employee's surviving spouse and/or dependents, regardless of the amounts for such expenses received from other sources. If there is no immediate family, the ten thousand dollars (\$10,000.00) sum shall be paid to the employee's estate.

**15. THROUGHOUT THE ENTIRE CONTRACT THE FOLLOWING CHANGES SHALL BE MADE**

Change "Freeholders" to "Commissioners"  
Change "New Jersey Department of Personnel" with "Civil Service Commission"

4. **Article 8 – Overtime**

Article 8 shall be modified to provide:

- Section A. All outside overtime details shall be posted in a detail specific manner (i.e. consecutive days and/or weekends for the same detail shall be posted on the same signup sheet) and shall be distributed on a rotating basis in order of seniority from a list maintained by the Sheriff's Department for the Officers.
- Section B. All in-house overtime shall be distributed on a rotating basis in order of seniority. Each Division of the Sheriff's Department (i.e. courts, Civil Process, Warrant Unit, etc.) shall maintain a list of officers for purposes of overtime selection. If overtime position cannot be accommodated by the respective Division, then said overtime position shall be offered to other Divisions for consideration and fulfillment.
- Section C. Replace the phrase "Paragraph 'A'" with "Paragraphs A & B".
- Section D. When relief cannot be provided, or whenever overtime is required on a given assignment, said overtime shall be offered first to the Officer already working on that job assignment at that time.
- Section H. Overtime compensation shall be granted for any time worked outside the regular shift as set forth under Article 7, Paragraph A. with the exception of a change in an Officer's regular shift pursuant to Article 7, Paragraph B.

5. **Article 9 – Holidays**

Article 9 shall be modified to delete Paragraph E.

6. **Article 11 – Sick Leave**

Article 11, Paragraph H shall be modified to provide:

- H. An employee who does not expect to report for work because of personal illness for any of the reasons included in the definition of sick leave above set forth shall notify his immediate supervisor, by telephone or personal message at least one (1) hour before prior to the commencement of the normal work day. If an employee does not report as stated above without just

cause, as determined by the Sheriff, such employee will suffer loss of pay.

7. **Article 21 – Uniforms**

Article 21, Paragraph C shall be modified to provide:

The standard uniform issue shall include the following:

1. Class “A” Uniform Items
  - a. Long Sleeve Black Button-down Shirt (2)
    - i. Brand and Model to be determined by Sheriff
  - b. Short Sleeve Black Button-down Shirt (2)
    - i. Brand and Model to be determined by Sheriff
  - c. Pants – Black with gray stripe (2)
    - i. Brand and Model to be determined by Sheriff
  - d. Class “A” shirt badge
  - e. B.C. / S.D. Collar Brass
    - i. Silver – Officer
    - ii. Gold – Sergeant and Above
  - f. Tie
  - g. Tie Bar
    - i. Silver – Officer
    - ii. Gold – Sergeant and Above
  - h. Hat
  - i. Hat Badge
    - i. Silver – Officer
    - ii. Gold – Sergeant and Above
  - j. Name Tag
    - i. Silver - Officer
    - ii. Gold – Sergeant and Above
2. Class “B” Uniform Items

- a. Long Sleeve Black Button-down shirt (3)
    - i. Brand and Model to be determined by Sheriff
  - b. Short Sleeve Black Button-down shirt (3)
    - i. Brand and Model to be determined by Sheriff
  - c. Pants – Black with gray stripe (3)
    - i. Brand and Model to be determined by Sheriff
3. Outerwear / Footwear
- a. Duty Jacket – Black
    - i. Brand and Model to be determined by Sheriff
  - b. Raincoat – Reversible
    - i. Brand and Model to be determined by Sheriff
  - c. Hat Cover – Reversible
    - i. Brand and Model to be Determined by Sheriff
  - d. Shoes or Boots
    - i. Brand and Model to be determined by Sheriff
4. Equipment
- a. Ballistic Vest – To be determined by Sheriff
  - b. Duty Weapon – To be determined by Sheriff
  - c. Duty Weapon Holster – To be determined by Sheriff
  - d. Ammunition Pouch – Black Nylon & Black Smooth Leather
  - e. Single Handcuff Pouch – Black Nylon & Black Smooth Leather
  - f. One set of Handcuffs with key
  - g. Latex glove pouch – Black Nylon & Black Smooth Leather
  - h. Baton – Make and Model determined by Sheriff
  - i. Baton Holder – Make and Model determined by Sheriff
  - j. Belt Keepers – Black Nylon (4) & Black Leather (4)
  - k. OC Spray – Type and Model determined by Sheriff
  - l. OC Spray Holder – Black Nylon & Black Smooth Leather

- m. Outer Duty Belt – Black Nylon & Black Smooth Leather
- n. Inner Belt – Black Nylon & Black Smooth Leather
- o. Wallet Badge – Make and Style to be determined by Sheriff
- p. Wallet - Make and Style to be determined by Sheriff
- q. Portable Radio – Make and Model to be determined by Sheriff
- r. Portable Radio Charger – Make and Model to be determined by Sheriff

D. Add: “uniforms” and equipment.

E. Personal items destroyed or damaged by violent and intentional acts during employment shall be replaced and repaid by the County. Reimbursement shall be made to the employee based on voucher submission and proof of loss. Personal items include eyeglasses, prescription sunglasses, contact lenses, dentures, wedding bands, and engagement rings. Replacement and repayment for watches, and cellular phones shall not exceed four hundred (\$400) dollars. Such reimbursement shall require appropriate receipts for the cost of equal replacement.

8. **Article 27 – Training**

Article 27 shall be modified to delete “Beginning on January 1, 2015.”

9. **Article 29 – Field Officer Training**

Article 29 shall be modified to delete “commencing November 1, 2013.”

10. **Article 33 – Grievance and Arbitration Procedure**

Article 33 shall be modified to provide:

The legal designation of the Board of Freeholders is now “the Burlington County Board of Commissioners.” The latter reference should be included in Article 33 to reflect the proper legal designation.

11. **Article 22 – Health Benefits**

The FOP’s proposal to revise Chapter 78 Tier 4 contribution levels is denied. No retroactive payments to health insurance contributions shall be made when retroactive salaries are paid for contract years 2018-2020 with

any increase in contribution levels commencing on the first pay period after the implementation of the new salary schedules.

12. **Article 6 - Salaries**

Article 6 shall be modified to provide:

1. Effective and retroactive to the beginning of January 1, 2018, each Officer, Sergeant and Lieutenant shall move one step on the applicable 2017 Salary Guide (Guides A & B for Officers and the separate Guides for Lts. & Sgts). No increase shall be applied to the steps before Top Step. Effective and retroactive to January 1, 2018, Top Step on the Officer, Sergeant and Lieutenant Salary Guides shall be increased by 1.95%.
2. Effective and retroactive to January 1, 2019, Top Step on the Officer, Sergeant and Lieutenant Salary Guides (Guides A & B for Officers and the separate Guides for Lts. & Sgts) shall receive a 1.95% increase to base salary. No increase shall be applied to the steps before Top Step. Officers, Sergeants and Lieutenants below top step shall remain on the step they moved to as of January 1, 2018.
3. Effective and retroactive to January 1, 2020, each Officer, Sergeant and Lieutenant shall move one step on the applicable 2019 Salary Guide (Guides A & B for Officers and the separate Guides for Lts. & Sgts). No increase shall be applied to the steps before Top Step. Effective and retroactive to July 1, 2020, Top Step on the Officer, Sergeant and Lieutenant Salary Guides shall be increased by 1.95%.
4. Retroactive payments shall be made only to active employees or employees who have retired after December 31, 2017 on a regular or disability pension.

**Appendix A  
Officers Salary Guide  
January 1, 2018 through December 31, 2020**

<b>Step</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
<b>Academy</b>	\$36,500	\$36,500	\$36,500
<b>FTO (0-2 Months)</b>	\$38,500	\$38,500	\$38,500
<b>1</b>	\$40,346	\$40,346	\$40,346
<b>2</b>	\$42,829	\$42,829	\$42,829

<b>3</b>	\$45,046	\$45,046	\$45,046
<b>4</b>	\$47,230	\$47,230	\$47,230
<b>5</b>	\$49,685	\$49,685	\$49,685
<b>6</b>	\$52,140	\$52,140	\$52,140
<b>7</b>	\$54,622	\$54,622	\$54,622
<b>8</b>	\$57,105	\$57,105	\$57,105
<b>9</b>	\$60,001	\$60,001	\$60,001
<b>10</b>	\$62,897	\$62,897	\$62,897
<b>11</b>	\$65,793	\$65,793	\$65,793
<b>12</b>	\$74,435	\$75,886	\$77,365

**Sergeant Salary Guide  
January 1, 2018 through December 31, 2020**

<b>Year</b>	<b>Less than or equal to 2 years</b>	<b>3-4 yr. Sergeant</b>	<b>Equal to or Greater than 5 years</b>
<b>2018</b>	\$78,901	\$81,133	\$83,326
<b>2019</b>	\$80,439	\$82,715	\$84,950
<b>2020</b>	\$82,007	\$84,327	\$86,606

**Lieutenant Salary Guide  
January 1, 2018 through December 31, 2020**

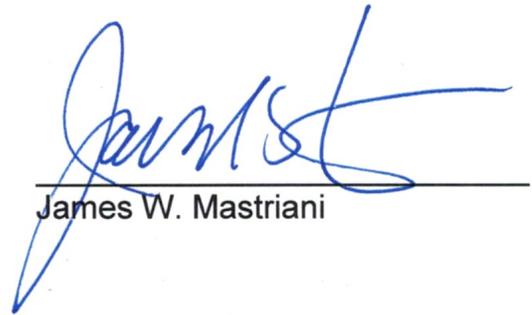
<b>Year</b>	<b>Salary</b>
<b>2018</b>	\$88,368
<b>2019</b>	\$90,091
<b>2020</b>	\$91,847

**Appendix B  
New Officer Salary Guide  
January 1, 2018 through December 31, 2020  
For New Officers hired after January 1, 2015**

<b>Step</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Academy	\$38,500	\$38,500	\$38,500
FTO (0-2 Months)	\$40,000	\$40,000	\$40,000
1	\$45,046.15	\$45,046.15	\$45,046.15
2	\$46,172.15	\$46,172.15	\$46,172.15
3	\$47,326.45	\$47,326.45	\$47,326.45
4	\$48,509.62	\$48,509.62	\$48,509.62
5	\$49,722.36	\$49,722.36	\$49,722.36
6	\$51,089.72	\$51,089.72	\$51,089.72
7	\$52,494.69	\$52,494.69	\$52,494.69
8	\$53,938.29	\$53,938.29	\$53,938.29
9	\$55,421.59	\$55,421.59	\$55,421.59

10	\$56,945.69	\$56,945.69	\$56,945.69
11	\$58,654.06	\$58,654.06	\$58,654.06
12	\$60,413.68	\$60,413.68	\$60,413.68
13	\$62,226.09	\$62,226.09	\$62,226.09
14	\$64,092.87	\$64,092.87	\$64,092.87
15	\$66,015.66	\$66,015.66	\$66,015.66
16	\$69,321	\$70,672	\$72,050

Dated: January 15, 2022  
Lincroft, New Jersey



James W. Mastriani

State of New Jersey     }  
County of Monmouth    }ss:

On this 15<sup>th</sup> day of January, 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.



Gretchen L Boone Notary Public New Jersey My Commission Expires 8-24-2022 No. 50066778
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