

STATE OF NEW JERSEY  
PUBLIC EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Interest Arbitration Between:

**CITY OF CAMDEN**

-and-

**Docket No. IA-2009-65**

**IAFF LOCAL 788**

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Before: Susan W. Osborn, Interest Arbitrator

Appearances:

For the Employer:  
Brown Connery, Attorneys  
(Michael DiPiero, of counsel)

For the IAFF:  
Kroll Heineman, Attorneys  
(Raymond Heineman, of counsel)

Witnesses:

Glynn Jones, Director of Finance  
Michael Nadol, Consultant, PFM Associates

**INTEREST ARBITRATION AWARD**

On March 4, 2009, IAFF Local 788 filed a Petition with the Public Employment Relations Commission to initiate interest arbitration over a successor collective negotiations agreement with the City of Camden. The previous agreement expired on December 31, 2008.

On August 14, 2011, Arbitrator J.J. Pierson issued his award. On August 23, the City appealed the award to the Public Employment Relations Commission. On October 27, 2011, the

Commission affirmed the award. The City then filed an appeal with the Appellate Division. On January 23, 2013, the Appellate Division vacated the award and remanded the matter for further proceedings before a new arbitrator. On February 12, I was appointed by the Commission by a random selection process pursuant to N.J.S.A. 34:13A-16(e)(1) to hear the case on remand. In the meantime, the City implemented the award in March, 2012 as will be more fully described below. IAFF has filed for leave to appeal to the New Jersey Supreme Court.

An interest arbitration hearing was held on April 2, 2013 at the law offices of City labor counsel. Both parties offered testimony and additional documentary evidence to supplement the existing record.<sup>1</sup> Both parties submitted Final Offers and calculations of the financial impact of their respective economic proposals. Post-hearing summations were filed on April 26, 2013, and the record closed on that date.

### **FINAL OFFER OF LOCAL 788**

**1. Article XXVI, Wages, Section 1:** Wages and guides shall be modified with the following increases:

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<sup>1</sup>By email of March 30, the City requested to amend its final offer to include additional proposals concerning Union Representation and Membership (Article III), Work Week (Article IX), and Funeral Leave (Article XV). By email of April 1, I denied the request, stating, "...a remand is not an opportunity to start the proceedings from scratch. Therefore, I will not permit proposals which are on entirely new subject matters not presented before the original arbitrator. I will, however, consider modified proposals concerning the length of the contract, salary and any other issue that was previously presented to the arbitrator."

January 1, 2009	2.5%
January 1, 2010	2.0%
January 1, 2011	2.0%
January 1, 2012	2.0%
January 1, 2013	0.0%
January 1, 2014	2.0%

Retroactive wage payments shall be to January 1, 2011,<sup>2</sup> based on the modifications to the salary guide as of that date.

**2. Article XXVII, Pay Period, Section 1: modify as follows:**

In years where there are 27 pay periods, the bi-weekly pay shall be adjusted so that the annual salary shall be paid over the 27 pay periods, but there shall be no adjustment of the hourly wage rate.

**3. Article VII, Vacations, Section 4: modify as follows:**

Notwithstanding any provision to the contrary, as of January 1, 2009, an employee may accumulate fifteen (15) vacation days in the calendar year to be carried over in the following year, but for no longer than the next year unless deferred by written notice to the employee by the Department and then the accumulated days shall expire at the end of the following calendar year if not used. The vacation accumulation for employees hired before January 1, 2009 shall be capped at the amount of accumulated vacation time on the City's records, as of December 31, 2008, and such employees shall be permitted to utilize any such accumulated time prior to retirement. If an employee hired prior to January 1, 2009 is unable to utilize the accumulated vacation prior to retirement, the vacation accumulated prior to December 31, 2008 shall be paid in full upon retirement. For employees

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<sup>2</sup> In its brief the IAFF proposed for the first time that retro payments be made back to November 1, 2010. Parties are not permitted to change their final offers after the hearing. Therefore, this proposed amendment to the final offer has not been allowed.

retiring prior to the execution of this Agreement, the vacation accumulated prior to December 31, 2008 shall be paid in full upon retirement.

4. **Article X, Sick Leave (Section 5 (New))**: add a new Section 5 as follows:

Effective January 1, 2010, and except for present employees employed prior to January 1, 2009 and who have an accumulation of sick time exceeding \$15,000, employees shall receive payment for unused accumulated sick time at the time of retirement or termination in an amount not to exceed \$15,000.

5. **Article XXX, Insurance, Health and Welfare**: shall be modified as follows:

Section 14: Upon the execution of a successor agreement, the co-pay for generic prescriptions shall be \$10.00<sup>3</sup> and the co-pay for brand name prescriptions shall be \$17.00.

Section 15: (New): Effective May 22, 2010, all employees shall contribute 1.5% of their base salary toward the cost of their insurance benefits. Effective June 28, 2011, all employees shall make contributions toward the cost of their insurance benefits in the amounts set forth in P.L. 2011 C.78. All employee premium contributions shall be deducted on a pre-tax basis as permitted by law.

Section 16 (New): Upon the execution of a successor agreement, the co-payment for Doctor's visits shall be \$20.00.

Section 17 (New): Effective January 1, 2013, the City shall have the option of implementing health benefits through the New Jersey State Health Benefits Program which are equal to or better than the level of benefits provided under the terms of this agreement.

6. The foregoing proposals are for a collective negotiations agreement from January 1, 2009 through

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December 31, 2014. Local 778 proposes that all other provisions of the parties' collective negotiations agreement, effective from January 1, 2005 through December 31, 2008, shall remain in full force, except those provisions upon which the parties have reached tentative agreement. The Union specifically rejects all proposals of the City not otherwise addressed by the foregoing. The Union reserves the right to make further counterproposals in response to proposals and counterproposals of the City.

**CITY'S FINAL OFFER**

[Added Language] [~~Deleted Language~~]

**Term of Agreement:** 5 Years- January 1, 2009 through December 31, 2013.

**Article IV - Retirement:** Amend the current language as follows: Delete Section 2 (terminal leave)

Section 6

All payments under this article, including sick, vacation, and holiday and terminal leave shall be paid as specified in the pay period following retirement. However, should the sum exceed \$45,000, the payment shall be paid in three (3) equal installments. ~~One third (1/3) at retirement and the remaining paid each July of the succeeding fiscal years.~~ Effective July 1, 2011, this sum shall not exceed a total payment of \$15,000.

Section 10

Accumulated Vacation- Holiday: All accumulative vacation and holidays on the books as of December 31, 1996 shall be carried over and paid out at the employee's salary rate at retirement, first in, first out shall apply, subject to the \$15,000 cap set forth in Section 6.

**Article VI- Vacation** - Amend the Article as follows:

Section 3

Vacation time must be taken in the year earned. When vacation time is affirmatively deferred by the City in

writing to the employee for any reason other than the fact that such period has been previously granted in accordance with Section I of this ARTICLE, then the employee shall be entitled to utilize such vacation time at a later period in the same calendar year or to be paid for same. Where vacation time is not deferred by written notice to the employee, said vacation days shall expire at the end of the following calendar year in which the days were earned.

#### Section 4

Notwithstanding any provisions to the contrary, an employee may accumulate fifteen vacation days in the calendar year to be carried over in the following calendar year. Days not utilized or otherwise affirmatively deferred by the City shall expire without compensation at the end of the following calendar year after said days are earned. This section shall be applied retroactively effective January 1, 2009 to all vacation time accrued after December 31, 1996.

### **Article XI- Injury On Duty Leave** - Amend the Article as

follows:

#### Section 1

If an employee in the line of duty is incapacitated and unable to work because of an injury or sickness related to or caused in the performance of his/her duties, provided such employee is on active duty at the time such injury or the illness occurs and the incapacitation and inability to work occurs within one ( 1) year of the incident giving rise to the injury or sickness, he/she shall be entitled to injury leave with full pay during the period in which he/she is unable to perform his/her duties, as certified by the Examining Physician, as appointed by the City. Such payments shall be discontinued when an employee is placed on disability leave pension and reduced by any payment received from Worker's Compensation or other similar plan.

**Article XII - Limited Duty Assignment** - Amend the Article as

follows:

Section 2

Such duty ~~shall~~may continue, at the discretion of the City, until the employee is certified as capable of returning to full duty by the Examining Physician.

Section 4 (New Section)

Nothing in this article shall create a duty on the part of the City to create or maintain light duty assignments where such assignments do not exist or are not efficient to the operations of the Department.

**Article XXVI - Wages** - Amend the Article as follows:

Section 1

The wages for employees shall be as provided for in Schedule A, attached hereto and made part hereof, and as provided for by an Ordinance to be adopted and reflect the following: ~~increases: \$1,500 to base salary on January 1, 2005, (2%) to base on January 1, 2006, (2%) to base on July 1, 2006, (1%) to base on January 1, 2007, (3%) to base on July 1, 2007, (4%) to base on January 1, 2008.~~

Effective July 1, 2011, all salaries and step increases for the term of this agreement shall be frozen.

Section 2

The practice of appointing employees to higher ranks in all acting capacity is discouraged. Any employee required to act in such higher ranking capacity after the completion of ~~one~~ five consecutive full shifts of work, shall receive pay commensurate with such position in which he/she acts.

The employee to be appointed temporarily to the higher ranking position shall be the employee who is placed highest on the current NJ Department of Personnel promotional list within his/her respective unit. At such time when there is no standing promotional list, employees to be appointed to the higher ranking position shall be the most senior employee in the Department assigned to that particular unit.

The starting salary for Fire Fighters shall be Twenty Five (\$25,000,00) dollars, The employee shall receive said amount through the completion if his/her working test period. Upon completion of the working test period, said employee shall receive the minimum salary set forth in the Collective Bargaining Agreement. ~~This provision shall be effective for all Fire Fighters hired after February 21, 2003.~~

**Article XXX - Insurance, Health And Welfare** - Amend the

Article as follows:

Section 1

The City shall continue to maintain and provide all insurance coverage as provided and set forth in the Plan Document. The City ~~represents that said shall~~ have the right to change insurance providers provided that the Plan is substantially similar or better than the Plan provided at the commencement of the agreement. negotiations, and that any disparity resulting in additional costs to the employee/member will be borne by the City.

Section 3

Notwithstanding other provisions of this Article, the City of Camden shall continue its Health Benefits Program, including all benefit and coverage levels, usual and customary rates and deductible charges for its employees and their families, subject to the conditions set forth in this Section.

Effective May 22, 2010, all employees shall contribute 1.5% of their base salary toward the cost of their insurance benefits.

Effective July 1, 2011, the City of Camden shall provide for 70% of the total cost of health insurance coverage (medical and prescription) for the employee and any qualifying dependents of the employee. While the employee shall be responsible for 30% of said costs. Under no circumstances, shall the minimum employee health insurance premium contribution be less than 1.5% of base salary for all



employees receiving any health insurance coverage from the City.

All employee premium contributions shall be deducted on a pre-tax basis as permitted by law. The City of Camden shall establish a Cafeteria Plan in accordance with the rules set forth by the Internal Revenue Service.

Section 4

Major Medical deductions shall be established on the basis of one hundred dollars (\$100.00) per year for individual coverage and two hundred and fifty dollars (\$250.00) per year for family coverage. The major medical lifetime maximum cap for current employees and retirees shall be one million dollars (\$1,000,000.00) to the extent permitted by law.

Section 5

Notwithstanding other provisions of this Article, the City reserves the right to change its Health Benefit Program and Benefit Administrator so long as the no less benefits are provided are substantially similar or better and that prior to such change that the City provide thirty (30) days' notice to the Union/Association for the purpose of review and comparison of all benefit and coverage levels, usual and customary rates and deductible charges.

The City will provide the Union/Association any and all plan documents of the current and proposed plans and allow the Union/ Association to have contact with any proposed Insurance Carrier or Health Benefit Plan Administrator. The Union/Association shall be permitted to present alternative Carriers or Administrators during the proposal notice period however, the City is not obligated to engage such Carriers or Administrators.

**Article XXXI -Holidays** - Amend the Article as follows:

Section 1

Effective January 1, 2012, employees shall receive 13 ~~eleven (11)~~ paid holidays per year. ~~for 2005 and 2006, they shall receive 14 paid Holidays per year effective January 1, 2007.~~

## Section 2

~~Any other holidays shall be such holidays as are declared by the Mayor, Governor or the President of the United States.~~

Section 3 2

An employee shall take his/her holidays at any time during the year. In the event that a request for a holiday is denied, then said holiday may be taken later in the year. In the event that there are any unused holidays at the end of the year, the employee shall be paid in lieu thereof.

Notwithstanding any other provision in the Article to the contrary, an employee shall be allowed to utilize all of such ~~thirteen (13)~~ eleven (11) paid holidays, or any portion thereof, in a single quarter of any calendar year for the purpose of attending bona fide college courses, provided verification of such attendance is presented to the City.

Section 4 3

Notwithstanding any other provision of this ARTICLE to the contrary, employees may carry over into the following year, five (5) accumulative holidays. ~~Payments for such accumulative holidays shall be paid to the employee at the employee's current rate of pay.~~ Days carried over and not utilized shall expire without compensation at the end of the following calendar year after said days are earned. This section shall be applied retroactively effective January 1, 2009 on all holidays accrued after December 31, 1996.

Section 5 4

All payment for accumulated holidays and vacations shall be paid at the employee's current pay at retirement, subject to the \$15,000 capitation set forth in Article IV. The City shall make available to all employees request forms upon which holidays are to be requested. A copy of such completed form with the action of the City with respect to the request noted thereon shall be provided to the employee.

Effective December 31, 2011, all longevity payments shall be eliminated for all employees both current and future.

**Article XXVII - Pay Period** - Amend the Article as

follows:

Section 1

Employees shall be paid every two (2) weeks for a period of fifty-two (52) weeks in accordance with the provision of the City Ordinance. However, on years where the total number of pay periods exceeds twenty-six (26), employees shall be paid in twenty-seven (27) equal installments.

**New Article- Management Rights -**

Section 1

The City of Camden hereby retains and reserves unto itself, without limitation, all powers, rights, authority, duties and responsibilities conferred upon and vested in it prior to the signing of this Agreement by the laws and Constitution of the State of New Jersey and of the United States including, but without limiting the generality of the foregoing. the following rights:

a. The executive management and administrative control of the City Government and its properties and facilities and activities of its Uniformed Firefighting Personnel utilizing personnel methods and means of the most appropriate and efficient manner possible as may from time to time be determined by the City.

b. To make rules of procedure and conduct. to use improved methods and equipment, to determine work schedules and shifts, to decide the number of Firefighters needed for any particular time and to be in sole charge of the quality and quantity of the work required. The right of management to make such reasonable rules and regulations as it may from time to time deem best for the purposes of maintaining order, safety and/or the effective operation of the Department after advance notice thereof to the Firefighters.

c. To hire all Firefighters to promote, transfer, assign or retain Firefighters in positions within the Township.

d. To suspend, demote, discharge or take any other appropriate disciplinary action against any Firefighters for good and just cause according to law.

e. To lay off Firefighters in the event of lack of funds under conditions where continuation of such work would be inefficient and non-productive.

f. The City reserves the right with regard to all other conditions of employment not reserved to make such changes as it deems desirable and necessary for the efficient and effective operation of the Fire Department.

#### Section 2

In the exercise of the foregoing powers, rights, authority, duties and responsibilities of the City the adoption of policies, rules, regulations, Code of Conduct and practices in the furtherance thereof, and the use of judgment and discretion in connection therewith, shall be limited only by the specific and expressed terms of this Agreement and then only to the extent such specific and expressed terms thereof are in conformance with the Constitution and laws of New Jersey and of the United States.

#### Section 3

Nothing contained herein shall be construed to deny or restrict the City of its rights, responsibilities and authority under any National, State, County or local laws or regulations.

### **BACKGROUND FACTS**

The expired contract covered the period January 1, 2005 through December 31, 2008. That contract provided increases of \$1500 (1/1/05), 2% (1/1/06), 2% (7/1/06), 1% (1/1/07), 1% (7/1/07), and 4% (1/1/08), for a total increase of more than 10% (before compounding) plus \$1500.

Although the parties met several times to negotiate a successor contract, negotiations were not successful, and on March 4, 2009, the IAFF filed a Petition for interest arbitration. On April 29, 2009, Arbitrator J.J. Pierson was appointed by mutual selection of the parties to serve as the interest arbitrator. After narrowing the issues in dispute, interest arbitration hearings were conducted over five sessions. The IAFF's final offer before Pierson called for salary increases of 3.75% for 2009, 2.5% in each year of 2010 and 2011, and 4.0% for 2012. The City's Final Offer included a proposed freeze on all wages and step increases for the life of the agreement, the elimination of all longevity payments for current and future employees, and a host of proposed benefit reductions. On August 14, 2011, Pierson issued his award.

In his award, Pierson granted across-the-board salary increases of 2.5% for 2009, 2.0% for 2010, 2.0% for 2011, and 2.0% for 2012. However, he limited retroactivity of the award for increases to base pay to January 1, 2011<sup>5,6</sup>. Pierson recognized in the award that the City did not have the financial resources to pay what he awarded, but found that the State, as

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<sup>4</sup>Pierson further limited the financial impact of his award by directing no adjustment to longevity payments for 2009 through the end of 2011. That is, he directed the longevity payments would continue based upon the 2008 salary levels, and would be recalculated effective January 1, 2012 based upon the guide in effect at that time.

the primary funding agent of the City's budget was a necessary party to the award, and directed the State to "provide for the City of Camden what the City cannot provide for itself", and in essence, to fund the award.

On August 23, 2011, the City appealed the award to PERC. On August 27 the Commission affirmed the arbitration award.

The City appealed the award to the Superior Court, Appellant Division and on January 29, 2013, the Court issued its decision. The Court found that the arbitrator "rendered an award which he acknowledged the City was unable to pay, ignored statutes he knew to be in effect in an attempt to shield employees from legislatively-mandated increases in employee contributions to health benefits; and ... included the State as a 'fourth party' to the award and the presumptive source of funds necessary to fund the award." The Court found that these errors were sufficient to vacate Pierson's award and remanded the matter for further proceedings before a new arbitrator.

In the meantime, while the appeal was pending before the Court, the City was statutorily mandated to implement the award [N.J.S.A. 34:13A-16(f)(5)(b)]. In this regard, the City paid out the following increases under the Pierson Award:

<u>DATE</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
3/30/2012	2011 Retro Under Remanded Award	103,035.92
5/25/2012	2011 & 2012 Retro Due to Delayed Implementation of Award	205,028.53
	2011 & 2012 Overtime Retro Pay	34,183.58
3/12/12- 2/1/13	Implementation of Awarded Increases	1,409,953.70
	<b>Total Paid on Pierso Award</b>	<b>1,752,201.73</b>

Beginning in February 2013, the City stopped including the Pierson increases in employee's regular paychecks and ratcheted back employees' salaries to the 2008 base pay rates. The City has apparently not yet initiated a process to recoup the \$1.75 million in overpayments.

On February 11, the Union filed a Notice of Petition for Certification with the New Jersey Supreme Court concerning the Appellate Division's vacation of the Pierson Award. The same day, the IAFF also filed an unfair practice charge with the Commission alleging that the City's roll-back of the salary increases violated Sections (a)(1) and (5) of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34: 13A-5.4 et seq. On February 15, it also filed an application for interim relief. On March 28, the Commission denied the interim relief application, finding that the Union had not demonstrated a substantial likelihood of success on the merits, as the issue was one of first impression.

Demographics:

The City of Camden is one of New Jersey's larger urban center which covers 8.68 square miles. It has a population of 77,344 and a population density of 9,625 residents per square mile. As the County seat of Camden County, it is host to County offices and courts. It is also home to Rutgers University Camden Campus, the headquarters of Campbell Soup Company, the Susquehanna Bank Arts Center, Adventure Aquarium and Camden Fields, a minor league baseball stadium. Further, the City is located on the Delaware River and two shipping ports are located in Camden: the Becket Street Terminal and the Broadway Terminal, which together handle hundreds of cargo ships annually. It also has two major medical centers: Cooper University Hospital and Our Lady of Lourdes Medical Center. In its 2010 application to the federal government for a SAFER grant, the City highlighted its strategic importance to the region:

The Port of Camden, NJ/Philadelphia, PA has been identified by the Department of Homeland Security as having major at-risk infrastructure. . .The Camden Fire Department is charged with the protection of national and state critical infrastructure in communications, electric transmission, transportation and maritime assets. Camden's waterfront is part of the nation's fifth largest strategic port and sees more than 700 commercial ships yearly. Major transportation route connecting south NJ with north NJ, PA and DE include interstates, state and county highways that all traverse Camden. A major rail yard is in Camden, and sees more haz-mat than most other



East Coast U.S. Rail yards. The City features elevated and subway transit trains, as well as light rail, that carry tens of thousands of passengers daily. The protection of these critical infrastructure locations before an event or responded to after an event is essential. Camden firefighters are a critical part of the response that will save both the lives of first responders and civilians affected by any catastrophic event, man-made or natural.. . (URX-6).

On the other hand, Camden is also the poorest city in New Jersey, with a per capita income of just \$11,690 and a median household income of \$25,492 which is less than half of the national median household income of \$51,484. The City's unemployment rate is 19.1% -- double the State average and higher than any other urban New Jersey area (CR-26). It is also a distressed city with dwindling commercial and retail development, and is the only New Jersey city eligible for funding under the Municipal Rehabilitation Economic and Recovery Act ("MRERA").

**Fire Department:**

Organized in 1869, Camden is the oldest paid fire department in New Jersey. It operates out of six fire stations located throughout the City, and operates a front line fire apparatus fleet of six engines, three ladder trucks, one squad, one rescue unit, one haz-mat unit, one special operations unit, one fire boat and numerous special, support and reserve units.

The mission of the fire department is "to preserve and enhance the quality of life in the City of Camden through the

effective prevention of fire and efficient delivery of emergency services in the assigned mission areas of fire suppression, rescue services, emergency medical support, and the mitigation of special hazards that threaten public safety.”

The City’s poverty and unemployment poses challenges to the Fire Department. Its housing stock is dominated by wooden row homes. Within the City, there is one occupied house for every two vacant and vandalized dwellings. Due to the homeless population, the Fire Department must treat every building as occupied, posing additional risks to firefighters.

Since January, 2009, the ranks of firefighters have dwindled from 173 to 146 – a reduction of 16.5%. In the spring of 2011, the City’s dire fiscal constraints caused the layoff of more than 300 City workers, including 60 firefighters. Most of those firefighters were recalled later in 2011, but during the summer of 2011, the City experienced 3 significant industrial fires including a tire warehouse, which spread to residential property (URX-29; URX-30).

While the staffing levels have been decreasing over the last four years, the numbers of fires in the City have not decreased. Camden remains one of the busiest fire departments in the State (UX-62-64). In 2009, the Camden Fire Department responded to a total of 5,112 calls; in 2010, it responded to 4,911 calls; in 2011, it responded to 5,176 incidents and in

2012, it responded to 5,045 calls. In fact, over the last three years it has consistently had the highest number of fires per capita, Statewide, as well as the highest number of on-duty injuries, as shown below:

<b>2009 FIRE STATISTICS</b>				
<u>CITY</u>	<u>POP</u>	<u>FIRES</u>	<u>FIRES PER CAPITA</u>	<u>FIREFIGHTER INJURIES</u>
<b>URBAN AREAS</b>				
E. Orange	69,824	532	8	10
Camden	79,904	882	11	39
Trenton	85,403	819	9.5	2
Elizabeth	120,568	731	6	10
Paterson	149,222	875	6	25
Jersey City	240,055	1399	5	13
Newark	273,546	718	2	16
<b>CAMDEN COUNTY</b>				
Cherry Hill	69,965	338	5	2
<b>LARGE SOUTH JERSEY MUNICIPALITIES</b>				
Atlantic City	40,517	362	9	9
Vineland	56,271	262	4.5	20
Toms River	89,706	302	3	1

<b>2010 FIRE STATISTICS</b>				
<u>CITY</u>	<u>POP</u>	<u>FIRES</u>	<u>FIRES PER CAPITA</u>	<u>FIREFIGHTER INJURIES</u>
<b>URBAN AREAS</b>				
E. Orange	69,824	527	8	10
Camden	79,904	887	11	41
Trenton	85,403	771	9	17
Elizabeth	120,568	697	6	5
Paterson	149,222	814	5.5	37
Jersey City	240,055	1294	5	18
Newark	273,546	1344	5	37

<b>CAMDEN COUNTY</b>				
Cherry Hill	69,965	251	4	3
<b>LARGE SOUTH JERSEY MUNICIPALITIES</b>				
Atlantic City	40,517	310	8	3
Vineland	56,271	292	5	9
Toms River	89,706	N/A	N/A	N/A
Mount Laurel	40,221	143	3.5	3

<b>2011 FIRE STATISTICS</b>				
<b>CITY</b>	<b>POP</b>	<b>FIRES</b>	<b>FIRES PER CAPITA</b>	<b>FIREFIGHTER INJURIES</b>
<b>URBAN AREAS</b>				
E. Orange	64,270	458	8	2
Camden	77,344	976	12.5	49
Trenton	84,913	767	9	3
Elizabeth	124,969	557	4.5	3
Paterson	146,199	611	4	6
Jersey City	247,597	1167	5	3
Newark	277,140	1242	4.5	24
<b>CAMDEN COUNTY</b>				
Cherry Hill	71,045	256	4	9
<b>LARGE SOUTH JERSEY MUNICIPALITIES</b>				
Atlantic City	39,558	303	8	0
Vineland	60,724	227	4	18
Toms River	91,239	N/A	N/A	N/A
Mount Laurel	41,864	148	3.5	2

As shown above, there can be no doubt that the reduced staffing levels have impacted on the workload and safety of the City's firefighters.

#### **STATUTORY CRITERIA**

I am required to make a reasonable determination of the above issues giving due weight to those factors set forth in

N.J.S.A. 34:13A-16g(1) through (9) that I find relevant to the resolution of these negotiations. These factors, commonly called the statutory criteria, 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).

In arriving at the terms of this award, I conclude that all of the statutory factors are relevant, but not all are entitled to equal weight. It is widely acknowledged that in most interest arbitration proceedings, no single factor can be determinative when fashioning the terms of an award. This observation is present here as judgments are required as to which criteria are more significant and as to how the relevant evidence is to be weighed.

In addition, I note that N.J.S.A. 34:13A-16g(8) requires consideration of those factors ordinarily or traditionally considered in the determination of wages, benefits, and employment conditions. One such consideration is that the party proposing a change in an employment condition bears the burden of justifying it the proposed change. Another consideration is that any decision to award or deny any individual issue in dispute, especially those having economic impact, will include consideration as to the reasonableness of that individual issue in relation to the terms of the entire award. I am also required by statute to determine the total net annual economic cost of the terms required by the Award.

### **DISCUSSION**

#### **Term of Agreement:**

The Union seeks a six-year contract that will extend to the end of 2014. The City seeks a five-year contract 2009 through

2013. On the one hand, the parties have been in negotiations, and litigation over the terms of the successor agreement now for more than four years. Labor negotiations are time consuming, expensive, and put a strain on the parties' relationship. There is merit in a longer contract in that it brings the parties labor peace and predictability for a period before having to again go back to the bargaining table for another successor contract. This benefits the members of the bargaining unit, as it provides them with predictability of their salaries and benefits, and it benefits the employer by providing predictability for salary costs for budgeting purposes. This in turn, is in the public interest.

On the other hand, N.J.S.A. 34:13A-16.7(b), as amended in 2011, limits an arbitration award for contracts expiring after 2011, to a "hard cap" of 2% of aggregate base pay costs in the last year of the contract. However, this statute, if not re-enacted, is due to sunset in April, 2014. If I extend the IAFF contract through 2014, the employer will not be permitted to have the advantage of the limitations of this statute. In other words, the Union will entirely escape the provisions of the 2% hard cap. There can be no doubt that the provisions of the 2% hard cap were specifically enacted to limit salary increases and were designed with the public interest in mind. I have carefully considered this dilemma. I have also given



considerable weight to the recent interest arbitration concerning a successor contract for the fire superiors, which will expire at the end of 2013. Creating a contract with an expiration date contemporaneous with the superior officers' contract will enable both groups to negotiate at the same time for the City's limited available resources. This will permit the parties to simultaneously consider such issues as rank differential and commonality of benefits as they apply to both units, and will prevent whip-sawing between the two groups. I find this factor to be in the public interest. Therefore, I award a five-year contract covering the period January 1, 2009 through December 31, 2013.

**Salaries:**

The IAFF originally sought across-the-board increases of 3.5% for 2009, and 2% in each year thereafter for 2010 through 2012. However, it has now modified its final offer to seek the raises previously awarded under the Pierson award. It asks 2.5% in 2009, 2% in 2010, 2% in 2011, and 2% in 2012; it is willing to accept a wage freeze for 2013; and asks for an additional 2% for 2014. It has also agreed to forego retroactive wage payments for 2009 and 2010.

The City's current final offer is the same as it was at the outset of the interest arbitration process: a wage freeze for the length of the contract and a freeze on the salary step

guide. I will review the parties' respective arguments in detail later in the award. I have considered the following facts in creating a salary award:

**Existing Terms & Conditions of Employment:**

In December 2008, when the last contract expired, the bargaining unit consisted of 173 firefighters. Since that time, several changes, including layoffs, followed by recalls, and retirements have kept the bargaining unit in a state of flux. No new firefighters have been recruited since at least since 2005<sup>7</sup>. The following chart details the changes to the bargaining unit since January 2009:

<b><u>Date</u></b>	<b><u>FFs</u></b>	<b><u>Reason</u></b>
1/1/09	173	
1/1/10	164	promotions and attrition
1/1/11	155	promotions and attrition
1/18/11	110	60 layoffs and 15 demotions of superior officers
4/1/11	140	recall of 31 firefighters
1/1/12	138	attrition, promotions and additional recalls
7/1/12	149	recall of 21 firefighters
Current	146	attrition

However, the net result of these changes is that today the bargaining unit staffing levels are down to 146 filled positions, or 16.5% lower than they were in January 2009.

In addition, sometime in 2012, the City determined that it would no longer adhere to the "minimum manning" standards which

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<sup>7</sup> I infer this because there were no firefighters in steps one, two or three when the last contract ended.

were previously in effect and set forth in the contract. Since that time, the Fire Department has also implemented station closings and rolling brown-outs. This has created multiple impacts. For one, the City is not backfilling vacant positions with overtime in order to achieve minimum staffing. This is a two-edged sword, as the loss of overtime opportunities impacts on the take-home pay of firefighters, while at the same time it diminishes the City's overtime costs. Secondly, it creates a reduction in daily coverage, in turn engendering a less safe working environment for the firefighters, which in turn has resulted in an increased number of injuries.

The City's current complement of 146 firefighters continues to be paid from the 2008 Salary Guide of the expired contract, as follows:

<b>Step</b>	<b>2008</b>
<b>Firefighters</b>	
Start	29,828
1	44,806
2	51,272
3	57,736
4	64,199
5	70,664
6*	76,161
<b>Fire Prevention Specialists</b>	
1	61,233
2	67,698
3	74,163
4	81,241
5*	84,445
*Entering the 18th year in PFRS	

At this point, no employee is being paid less than top step of the regular salary guide (step 5 for firefighters/step 4 for fire prevention specialists). In addition, twenty-three (23) employees are being paid at the "senior pay rate" (step 6 for firefighters) which employees reach in their 18<sup>th</sup> year as a firefighter. This senior pay provides a differential of about \$5,500 per employee. Further, employees enjoy a contractual longevity plan which provides for longevity pay ranging between 2% and 11% of base pay, depending upon length of service. 112 of the unit members currently receive some level of longevity payment.

Firefighters work a 24-hour shift with a schedule of 1 day on duty, followed by 3 days off, for a total of 2,184 hours a year. Firefighters receive overtime pursuant to FLSA regulations, meaning that they are paid straight time rate for any overtime up to 216 hours in a 28-day cycle. Additional hours beyond that are paid in time and one half. They also receive acting pay in the event that they are required to assume the duties of a hire ranking officer for more than one consecutive shift.

Firefighters receive 14 paid holidays per year. As to leave time, firefighters get vacation days ranging from 14 days annually to 24 days annually depending upon length of service. They are also given 18 days of sick leave per year. Upon

retirement, a firefighter is permitted to "cash out" his unused accumulated holidays, sick time and vacation time. Further, employees are paid a terminal leave benefit upon retirement of 1.1% of their salary, for each year of service.

Firefighters receive tuition credit of \$10.00 per credit for college courses. In addition, they receive a clothing maintenance allowance of \$200 per year, and the City furnishes the firefighters with uniforms and equipment as needed.

**Internal Comparables:**

Camden's rank-and-file police officers have been represented by the FOP for many years. As the IAFF points out, Camden's police and fire groups have traditionally negotiated in tandem and often achieved similar settlements or awards. Like the IAFF, the FOP's contract with the City expired at the end of 2008. The FOP was able to successfully negotiate a one-year extension to the contract, to cover 2009, with a 3.75% increase for that year, together with changes in the work schedule. The police unit has apparently not yet reached an agreement for succeeding years.

In 2011, the City entered into an agreement with Camden County to create a Camden County Police Department, Metro Division. Although projected costs to the City have not yet been finalized, all direct and indirect costs to the County (including but not limited to police administration,

operations, capital expenses, insurance and legal costs) for providing police services to the City will be passed on from the County to the participating municipalities. Although the new County Police Department will be available to all municipalities on a voluntary basis, to date, only Camden City has entered into the agreement.

The Camden Police Superior Officers group, represented by "Camden C.O.P.S.", also pursued interest arbitration for a successor contract. In that matter, the City also proposed a wage freeze for the length of the contract. On December 17, 2012, Arbitrator Frank Mason issued an award which awarded the City's position of a wage freeze for the length of the contract. However, on appeal, the Commission remanded the award back to the arbitrator for clarification and review of certain factual findings. On April 5, 2013, Arbitrator Mason issued a second award clarifying his findings and award, but continued to award a wage freeze. City of Camden and C.O.P.S., Docket No. IA-2013-7 (4/5/13). A second appeal to the Commission has been filed, and is still pending before the Commission. Therefore, I do not give this award any weight in my determinations herein.

IAFF Local 2578 represents the Camden fire superiors - specifically fire captains, senior captains, senior battalion chiefs, and fire officials. That local filed for interest

arbitration simultaneously with the rank-and-file firefighters on March 9, 2009 (Docket No. IA-09-69). That matter was decided after the Pierson award issued concerning the rank-and-file unit but before the court decision vacated the Pierson award. In that matter, Arbitrator Joel Weissblatt awarded salary increases in flat-dollar amounts as follows:

1/1/09 - \$1,904  
 2/1/10 - \$1,562  
 1/1/11 - \$1,592  
 1/1/12 - \$1,625  
 1/1/13 - \$0

However, the Weissblatt award limited retroactive payments back to January 1, 2011 based upon the modified guide as of that date.<sup>8</sup> Weissblatt explained:

The across-the-board flat dollar rate increase of \$1,904 for 2009 ...represents an increase of 1.97% of the 2008 total base salary for the unit. The rate increase for 2010 equals a flat dollar amount of \$1,562 across-the-board, ...[representing] an increase of 1.59%, computed on the new 2009 base... Similarly, the 2011 increase of \$1,592 generates a base salary cost increase of ...1.59% of the new 2010 unit base salary.. Finally, the 2012 increase of \$1,625 (flat dollars across the board) generates a base salary cost increase of 1.6% of the new 2011 total ...(URX-8).

Sometime in 2012, the City negotiated a successor contract with Camden Council 10 for two units of civilian employees - a broad-based, blue-collar and white-collar unit, and a

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<sup>8</sup> Weissblatt's award did not specifically mention retro payments for longevity increases, but he did state, "the City shall have zero retroactive pay responsibility for 2009 or 2010."

supervisors unit. Those agreements, which each cover 2012, 2013, and 2014, call for 2% across-the-board increases in each year. However, I note that the parties effectively created a two-tier wage guide by eliminating the step guide for new hires and grandfathering step increases for existing employees until they reach maximum pay (step 7). New employees will be hired at minimum pay (step 1) and will receive only cost-of-living adjustments (CR-19)<sup>9</sup>.

**External Comparables:**

In comparing the top pay of Camden's firefighters with those of other major urban New Jersey municipalities, as well as other paid fire departments in Camden County, the following chart shows the comparisons:

<b>MUNICIPALITY</b>	<b>2010 TOP SALARIES</b>	<b>2011 TOP SALARIES</b>	<b>2012 TOP SALARIES</b>	<b>2013 TOP SALARIES</b>
Trenton	75,001	77,626	80,343	
Jersey City	88,331	90,760	93,256	
Newark	86,986	89,378	92,059	
Camden City	76,161			
Atlantic City			80,645	80,645
North Hudson Regional	81,012	82,632	83,872	84,711
<b>Average of New Jersey Urban Cities</b>	<b>81,498</b>	<b>85,099</b>	<b>86,035</b>	<b>82,678</b>
Cherry Hill	80,287	83,499		
Gloucester City	68,615			
<b>Average of Camden County Paid Fire Depts.</b>	<b>74,451</b>	<b>83,499</b>		

As can be seen above, the top pay of Camden's firefighters is

<sup>9</sup> While I have been advised that these agreements have not yet been formally executed because of certain technicalities, it is clear that the parties have reached agreement and the contracts have been implemented.



slightly more than \$5,000 below the 2010 average for urban towns reported. However, it is slightly higher than the 2010 top pay for Trenton firefighters - the City which the Union asserts is the closest comparable. In comparing Camden with other paid departments in Camden County, I note than Camden's top pay is about \$1,700 higher than the 2010 average. I give both of these comparisons some weight. I note that, going forward into 2011 and beyond, Camden will fall behind both averages and in fact, will be the lowest paid municipal firefighting force of all towns considered, if the City's wage freeze were awarded.

The City proposes that a more appropriate comparison should be made to large urban areas in Pennsylvania and Vineland. The Employer's exhibits shows that the 2010 and 2011 top pay in Reading was \$57,114 and top pay for Wilmington \$59,707 (CR-14, 15). The arbitrators' awards submitted for Philadelphia and Chester do not list the salaries for comparison (CR-13, 12). However, I note that the arbitrator in Philadelphia awarded a four-year contract with no across-the-board increase for 2009 and a 3.0% across-the-board increase for each year of 2010, 2011 and 2012. In December 2011, the arbitrator awarded Chester firefighters a ten-year contract with 3% increases each year for 2007, 2008, 2009, 2010, and 2011; a 3.5% increase each year in 2012, 2013, and 2014; and a 4% increase in 2015 and 4.5% in 2016.

In Vineland, as of 2008, the top pay for firefighters was \$70,354. However, as the Union points out, Vineland is not quite the urban area that Camden is, and its force is part volunteer/part paid. With regard to all these municipalities, I give the salary data only minimal weight. Communities in other states have different economic factors, tax bases and working conditions that may not have a commonality with Camden's firefighters. I give greater weight to the New Jersey urban areas and to the Camden County wage rates, as I believe they are more relevant.

**PERC Settlement Rates:**

The most recent salary increase analysis for interest arbitration on PERC's website shows that the average increase for awards during calendar year 2012 was 1.86%. Over the same time period, reported voluntary settlements averaged 1.77%. PERC indicates that the average 2012 settlement for post-2011 filings (those more likely to be subject to the 2% hard cap) is 1.81%, and the average 2012 award for post-2011 filings is 1.40%. Overall, PERC's data over the past few years shows that there is a downward trend in salary increases received through voluntary settlement or an award.

**Cost of Living:**

The City contends that the Consumer Price Index ("CPI"), as reported by the Bureau of Labor Statistics, reflects the

difficult economic times faced throughout the Region. It also demonstrates that the Union, over the years, has been paid well above the rate of inflation (CR-26 p.40-41; T1: 112:12-116:14). Specifically, the City asserts that over the contract period covering January 1, 2005 through December 31, 2008, the Union has received across-the-board wage increases totaling 15.1% compounded (CR-26, p.40). This wage increase outpaced the national and regional ("CPI-U") consumer price indexes by 9.3% and 10%, respectively.

The Union contends that the cost of living has increased since the expiration of the parties' agreement. It adds that combined with the proposed wage freeze and the City's proposed concessions in excess of 4.5%, the City's proposals would result in the firefighters losing ground to inflation over the course of the agreement.

It should be noted that the Consumer Price Index for Southern New Jersey increased by 6.85% from December 2008 through April 2011. In southern New Jersey, prices are up .8% over the past year and 9.7% since the expiration of the firefighters' contract in December, 2008 (URX-39, 40).

**Health Care/Pension Contributions:**

Pursuant to the 2010 amendments to N.J.S.A. 40A:10-21, in 2010 employees began contributing 1.5% of their salary as a contribution to the cost of health care insurance.

Subsequently, with the passage of Chapter 78, P.L. 2011, employees began contributing the greater of 1.5% of salary or a percentage of health care premiums as established by the statute. The impact of this law on a firefighter receiving family health care coverage at top pay in 2008, was to require the firefighter to contribute up to 23% of the City's health care premium of \$20,376 per employee, phased in over four years starting in 2011 as follows:

<b>Chapter 78 Contributions</b>		
<b><u>Year</u></b>	<b><u>Percentage</u></b>	<b><u>Employee Contribution</u></b>
2011	5.75%	1,171.62
2012	11.50%	2,343.24
2013	17.25%	3,514.86
2014	23.00%	4,686.48

Further, pursuant to Chapter 78, firefighters also had their share of pension contribution rates increased from 8.5% to 10.0%. Both the health care contribution and the increase in pension contribution effectively decreased the take home pay of firefighters.

**City's Ability to Pay:**

The City of Camden is a distressed municipality with dwindling commercial and retail development (URX-1, 149:2-21). The City's median household income is \$25,492, which is well

below the median income of \$69,911 for New Jersey and \$51,484 for the United States (CR-26 at p.4; T2, 85:25 to 86:2). The City's per capita income is \$11,690, the lowest of any urban municipality in the State (CR-26 at p.4; T2, 85:25 to 86:2). According to the 2011 American Community Survey (one-year estimates), Camden City had the highest poverty rate of any city in the U.S. with a population above 65,000. The City's unemployment rate is 19.1%; double the State average and higher than all other urban areas throughout the State (CR-26 at p.4; URX-1, 146:10-24).

More than two-thirds of all City spending is associated with employee wages and benefits. In FY 2012, salaries, wages and benefits comprised 69.5% of the budget; whereas, wages and salaries was 41.9%, health insurance was 13.5%, pensions were 9.1%, and other was 5%. Also, as pensions and healthcare costs increased sharply since the start of the prior full contract period (2005), the average cost per employee significantly outpaced Camden's revenue growth.

The City is highly dependent on State assistance to fund the majority of its core municipal operations. Maintaining overall City expenditures with limited resource levels has required deep reductions in staffing levels - creating hardships for affected employees, reducing service levels, and further eroding Camden's quality of life.

As a result of the City's stressed fiscal financial situation, in January 2011, it laid off 343 of its employees (CR-26, p.29-30; URX-3, 120:25 to 121:10). The reduction included 168 police officers, 67 firefighters, and 108 civilians (URX-3, 123:1-12; CR-26, p.29-30).

As previously noted, in 2012 and early 2013, the City paid \$1.75 million in retroactive and increased payments pursuant to the Pierson Award. The City was able to make these payments by using a one-time budgetary relief achieved through a reduced unemployment bill from \$5.6 million to \$3.2 million, anchored by rehiring laid off firefighters with SAFER grants, and a favorable FY 2012 change in the City's pension liability calculation. The City avers that the over-compensation must be factored into salary calculations for any future agreements between the parties.

**City's Budget:**

Below is a summary of Camden City's Adopted 2013 Municipal Budget which contains an Adopted Resolution:

<b>2013 CURRENT FUND - ANTICIPATED REVENUES</b>			
<b>General Revenues</b>	<b>SFY 2013</b>	<b>SFY 2012</b>	<b>Difference</b>
Surplus Anticipated	6,441,928.75	1,938,787.00	4,503,141.75
Miscellaneous Revenues	119,703,469.98	140,974,974.70	-21,271,504.72
Receipts from Delinquent Taxes	<u>775,187.59</u>	<u>775,187.59</u>	<u>0.00</u>
<b>Subtotal General Revenues</b>	<b>126,920,586.32</b>	<b>143,688,949.29</b>	<b>-16,768,362.97</b>
Amount to be Raised by Taxation	<u>24,247,215.34</u>	<u>23,543,912.11</u>	<u>703,303.23</u>
<b>Total General Revenues</b>	<b>151,167,801.66</b>	<b>167,232,861.40</b>	<b>-16,065,059.74</b>
<b>CURRENT FUND - APPROPRIATIONS</b>			
<b>General Appropriations within CAPS</b>	<b>136,235,528.87</b>	<b>134,796,074.92</b>	<b>1,439,453.95</b>

In the context of ongoing State-level fiscal pressures, municipal assistance across New Jersey has been trending downward, and millions of dollars in State Transitional Aid provided to Camden is slated to phase out.

The City is the only municipality in the State of New Jersey to be covered under the Municipal Rehabilitation Economic and Recovery Act, N.J.S.A. § 52:27BB-1, et. seq. ("MRERA") (T2, 83:18-25) for its continuing state of fiscal distress, and holds a special "junk bond" credit rating.

When MRERA was passed in 1997, the City surrendered its municipal authority to a State appointed Chief Operating Firefighter ("COO") (URX-3, 107:11 to 108:11). The COO position and its authority ceased with the amendments to MRERA that became effective January 18, 2010 (URX-3, 108:14-18). However, the State, through the Department of Community Affairs (DCA), still retains veto power over any official action taken by City Council (URX-3, 108:17-18).

**Revenue:**

Nearly three-quarters (73.9%) of the City's budget revenue is derived from State Transitional Aid (CR-26 at p.17; URX-1, 151:13-17). Transitional Aid to the City, however, has seen drastic cuts in recent years, and consequently, the City's annual State assistance has decreased 13.7% between FY 2010 and FY 2012 from \$125 million to \$107 million (CR-26 at p. 20; URX-

1, 151:13-17 and 162:13-18). For FY 2013, the City projects \$151 million in revenue, with \$102 million stemming from State Aid (CR-26 at p.22). In contrast, the City's weak and/or exempt tax base comprises a mere \$25 million (CR-26 at p.22; URX-3, 162:3-12).

The chart below reflects audited Total Revenues for the City of Camden from FY 2010 through FY 2012, and budgeted for FY2013:

<b>TOTAL REVENUES</b>				
	<b>FY2010 (Audited)</b>	<b>FY2011 (Audited)</b>	<b>FY2012 (Audited)</b>	<b>FY2013 (Budgeted)</b>
Energy Tax/CMPTRA	54,100,503	46,586,963	46,586,963	86,586,963
Transitional Aid (previously SMPA)	67,000,000	69,000,000	61,400,000	15,500,000
Other State Aid Without Offsets (includes Supplemental)	4,000,060	----	----	----
<b>Total State Funding</b>	<b>125,100,563</b>	<b>115,586,963</b>	<b>107,986,963</b>	<b>102,086,963</b>
Grants & Fees Offset by Appropriations	20,874,663	17,564,705	26,685,330	1,948,964
Local Taxes	21,602,162	23,047,335	25,360,423	25,022,403
PILOTS & Other Special Revenues	8,128,980	11,431,039	13,442,792	10,463,845
Fees, Fines, and Other Local Miscellaneous	6,339,692	5,495,808	5,765,052	5,203,698
Use of Surplus	2,399,135	2,952,000	1,938,787	6,441,929
Non-Budget Reserves	----	1,819,973	970,645	----
<b>Total</b>	<b>184,445,195</b>	<b>177,897,823</b>	<b>182,149,992</b>	<b>151,167,802</b>
FY2013 Budgeted Grants & Fees Offset by Appropriations is preliminary data; expected to increase.				

### **State Aid:**

State aid continues to trend downward, and the City contends that it cannot raise any meaningful revenue on its own. It states that there are unmet service and infrastructure needs and there are no reserves to deal with unforeseen emergencies.



In 2010, the State established a new Transitional Aid (TA) Program as a means of reducing its aid to municipalities (CR-26 at p.18), thereby replacing its Special Municipal Aid (SMA), Extraordinary Aid, and Trenton's Capital City Aid. The TA program requires labor cost reductions and changes in service delivery as preconditions for receipt of the aid. The TA program has two primary components that distinguish it from past State aid measures: (1) all funds from the program are shared among all municipalities and are not limited to the State's most impoverished municipalities; and (2) it is scheduled to be phased out in 2014 (CR-26 at p.18; T2, 41:20 to 42:1). In essence, the TA program is a declining pot of money that is shared by the entire State, which has been a detriment to the City (URX-1, 152:19-24).

For Camden's FY 2013 Adopted Budget, \$40.1 million of the \$61.4 million received as TA funding in FY 2012, has been reset as Consolidated Municipal Property Tax Relief Aid (CMPTRA) funding; however, the remaining \$21.3 million received in FY 2012 remains subject to the DCA application process and the further TA program phase-out going forward.

The City also receives aid from the State's Consolidated Municipal Property Tax Relief Aid ("CMPTRA") program (CR-26, p.17). Like other sources of State aid, the CMPTRA program has decreased by \$250 million between FY2009 (\$1.597 billion) to

FY2013 (\$1.342 billion) (CR-26, p.19). Looking ahead, the size of the CMPTRA program is expected to grow due to a monetary shift from the TA program to the CMPTRA program. For 2013, the Governor's Proposed Budget increases CMPTRA funding by 1.7%, while Transitional Aid funding declines 13.1%. This shift, however, will not result in growth in aggregate State assistance, as the CMPTRA pool is open to all municipalities, regardless of need (CR-26, p.19). For 2013, the City of Camden is anticipating CMPTRA/Energy Tax in the amount of \$58,775,186 versus \$46,583,963 in 2012, which was both anticipated and realized.

For 2013, the City of Camden is anticipating \$102,086,963 in total State funding (Energy Tax/CMPTRA and TA) as compared with the \$107,986,963 it received in FY 2012, a reduction of \$5.9 million (5.5%) from FY 2012 levels (CR-5; CR-26 at p.22).

**PILOTs:**

Aid to the City is also provided through Payments in Lieu of Taxes ("PILOTs") (CR-26, p.17; T2, 42:11-14). PILOTs are paid at the discretion of the State, and as a result, the City cannot rely on exact revenue streams and often receives less than it did in years past (URX-3, 110:4-18). The City received \$13.4 million in 2012 and budgeted \$10.4 million in 2013.

**SAFER Grants:**

The City has obtained SAFER grants to assist with hiring and re-hiring public safety workers (C-6; URX-3, at 124:20 to 125:17). Through these grants, the City has been able to re-hire, for a period of two years, almost all of the firefighters who were laid off in January 2011 (CR-26, p.29; URX-3, 124:20 to 125:17). The terms of the SAFER grants mandate that if any additional City layoffs occur, the City will lose and/or have to reimburse the funding from the SAFER grants (C-6; URX-3, 125:11-17). Salary increases are not included in the SAFER grant funding. (Id.) Thus, any increase in compensation to the members of the City Fire Department is also an increase that is unfunded for the rehired firefighters.

Moreover, the City has recently learned that its SAFER grant application for FY 2013 was rejected by FEMA (CR-4; T2, 46:3-22). The full impact of the rejected SAFER application remains to be seen, as the City's first SAFER grant expired on March 31, 2013 (T2, 46:1-2).

**Property Taxes:**

In FY 2012, the City raised the local property tax levy to 4% which carried over to FY 2013. The City did experience some additional tax revenue gains in FY 2012 due to property reassessments and raised fees and fines. For FY 2013, at \$25 million, City property taxes (inclusive of delinquent

collections) represent just 16.5% of the City's budget, since most of the City's property is either tax-exempt or economically depressed (CR-26, p.21; URX-3, 109:8-13). Moreover, the 4% levy cap applied to the FY 2013 prior year tax levy would have generated an increase of \$969,889 in revenue. However, given the weakness of Camden's base, the potential revenue yield from such actions is minimal.

The Union states that the City's fiscal condition is a historic reality which has been constant for years. For example, the fact that 51.5% of the City's real estate base is tax-exempt did not develop overnight. Similarly, the Tax Collection Rate, averaging just over ninety percent (90%) over a five (5) year period, has been consistent. Tax collection receipts for delinquent taxes are anticipated at \$775,188 for 2013 and 2012; however, in 2012, \$2,065,062 was realized in cash. A budgeted reserve for uncollected taxes in 2013 is \$7.3 million vs. \$5.2 million in 2012.

The Union contends that actual tax collections in the City and in the Water and Sewer Utility Service Charge accounts have increased annually, improving the City's fiscal condition. It states that the City has experienced positive operations and unexpended balances in appropriations reserves.

The 2013 Adopted Budget reflects anticipated rents for both the dedicated Sewer and dedicated Water Utility Budgets,

respectively at \$6,534,971 and \$10,093,193. The 2012 Adopted Budget reflects rents realized in the amounts of \$6,894,359 for sewer and \$11,665,483 for water.

**Surplus:**

As of June 30, 2012, the City had \$11,190,303 in its surplus balance. The proposed use of the surplus balance as of June 30, 2012 in the FY 2013 budget is as follows:

Surplus Balance June 30, 2012	11,190,303.40
Current Surplus Anticipated in FY 2013 Budget	-6,441,928.75
<b>Surplus Balance Remaining</b>	<b>4,748,374.65</b>

**Tax Levy Cap:**

For 2013, the City's prospective tax increases are subject to a 4% cap. Its prior year amount to be raised by taxation for municipal purposes was \$24,247,215. This amount, plus the 4% CAP, provides for an adjusted tax levy, prior to exclusions, in the amount of \$25,217,104, for an increase of \$969,889. No adjusted tax levy exclusions were identified. In the 2013 budget, the amount to be raised by taxation for municipal purposes is identified as \$24,247,215. I infer from this that the City does not intend to raise City taxes in 2013.

**Employer Pension Contributions:**

In 2012, the City saved \$4,711,843 in pension contributions to PFRS, based upon revised pension bills from the Pension

Board.

According to the PERS and PFRS comparison on revised versus original FY2013 local employer pension bills, the City of Camden's bills were revised as follows:

<b>Retirement System</b>	<b>Location Number</b>	<b>FY2013 Revised Pension Bill</b>	<b>FY2013 Original Pension Bill</b>	<b>Change in 2013 Contribution</b>
PERS	21850	1,926,687	2,094,192	-167,505
PFRS	21201	6,011,566	6,322,337	-310,771
PFRS	21202	<u>4,135,253</u>	<u>4,348,073</u>	<u>-212,820</u>
<b>TOTALS</b>		<b>12,073,506</b>	<b>12,764,602</b>	<b>-691,096</b>

In 2013, \$10,146,819 is appropriated for PFRS, whereas, in 2012 \$11,885,047 was appropriated and paid. In 2013, \$1,948,812 is appropriated for PERS and \$2,726,685 was appropriated and paid in 2012.

**Healthcare Contributions:**

Until 2013, the City provided health care benefits to its employees based upon a self-funded insurance plan. On January 1, 2013, the City enrolled its employees in the New Jersey State Health Benefit Plan. At the time of the transfer, the City estimated that it would save \$5 million per year by switching from its prior self-insured health plan to the State's plan. It must be noted that pursuant to the 2010 amendments to N.J.S.A. 40A:10-21, employees began contributing 1.5% of salary in 2010 towards the cost of health care benefits. Additionally, in 2011, employee contributions increased as a result of Chapter

78, P.L. 2011, when employees began contributing the greater of 1.5% of salary or a percent of the premium for their coverage.

Chapter 78 provides for four tiers of contribution levels beginning with one quarter of the full contribution amount in tier one, one-half of the full contribution in tier two, three-quarters of the contribution in tier three, and the full amount by the fourth year. In Camden, payments began in the first tier in 2011. Therefore, in 2013, employees are paying the three-quarters of the full contribution rate and will go to full contribution amount in 2014. A firefighter at top pay and opting for family coverage, assuming a premium rate of \$20,376, would contribute over a four year as follows:

<u>Year</u>	<u># EES</u>	<u>Percentage</u>	<u>Employee Contribution</u>	<u>Employer Savings</u>
2011	140	5.75%	1,171.62	164,027
2012	149	11.50%	2,343.24	349,701
2013	146	17.25%	3,514.86	513,170
2014	146	23.00%	4,686.48	684,226
TOTAL				1,711,124

Of course this projected savings is based upon family coverage for all employees and is also based upon employees' current salaries. Therefore, I recognize that this is just an estimate.

**IAFF's Arguments on Wages:**

The IAFF argues that, while it recognizes the City's fiscal condition, the Fire Department is an essential service to the City and its residents and a key element in the continuation of

the City's recovery, which should not be at risk because of the poverty and fiscal challenges facing the City. The top pay of Camden's firefighters at \$76,161 is comparable to wages in the State's other major urban towns, including Trenton at \$70,354 and Jersey City at \$83,666. But increases in major urban department have now resulted in a lag in the top pay of Camden firefighters behind those working in other, less challenging urban centers. It notes that the labor agreement covering Camden firefighters, similar to the City's labor agreement covering police, has recognized the crucial role the City's uniformed services play in the protection of the community, its people, their homes and businesses and workplaces. The City negotiated a 3.75% salary increase with the FOP for 2009 for the police department, which had historically followed the pattern of settlements in the Fire Department. Since 1973, the Fire Department's terms and conditions of employment have been unique in two major respects. Of the seven major urban departments, Camden is the only department to base overtime on the FLSA standards, paying straight time on all hours worked up to 216 in a 28-day cycle.

Further, the IAFF highlights that its contract has long included a restriction on minimum manning. In January, 2009, the City exercised its right to abrogate its prior agreement on minimum manning and eliminate it. The result was that



firefighter overtime costs, which totaled \$2,774,115 in 2007 and \$1,801,513 in 2008, were virtually eliminated in 2009 and 2010. This was a loss of income to firefighters in overtime earnings of an average \$16,222 in 2007 and 10,597 in 2008. This loss of overtime equals a 14% reduction in earnings in 2009 and 2010. As a result of the layoffs and staffing reductions in 2011, overtime was back up to \$802,723 in 2011 and \$833,970 in 2012. It notes that, with the recall of the laid off firefighters, overtime should return to the lower pre-layoff levels in 2013 and 2014.

IAFF argues that as a result of the layoffs and staffing reductions, the remaining firefighters are working harder and under less safe conditions and earning less. In the meantime, the Union argues, the City has generated significant savings to the detriment of the firefighters.

The Union also notes that the City "attacked" its established paid leave practice of permitting firefighters to accrue and carry paid vacation and holiday benefits in lieu of the annual buyout of unearned leave/holiday benefits as provided in the contract. That is, firefighters who were unable to use their full complement of paid leave were permitted to accrue such benefits in lieu of the annual payout in return for payment at the time of retirement. In late 2009, the City confiscated approximately \$270,336 in accrued vacation and holiday leave

payments, or an average of \$1,590 per firefighter. This action was reversed by Arbitrator Wellington Davis in an award on August 19, 2011 and subsequently confirmed by the Superior Court. The Union argues that the City's claimed inability to pay cannot be justified by its obligation to pay back the accrued leave payments.

The IAFF contends that it seeks to balance the firefighters' interests in keeping pace with wage and working conditions in comparable jurisdiction and avoiding deep cuts in existing terms and conditions of employment against the City's fiscal challenges and dependence on state aid. It notes that it had initially sought increases of 12.75% over four years. It has now modified its position to an increase of 8.5% over 4 years. Further, in recognizing the City's fiscal constraints, the Union proposes to limit the retroactive effect of increases which would effectively freeze salaries for the first two years of the contract. It further recognizes the City's need for fiscal restraint by proposing increases in doctor visit and prescription co-pays and the acceptance of the City's unilateral implementation of the State Health Benefits Plan. Further, it has offered to cap accumulated sick leave payments upon retirement at \$15,000 for all employees except employees who already had sick leave banks in excess of that amount. In addition, the Union points out that it offered to limit future

increases in accrued vacation balances of limiting employees' ability to bank vacation time beyond one year.

IAFF contends that the City's proposal, including major concessions in a broad range of benefits, would undermine the stability of employment and reduce the firefighters' standard of living, despite their increased productivity and more hazardous working conditions.

Further, it notes that the City's intention to recoup the increases paid out under the Pierson award would come out of the pockets of firefighters who had been (a) laid off; (b) demoted from captain to firefighter; or (3) continued to work at drastically reduced staffing levels.

Finally, with regard to the City's proposed concessions in benefits, the IAFF maintains that the City has not met its burden to prove the basis for the changes, and that the changes are unwarranted. The current terms and conditions of employment are the result of years of negotiations between the parties and the parties' recognition of the worth of the services provided by the firefighters to the City's residents and visitors. Therefore, the IAFF asks that its proposals be awarded and that the City's additional concessionary demands be denied.

**City's Arguments on Wages:**

The City asserts that on remand, it has established that:  
(1) its dire financial status has rendered it unable to keep up

with rising workforce costs; (2) even without any further compensation increases since 2008, the Union would remain among the highest paid bargaining units in the region; (3) each of the relevant statutory factors under N.J.S.A. 34:13A-16(g) supports the City's proposal.

Further, the City argues that, to the extent that the firefighters are provided with any increase, that increase should be offset by the overpayment of \$1.75 million that City has already paid out in retroactive wage payments as a result of the Pierson award. The City maintains that it values its firefighters and has awarded them lucrative contracts that have made them one of the most highly compensated fire units in the State - both in salary and in benefits. It contends that its proposal strives to maintain the firefighters' competitive status while at the same time curbing increases and benefits so that the City's already fragile employment levels and core services can be maintained.

For 2013, the City has budgeted for \$151 in revenue, but its weak and/or exempt tax base is only expected to net \$25 million of that. The remainder must come from other sources. The City emphasizes that 73.9% of its budget comes from State Transitional Aid. The State established the Transitional Aid program in 2010 to replace previous aid programs. This new program is distinguished from prior programs in that funds are

shared among all municipalities, not just the most impoverished ones; and it is scheduled to be phased out in 2014. For Camden, Transitional Aid has been reduced from \$125 million in 2010 to \$107 million in 2012 and \$102 million in 2013.

The City also points out that, while it was able to rehire most of the firefighters laid off in 2011 because it received a federal SAFER grant, a condition of that grant is that any layoff of firefighters would risk future grant payments or the City having to repay part of the grant money, which would, in turn risks additional layoffs. Further, the SAFER grant did not include funding for increases in wages or benefits. In any event, the City highlights that the SAFER grant expired in March, 2013; and, its application to FEMA to renew the grant was declined. The consequences of not having this grant renewed are not yet known. Based upon the foregoing, the City maintains that it simply cannot afford to pay the wage increases sought by the IAFF.

With regard to the Weissblatt award for superior officers, the City notes that that award was issued before the Pierson award was vacated. It observes that the award for the fire superiors was therefore premised upon the need to maintain a rank differential between the salaries which Pierson awarded to the rank-and-file and the pay of captains and other superiors. Additionally, it notes that the Weissblatt award takes into

account the minimal impact the increases would have on a small unit that was decimated and mostly unrestored by the layoffs and demotions of 2011. But, the City notes, these factors are not present in the firefighter unit.

Further, the City points out that it has already paid this bargaining unit \$1.75 million in wage increases and retroactive pay increases as a result of the Pierson award. It argues that any minimal wage increases awarded herein should be offset by a reduction or elimination of other costly economic provisions equivalent to the amount of overpayment already made to unit employees.

#### **ANALYSIS**

Both parties expressed an objective to balance the need to maintain the firefighters standing as to wages and benefits and at the same time to not endanger the City's fragile budget position in such a way that would risk further layoffs or service reductions. I share these goals, and find that both epitomize the core of the public interest.

The firefighters are tasked with a difficult but critical mission: to protect the lives, safety and property of the City's residents, the businesses and governmental entities that operate within the City, and the large number of people who travel through the City every day. The record establishes that the ranks of the IAFF have performed this role in the face of a

number of challenging factors, partly precipitated by the City's constrained financial issues, and partly owing to socio-economic factors of a mid-sized, aging, and impoverished City with a significant homeless population. Owing to the many "abandoned" buildings in Camden in which the large homeless population has taken up residence, the fire department is required to treat every building as if it is occupied and to provide safety to those who may be unexpectedly present inside a burning structure. This is compounded by the fact that much of Camden's older residences are wood-framed row houses which permit fires to spread quickly from house to house. Exacerbating the inherent problems of responding to fire calls in this City is the fact that the City's precarious finance conditions has caused staffing reductions on a daily and long-term basis. The City has been forced to close fire stations, implement rolling brown-outs, abandon minimum manning standards, leave positions vacated by retirements and resignations unfilled, and implement a layoff in 2011 of more than 30% of the firefighting workforce. These unfortunate circumstances no doubt contributed to the significant increase in injuries among firefighters in the past few years. One could only conclude that the firefighters in Camden are a dedicated group committed to performing their mission even in the most adverse circumstances.

There can be little doubt but that Camden is the most

financially challenged municipality in the State. More than half of the properties in the City are tax exempt governmental and non-profit properties. Indeed, the City only derives 15% of its total revenue from local taxes. For the remainder, it must rely on State aid, federal grants, payments in lieu of taxes and miscellaneous fees, most all of which are uncertain and likely to dwindle.

In applying the statutory criteria to the record in this matter, it is necessary to balance these factors against each other to come up with a fair and reasonable result. The factor which requires the greatest consideration is the public interest, which also encompasses the Employer's ability to pay, the levy cap, and the impact of the new contract on the taxpayers. Also worthy of considerable weight and viewed to be a component of the public interest is consideration of the morale of the employees and the continuity of the bargaining unit, which in turn, necessitates consideration of comparability with other employees and the cost of living. The relationship between the terms and conditions of employment awarded herein and those provided to other City employees, notably the fire superiors, is a meaningful element of the public interest criteria.

An additional factor which is considered part of the public interest is the City's ability to attract and retain highly



qualified employees to the Fire Department. This is essential to providing the public with firefighting services to protect life and property. But just as important is the City's ability to maintain a sufficient staffing level to protect the City. Therefore, the public interest demands a compensation plan that attracts and retains highly qualified employees but not one that prevents the City from sufficiently staffing the force.

I have balanced these factors against each other to reach the resulting award herein. The resulting award seeks to maintain the integrity and comparability of the firefighters' compensation and benefit plan, while at the same time it moderates the financial impact on the City to the extent that I believe it is within the City's ability to pay and still maintain current staffing levels in the Fire Department.

\* \* \* \*

I award the following salary increases:

2009 - 1.97%  
 2010 - 1.59%  
 2011 - 1.59%  
 2012 - 1.6%  
 2013 - 0%

However, in line with the Weissblatt award, I award no retroactive raises for 2009 and for 2010, either on base pay or on calculations built upon base pay, i.e., overtime payments and longevity percentages. Nor will the percentages be

compounded from year to year from 2009 and 2010 into 2011<sup>10</sup>. That is, salary rates will be adjusted effective January 1, 2011, by 5.15% (1.97% + 1.59% + 1.59%). Thereafter, effective January 1, 2012, salary rates will be adjusted by 1.6% of the 2011 base (as adjusted by the 5.15% in 2011). There will be no increase in base pay for 2013.

I point out that, under this award, the City will have no payout liability for 2009, none for 2010, and none for 2013. The total salary increase over the life of the five-year contract is 6.75% (5.15% + 1.6%), or an average of 1.35% per year. Even when compounding is factored in, the total increase from beginning to end of the contract is 6.83% or 1.366% per year.

This award will place firefighters currently at step 5 at a salary of \$75,484 starting in 2012. Firefighters at step 6 will earn a base rate of \$81,356. As compared with Trenton, step 5 will still be \$4,859 below Trenton's top step, while step 6 will be about \$1,000 above it. It must be remembered however, that step 6 is more akin to a "senior pay" step than a true "top step" of the guide, as a firefighter must complete 17 years of service before he can reach step 6. As compared with the average top step in Camden County, the City's firefighters,

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<sup>10</sup> Weissblatt salary calculations in the superiors' award were calculated on year-over-year increases and therefore already included compounding.

even at step 6, will be \$2,143 below the County average.

While an analysis of the comparability and cost of living factors alone might suggest that the City's firefighters be given an even higher percentage increase, I cannot emphasize enough that I am required to balance these factors against the City's ability to pay, as well as its ability to continue staffing the department at acceptable levels to insure public safety. As expressed earlier, the factor of continuity of employment must include consideration of the employer's ability to attract and retain qualified staff, but must also consider the employer's ability continue to fund staffing at adequate levels to maintain the department's ability to achieve its mission of protecting the public's safety, life and property, as well as to protect the firefighter from undue risk of injury resulting from insufficient manpower to safely perform the job.

Further, awarding the identical percentage increases to the rank and file as was awarded to the superiors will improve employee morale and put the firefighters back on track with an appropriate rank differential between the ranks. It is also not out of line with the negotiated increases given to the City's civilian employees for 2010, 2011 and 2012, considering that the civilians obtained 6% over those three years, but conceded to a lower, second-tier wage rate for its members. The following scattergrams depict the effects of the across-the-board

increases as well as the costs to the City for each year of the contract:

2009 SCATTERGRAM									
# EES	2009 Step	Salary	Incr Value	Total Incrs	% Longvty	Longvty Amt.	Base Plus Longvty	Total Base Plus Total Longvty	Total Longvty Paid
0	Start	29,828			0%	0	0	0	0
0	1	44,806			0%	0	0	0	0
0	2	51,272			0%	0	0	0	0
0	3	57,736			0%	0	0	0	0
34	4	64,199	6,463	219,742	0%	0	64,199	2,182,766	0
48	5	70,664			0%	0	70,664	3,391,872	0
40		70,664			3%	2,120	72,784	2,911,361	84,797
0		70,664			4%	2,827	73,491	0	0
9		70,664			5%	3,533	74,197	667,775	31,799
9	6*	76,161	5,507	49,563	5%	3,808	79,969	719,721	34,272
4		76,161			7%	5,331	81,492	325,969	21,325
9		76,161			9%	6,854	83,015	747,139	61,690
6		76,161			11%	8,378	84,539	507,232	50,266
	FPS								
0	1	61,233			0%	0	0	0	0
0	2	67,698			0%	0	0	0	0
0	3	74,163			0%	0	0	0	0
2	4	81,241			5%	4,062	85,303	170,606	8,124
0		81,241			7%	5,687	86,928	0	0
3		81,241			9%	7,312	88,553	265,658	21,935
	5*	84,445				0	0	0	0
164				269,305				11,890,100	314,209
*Entering the 18th year in PFRS									

2010 SCATTERGRAM									
# EES	2010 Step	Salary	Incr Value	Total Incrs	% Longvty	Longvty Amt.	2010 Base Plus Longvty	Total Base Plus Total Longvty	Total Longvty Paid
0	Start	29,828			0%	0	0	0	0
0	1	44,806			0%	0	0	0	0
0	2	51,272			0%	0	0	0	0
0	3	57,736			0%	0	0	0	0
0	4	64,199			0%	0	0	0	0
52 *	5	70,664	5,507	187,238	0%	0	70,664	3,674,528	0
69		70,664			3%	2,120	72,784	5,022,090	146,274
0		70,664			4%	2,827	73,491	0	0
9		70,664			5%	3,533	74,197	667,775	31,799
9	6**	76,161			5%	3,808	79,969	719,721	34,272

11		76,161			7%	5,331	81,492	896,415	58,644
2		76,161			9%	6,854	83,015	166,031	13,709
2		76,161			11%	8,378	84,539	169,077	16,755
	FPS								
0	1	61,233			0%	0	0	0	0
0	2	67,698			0%	0	0	0	0
0	3	74,163			0%	0	0	0	0
2	4	81,241			5%	4,062	85,303	170,606	8,124
0		81,241			7%	5,687	86,928	0	0
3		81,241			9%	7,312	88,553	265,658	21,935
0	5**	84,445			0%	0	0	0	0
<b>107</b>						<b>187,238</b>		<b>11,751,902</b>	<b>331,513</b>

\*I assume that the 34 employees at Step 4 in 2009 have all moved to Step 5 in 2010.

\*\* Entering the 18<sup>th</sup> year in PFRS

2011 SCATTERGRAM											
# EES	Step	Salary	2011 % Increase	ATB Amt.	Total ATB Costs	2011 New Base	% Longvty	Longvty Amt.	2011 Base Plus Longvty	Total Base Plus Total Longvty	Total Longvty Paid
0	Start	29,828	5.15%	1,536	0	31,364	0%	0	31,364	0	0
0	1	44,806	5.15%	2,308	0	47,114	0%	0	47,114	0	0
0	2	51,272	5.15%	2,641	0	53,913	0%	0	53,913	0	0
0	3	57,736	5.15%	2,973	0	60,709	0%	0	60,709	0	0
0	4	64,199	5.15%	3,306	0	67,505	0%	0	67,505	0	0
15	5	70,664	5.15%	3,639	54,588	74,303	0%	0	74,303	1,114,548	0
72		70,664	5.15%	3,639	262,022	74,303	3%	2,229	76,532	5,510,325	160,495
0		70,664	5.15%	3,639	0	74,303	4%	2,972	77,275	0	0
12		70,664	5.15%	3,639	43,670	74,303	5%	3,715	78,018	936,220	44,582
13	6*	76,161	5.15%	3,922	50,990	80,083	5%	4,004	84,087	1,093,137	52,054
0		76,161	5.15%	3,922	0	80,083	7%	5,606	85,689	0	0
9		76,161	5.15%	3,922	35,301	80,083	9%	7,207	87,291	785,617	64,867
4		76,161	5.15%	3,922	15,689	80,083	11%	8,809	88,892	355,570	35,237
	FPS										
0	1	61,233	5.15%	3,153	0	64,386	0%	0	0	0	0
0	2	67,698	5.15%	3,486	0	71,184	0%	0	0	0	0
0	3	74,163	5.15%	3,819	0	77,982	0%	0	0	0	0
2	4	81,241	5.15%	4,184	8,368	85,425	5%	4,271	89,696	179,392	8,542
0		81,241	5.15%	4,184	0	85,425	7%	5,980	91,405	0	0
3		81,241	5.15%	4,184	12,552	85,425	9%	7,688	93,113	279,339	23,065
0	5*	84,445	5.15%	4,349	0	88,794	0%	0	0	0	0
<b>130</b>					<b>483,180</b>					<b>10,254,149</b>	<b>388,842</b>

\*Entering the 18th year in PFRS

2012 SCATTERGRAM											
# EES	Step	Salary	2012 % Increase	ATB Amount	Total ATB Costs	2012 New Base	% Longvty	Longvty Amt.	2012 Base Plus Longvty	Total Base Plus Total Longvty	Total Longvty Paid
0	Start	31,364	1.59%	499	0	31,863	0%	0	31,863	0	0
0	1	47,114	1.59%	749	0	47,863	0%	0	47,863	0	0
0	2	53,913	1.59%	857	0	54,770	0%	0	54,770	0	0
0	3	60,709	1.59%	965	0	61,674	0%	0	61,674	0	0
0	4	67,505	1.59%	1,073	0	68,578	0%	0	68,578	0	0
34	5	74,303	1.59%	1,181	40,168	75,484	0%	0	75,484	2,566,470	0
0		74,303	1.59%	1,181	0	75,484	2%	1,510	76,994	0	0
74		74,303	1.59%	1,181	87,425	75,484	3%	2,265	77,749	5,753,422	167,575
0		74,303	1.59%	1,181	0	75,484	4%	3,019	78,504	0	0
11		74,303	1.59%	1,181	12,996	75,484	5%	3,774	79,259	871,845	41,516
13	6*	80,083	1.59%	1,273	16,553	81,356	5%	4,068	85,424	1,110,514	52,882
0		80,083	1.59%	1,273	0	81,356	7%	5,695	87,051	0	0
9		80,083	1.59%	1,273	11,460	81,356	9%	7,322	88,678	798,105	65,899
4		80,083	1.59%	1,273	5,093	81,356	11%	8,949	90,306	361,222	35,797
	FPS										
0	1	64,386	1.59%	1,024	0	65,410		0	0	0	0
0	2	71,184	1.59%	1,132	0	72,316		0	0	0	0
0	3	77,982	1.59%	1,240	0	79,222		0	0	0	0
2	4	85,425	1.59%	1,358	2,717	86,783	5%	4,339	91,122	182,245	8,678
0		85,425	1.59%	1,358	0	86,783	7%	6,075	92,858	0	0
3		85,425	1.59%	1,358	4,075	86,783	9%	7,810	94,594	283,781	23,431
0	5*	88,794	1.59%	1,412	0	90,206	0%	0	0	0	0
150					180,486					11,927,605	395,779
*Entering the 18th year in PFRS											

2013 SCATTERGRAM							
# EES	Step	2013 Salary	% Longvty	Longvty Amt.	2013 Base Plus Longvty	Total Base Plus Total Longvty	Total Longvty Paid
0	Start	31,863	0	0	31,863	0	0
0	1	47,863	0	0	47,863	0	0
0	2	54,770	0	0	54,770	0	0
0	3	61,674	0	0	61,674	0	0
0	4	68,578	0	0	68,578	0	0
34	5	75,474	0%	0	75,474	2,566,116	0
50		75,474	3%	2,264	77,738	3,886,911	113,211
0		75,474	4%	3,019	78,493	0	0
35		75,474	5%	3,774	79,248	2,773,670	132,080
12	6*	81,356	5%	4,068	85,424	1,025,086	48,814
0		81,356	7%	5,695	87,051	0	0
9		81,356	9%	7,322	88,678	798,102	65,898

2		81,356	11%	8,949	90,305	180,610	17,898
	<b>FPS</b>						
0	1	65,410		0	0	0	0
0	2	72,316		0	0	0	0
0	3	79,222		0	0	0	0
2	4	86,783	5%	4,339	91,122	182,244	8,678
0		86,783	7%	6,075	92,858	0	0
2		86,783	9%	7,810	94,593	189,187	15,621
0	5*	90,206	0%	0	0	0	0
<b>146</b>						<b>11,601,926</b>	<b>402,200</b>
*Entering the 18th year in PFRS							

### Cost of the Award:

In arguing for its proposed salary increases, the Union calculated the following savings to the City based upon attrition and layoffs between 2009 through 2013:

2009	\$ 635,976
2010	\$1,271,952
2011	\$3,039,723
2012	\$2,370,036
2013	<u>\$2,056,347</u>
Total	\$9,374,034

In computing the savings as detailed above, the Union reasoned:

. . . the fire department was staffed by 173 career firefighters in December, 2008. . . The loss of 9 positions in 2009 saved the City \$635,976. The loss of an additional 9 positions in 2010 saved the City an additional \$635,976 in base wages for a total savings [in 2010] of \$1,271,952. . . The 2 ½-month layoff of 31 firefighters between January and April, 2011 generated savings in excess of \$475,746 in base wages. The 17 ½ month layoff of 21 firefighters between January, 2011 and July, 2012 generated savings in excess of \$1,966,125. The 2011 layoffs and the unremedied attrition since 2009 generated total savings of \$3,093,723 in 2011 and \$2,370,036 in 2012.

. . . Beginning in 2013, the reduction of 26 positions [172 in 2008 reduced to 146 in 2013) saves \$2,056,347 annually in salary costs, at the 2008 base salary rates." (IAFF Brief, p. 40.)

The Union argues that this savings is more than twice the cost of the increases it seeks for its membership, which it calculates at \$2,340,775. However, the Union's theory is flawed. That savings is illusory - generally, a municipality engages in a layoff and leaves positions vacant because it cannot afford the costs associated with maintaining the positions. Here, there is no evidence in this record to suggest that the City's objective in cutting back its fire department strength was to reduce the size of the workforce because of lack of need for fire protection. Rather, it is obvious that the City did so simply because it could no longer afford to continue to maintain the staffing levels of 2008. That said, I am confident that this award is within the City's ability to pay and that there is no danger of exceeding the local tax levy cap for the following reasons:

The City's decision not to backfill the vacant firefighter positions generated by retirements and resignations, has resulted in lower costs to operate the Fire Department. When comparing the above scattergrams, year to year between 2008 and 2013, I found that, in 2008, the base salary costs for this unit were \$12,162,273. In 2009, base salary costs fell to



\$11,890,100. In 2010, costs fell to \$11,751,902. For 2011, even with the increases being awarded herein, total base salary costs, adjusted for the increases being awarded herein, would be \$10,254,149; in 2012, they will rise to \$11,927,605; and in 2013, they will go to \$11,601,926. Thus, even factoring in increments paid and increased longevity as firefighters hit new benchmarks, as well as the raises being awarded herein, the salary costs for this bargaining unit will be less in all years of the contract than they were at the end of the 2008.

Second, after the Pierson award was affirmed by the Commission but before it was overturned by the Court, the City paid out on the award. It paid the retroactive pay to unit employees and it increased firefighters' pay to the salary rates established by the Pierson Award. Therefore, there can be no problem with funding this award because it has already been paid. Further, while the award adds an additional year (2013) to the length of the contract, there is no further salary increase due for 2013, and there are no increment costs for 2013, as all employees are already at step 5 or above. In 2013, there is only the cost of additional employees hitting a new longevity benchmark, but even this cost increase is only \$6,421.

I conclude then, that this award is within the City's ability to pay, has no impact on the tax levy cap, and respects the City's need for fiscal restraint, all within the public

interest.

In summary, the cost of the award herein is as follows:

<b>COSTS OF THE AWARD</b>						
	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>Total Increases</b>
Increments	269,305	187,238	0	0	0	456,543
Longevity Increases	2,729	17,304	57,329	6,937	6,421	90,720
Salary Increases	0	0	483,180	180,486	0	663,666 <sup>11</sup>
<b>Total</b>	<b>272,034</b>	<b>204,542</b>	<b>540,509</b>	<b>187,423</b>	<b>6,421</b>	<b>1,210,929</b>

**City's "Overpayment" to the Firefighters:**

When the Court vacated the Pierson award, the City rolled back pay rates to the 2008 level. To date, it has not attempted to recoup the overpayment from the employees.

The City contends that if I were to award the same terms as were awarded to the superiors, which I have done, it would still have overpaid the firefighters an aggregate of \$332,692. It has implied that it would like to recoup this overpayment from employees in the form of benefit reductions rather than a deduction from employees' paychecks. I have considered the possibility of partially balancing this overpayment against the City's liability to Union members for the Davis grievance award, in which the City was directed to pay back the firefighters an

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<sup>11</sup>In calculating the cost of the award, I have had to make certain assumptions with regard to retroactive pay eligibility. In the absence of more specific information as to the parties' usual practice and custom, and in the absence of specific language in the contract, as well as the parties' briefs, I have calculated the costs of increases on only the complement of current employees in any given year pursuant to the Union's scattergrams.

aggregate of \$270,336 for their accumulated leave time. However, the record is not clear on who is eligible for those payments, making any calculation speculative. Accordingly, the City is entitled to recoup the amount of retroactive payments which have been paid in excess of this award from employees.

\* \* \* \*

In addition to salaries, the parties have submitted proposals concerning a number of existing benefits and language changes. In its brief, the City concentrated all of its efforts on supporting its economic proposal and put forth no specific arguments to support its ancillary proposals. The IAFF argued generally that its array of existing benefits has long been part of the contract and that the City has not justified the removal or diminishment of existing benefits. One principle of evaluating proposed changes to existing terms and conditions of employment is that the party seeking the change has the burden of justifying it.

**Article XXVII, Pay Period, Section 1:**

The IAFF proposes to modify this section as follows:

In years where there are 27 pay periods, the bi-weekly pay shall be adjusted so that the annual salary shall be paid over the 27 pay periods, but there shall be no adjustment of the hourly wage rate.

The City proposes the following modification to Section 1:

Employees shall be paid every two (2) weeks for a period of fifty-two (52) weeks in accordance with the provision of the City Ordinance. However, in years where the total number of pay periods exceeds twenty-six (26), employees shall be paid in twenty-seven (27) equal installments.

I find that the proposal, as set forth by the Union, is reasonable. I note that the same proposal was included in the Weissblatt award. The proposal, as worded by the IAFF, is awarded.

**Article VII, Vacations, Section 4:**

The City made the following proposal with regard to  
Vacation Leave:

Section 3

Vacation time must be taken in the year earned. When vacation time is affirmatively deferred by the City in writing to the employee for any reason other than the fact that such period has been previously granted in accordance with Section I of this ARTICLE, then the employee shall be entitled to utilize such vacation time at a later period in the same calendar year or to be paid for same. Where vacation time is not deferred by written notice to the employee, said vacation days shall expire at the end of the following calendar year in which the days were earned.

Section 4

Notwithstanding any provisions to the contrary, an employee may accumulate fifteen vacation days in the calendar year to be carried over in the following calendar year. Days not utilized or otherwise affirmatively deferred by the City shall expire without compensation at the end of the following calendar year after said days are earned. This section shall be applied retroactively effective January 1, 2009 to all vacation time accrued after December 31, 1996.

The IAFF proposes to modify this section as follows:

Notwithstanding any provision to the contrary, as of January 1, 2009, an employee may accumulate fifteen (15) vacation days in the calendar year to be carried over in the following year, but for no longer than the next year unless deferred by written notice to the employee by the Department and then the accumulated days shall expire at the end of the following calendar year if not used.

The vacation accumulation for employees hired before January 1, 2009 shall be capped at the amount of accumulated vacation time on the City's records, as of December 31, 2008, and such employees shall be permitted to utilize any such accumulated time prior to retirement. If an employee hired prior to January 1, 2009 is unable to utilize the accumulated vacation prior to retirement, the vacation accumulated prior to December 31, 2008 shall be paid in full upon retirement. For employees retiring prior to the execution of this Agreement, the vacation accumulated prior to December 31, 2008 shall be paid in full upon retirement.

It appears that the City's proposal is an attempt to cure the contract provisions that lead to the Davis award. The prior language provided that employees could accumulate vacation days into one succeeding year, but if not then taken, could be cashed out. Rather than cashing accumulated days at the end of the second year, employees banked those days against their retirement, and then sought to be paid in full for the value of their banked days. It appears that what the City is seeking is (a) to stop employees from accumulating vacation leave banks beyond one year after they are earned, and (b) to eliminate out all existing vacation leave banked since 1996.

I agree with the City's concept to limit carryover of vacation time to one year beyond the year in which it was earned. The first part of the Union proposal expresses the same concept but caps the carryover amount at 15 days. Vacation days can only be carried over into one subsequent year and only with the City's written permission. This is a fair and reasonable proposal.

The record does not justify the second part of the City's proposal - to eliminate all existing vacation leave banks accumulated since 1996. Firefighters earned this contractual benefit over the last 15 years. The courts have not looked favorably upon awards that cause employees to forfeit a benefit that was earned under earlier contracts and not yet used. See Morris School District Board of Education v. Morris Education Association, 310 N.J. Super. 332 (App. Div. 1998). I am not inclined to take that earned benefit away by the contract language being proposed.

With regard to the second part of the IAFF's proposal, it appears that capping the number of days in a firefighter's existing bank at the amount of accumulated vacation time on the City's records as of December 31, 2008 is fraught with the same problem as the City's proposal: it would mean that a firefighter who carried vacation time in 2009 through 2012 might potentially lose his banked days. Again, I am not inclined to take away an

existing benefit earned under the provisions of an earlier contract, the terms of which are still in effect until today. Therefore, I will award a combination of the two proposals as follows:

Vacation time is intended to be taken in the year in which it is earned. However, if the Department provides written notice to the employee affirmatively permitting the employee to carry vacation time into the following year, then the employee may carry a maximum of 15 vacation days into the following year. Such deferred vacation time must be used in the year following the year in which it was earned. Vacation days not taken by the end of that year shall expire at the end of that year, with no cash compensation.

The vacation accumulation for all firefighters shall be capped at the amount of accumulated vacation time on the City's records as of December 31, 2011, and such employees shall be permitted to utilize any such accumulated time prior to retirement. For employees who retired prior to the date of this award, the vacation accumulated prior to this date shall be paid in full upon retirement<sup>12</sup>.

#### **4. Article X, Sick Leave:**

The IAFF proposes a new Section 5 to read:

Effective January 1, 2010, and except for present employees employed prior to January 1, 2009 and who have an accumulation of sick time exceeding \$15,000, employees shall receive payment for unused accumulated sick time at the time of retirement or termination in an amount not to exceed \$15,000.

This proposal will be addressed below.

#### **Article IV- Retirement:**

<sup>12</sup> To be absolutely clear, vacation time earned in 2012 for example, must be used in 2013 or forfeited with no cash compensation. Vacation time banked by the end of 2011, will continue to be banked and either used or paid at retirement.

The City proposes to delete Section 2 concerning terminal leave. This section provides for a terminal leave payment upon retirement of 1.1% of the last year's salary at retirement multiplied by the number of years of service as of December 31, 1996.

The City also proposes to modify section 6 as follows:

Section 6

All payments under this article, including sick, vacation, and holiday ~~and terminal leave~~ shall be paid as specified in the pay period following retirement. However, should the sum exceed \$45,000, the payment shall be paid in three (3) equal installments. ~~One third (1/3) at retirement and the remaining paid each July of the succeeding fiscal years.~~ Effective July 1, 2011, this sum shall not exceed a total payment of \$15,000.

Section 10

Accumulated Vacation- Holiday: All accumulative vacation and holidays on the books as of December 31, 1996 shall be carried over and paid out at the employee's salary rate at retirement, first in, first out shall apply, subject to the \$15,000 cap set forth in Section 6.

In effect, the City's proposal would limit payouts upon retirement - for uncompensated holidays, accumulated vacation days and sick leave - to a maximum aggregate of \$15,000. It would also eliminate terminal leave payments upon retirement. The IAFF's proposal would limit only sick leave payouts upon retirement to the \$15,000 cap, and would grandfather members with higher accumulated benefits.



With regard to benefits payable upon retirement, I have already limited such payments with my award concerning future payments for accumulated vacation time upon retirement. The Union's proposal with regard to capping sick leave payment is fair and reasonable. And, it does not run afoul of the principles set forth in Morris School District concerning the forfeiture of benefits which were earned under prior contracts. The Union's sick leave payment upon retirement proposal is awarded herein.

However, with regard to the terminal leave pay provision which the City proposed to eliminate, I note that this provision already caps the amount of terminal leave available for payment based upon the number of years earned up to 1996. In another eight years all employees who had terminal leave available prior to 1996 will have reached their 25<sup>th</sup> year of service and will likely be ready to retire. Thus, this contract provision, if not altered by the parties, will self-expire. I am not inclined to require employees to now forfeit what is left of this existing benefit, which was earned by employees under the terms of prior contracts. Morris School District. The remainder of the City's proposal is denied, as the capping of retirement payouts for existing employees constitutes a forfeiture of an already earned benefit.

**5. Article XXX, Insurance, Health and Welfare:**

The IAFF proposes to modify the provision as follows:

Section 14: Upon the execution of a successor agreement, the co-pay for generic prescriptions shall be \$10.00 and the co-pay for brand name prescriptions shall be \$17.00.

Section 15: (New): Effective May 22, 2010, all employees shall contribute 1.5% of their base salary toward the cost of their insurance benefits. Effective June 28, 2011, all employees shall make contributions toward the cost of their insurance benefits in the amounts set forth in P.L. 2011 C.78. -All employee premium contributions shall be deducted on a pre-tax basis as permitted by law.

Section 16 (New): Upon the execution of a successor agreement, the co-payment for Doctor's visits shall be \$20.00.

Section 17 (New): Effective January 1, 2013, the City shall have the option of implementing health benefits through the New Jersey State Health Benefits Program which are equal to or better than the level of benefits provided under the terms of this agreement.

The City proposes the following modifications to the Article:

Section 1

The City shall continue to maintain and provide all insurance coverage as provided and set forth in the Plan Document. The City ~~represents that said~~ shall have the right to change insurance providers provided that the Plan is substantially similar or better than the Plan provided at the commencement of the agreement. ~~negotiations, and that any disparity resulting in additional costs to the employee/member will be borne by the City.~~

Section 3

Notwithstanding other provisions of this Article, the City of Camden shall continue its Health Benefits Program, including all benefit and coverage levels, usual and customary rates and

deductible charges for its employees and their families, subject to the conditions set forth in this Section.

Effective May 22, 2010, all employees shall contribute 1.5% of their base salary toward the cost of their insurance benefits.

Effective July 1, 2011, the City of Camden shall provide for 70% of the total cost of health insurance coverage (medical and prescription) for the employee and any qualifying dependents of the employee. while the employee shall be responsible for 30% of said costs. Under no circumstances, shall the minimum employee health insurance premium contribution be less than 1.5% of base salary for all employees receiving any health insurance coverage from the City.<sup>13</sup>

All employee premium contributions shall be deducted on a pre-tax basis as permitted by law. The City of Camden shall establish a Cafeteria Plan in accordance with the rules set forth by the Internal Revenue Service.

#### Section 4

Major Medical deductions shall be established on the basis of one hundred dollars (\$100.00) per year for individual coverage and two hundred and fifty dollars (\$250.00) per year for family coverage. The major medical lifetime maximum cap for current employees and retirees shall be one million dollars (\$1,000,000.00) to the extent permitted by law.

#### Section 5

Notwithstanding other provisions of this Article, the City reserves the right to change its Health Benefit Program and Benefit Administrator so long as the ~~no less~~ benefits ~~are~~ provided are substantially similar or better and that prior to such change that the City provide thirty (30) days' notice to the Union/Association for the purpose of review and comparison of all benefit and coverage levels, usual and customary rates and deductible charges.

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<sup>13</sup>The Union, in its brief, expressed the belief that the City agreed to withdraw its proposal for 30% health benefit contributions in exchange for the Union's agreement to higher co-pays on prescriptions and doctor's visits.

The City will provide the Union/Association any and all plan documents of the current and proposed plans and allow the Union/Association to have contact with any proposed Insurance Carrier or Health Benefit Plan Administrator. The Union/Association shall be permitted to present alternative Carriers or Administrators during the ~~proposal~~ notice period however, the City is not obligated to engage such Carriers or Administrators.

I award a composite of the two proposals concerning health care coverage as follows:

Section 14:

Effective the date of this award, the co-pay for generic prescriptions shall be \$10.00 and the co-pay for brand name prescriptions shall be \$17.00.

Section 15: (New):

Effective May 22, 2010, all employees shall contribute 1.5% of their base salary toward the cost of their insurance benefits.

Effective June 28, 2011, all employees shall make contributions toward the cost of their insurance benefits in the amounts set forth in P.L. 2011 C.78. Under no circumstances, shall the minimum employee health insurance premium contribution be less than 1.5% of base salary for all employees receiving any health insurance coverage from the City. All employee premium contributions shall be deducted on a pre-tax basis as permitted by law.

Section 16 (New):

Effective the date of this award, the co-payment for doctor's visits shall be \$20.00.

Section 17 (New):

Effective January 1, 2013, the City shall provide health benefits through the New Jersey State Health Benefits Program. The City shall have the right to change health benefit carriers or administrators provided that the benefits are equal to or better than the level of benefits in effect as of January 1, 2013.

**Article XI- Injury On Duty Leave:**

The City proposes to amend the Article as follows:

## Section 1

If an employee in the line of duty is incapacitated and unable to work because of an injury or sickness related to or caused in the performance of his/her duties, provided such employee is on active duty at the time such injury or the illness occurs and the incapacitation and inability to work occurs within one (1) year of the incident giving rise to the injury or sickness, he/she shall be entitled to injury leave with full pay during the period in which he/she is unable to perform his/her duties, as certified by the Examining Physician, as appointed by the City. Such payments shall be discontinued when an employee is placed on disability leave pension and reduced by any payment received from Worker's Compensation or other similar plan.

The City has not provided justification for this proposal, and therefore, the proposal must be denied.

**Article XII - Limited Duty Assignments:**

The City proposes to amend the Article as follows:

## Section 2

Such duty ~~shall~~may continue, at the discretion of the City, until the employee is certified as capable of returning to full duty by the Examining Physician.

Section 4 (New Section)

Nothing in this article shall create a duty on the part of the City to create or maintain light duty assignments where such assignments do not exist or are not efficient to the operations of the Department.

This proposal is reasonable and comports with existing PERC case law concerning the Employer's obligations concerning light duty.

The proposal is awarded.

**ACTING PAY:**

The City proposes the following change:

## Section 2

The practice of appointing employees to higher ranks in all acting capacity is discouraged. Any employee required to act in such higher ranking capacity after the completion of ~~one~~ five consecutive full shifts of work, shall receive pay commensurate with such position in which he/she acts.

The employee to be appointed temporarily to the higher ranking position shall be the employee who is placed highest on the current NJ Department of Personnel promotional list within his/her respective unit. At such time when there is no standing promotional list, employees to be appointed to the higher ranking position shall be the most senior employee in the Department assigned to that particular unit.

The starting salary for Fire Fighters shall be Twenty Five (\$25,000) dollars. The employee shall receive said amount through the completion of his/her working test period. Upon completion of the working test period, said employee shall receive the minimum salary set forth in the Collective Bargaining Agreement. ~~This provision shall be effective for all Fire Fighters hired after February 21, 2003.~~

The City has not provided justification for this proposal, and therefore, the proposal must be denied.

**Article XXXI - Holidays:**

The City proposes to reduce the yearly number of holidays from 13 to 11, effective January 1, 2012. It also asks to delete the provision in Section 2 which permits additional holidays as declared by the Governor or the President. It also asks to modify Sections 3, 4 and 5 as follows:

## Section 3

An employee shall take his/her holidays at any time during the year. In the event that a request for a holiday is denied, then said holiday may be taken later in the year. In the event that there are any unused holidays at the end of the year, the employee shall be paid in lieu thereof. Notwithstanding any other provision in the Article to the contrary, an employee shall be allowed to utilize all of such ~~thirteen (13)~~ eleven (11) paid holidays, or any portion thereof, in a single quarter of any calendar year for the purpose of attending bona fide college courses, provided verification of such attendance is presented to the City.

## Section 4

Notwithstanding any other provision of this ARTICLE to the contrary, employees may carry over into the following year, five (5) accumulative holidays. ~~Payments for such accumulative holidays shall be paid to the employee at the employee's current rate of pay.~~ Days carried over and not utilized shall expire without compensation at the end of the following calendar year after said days are earned. This section shall be applied retroactively effective January 1, 2009 on all holidays accrued after December 31, 1996.

## Section 5

All payment for accumulated holidays and vacations shall be paid at the employee's current pay at retirement, subject to the \$15,000 capitation set forth in Article IV. The City shall make available to all employees request forms upon which holidays are to be requested. A copy of such completed form with the action of the City with respect to the request noted thereon shall be provided to the employee.

There has not been sufficient justification provided to support the City's proposed changes concerning holidays.

This proposal is not awarded.

**Article XXXVI - Longevity:**

The City proposes to eliminate all longevity payments for all current and future employees. The City has produced no argument to support this proposal, nor does the evidence concerning comparability support its proposal. Indeed, the arbitrator in the superior officers' matter rejected this proposal. The proposal is denied.

**New Article - Management Rights:**

The City proposes the following new article to be added to the contract:

Section 1

The City of Camden hereby retains and reserves unto itself, without limitation, all powers, rights, authority, duties and responsibilities conferred upon and vested in it prior to the signing of this Agreement by the laws and Constitution of the State of New Jersey and of the United States including, but without limiting the generality of the foregoing. the following rights:

- a. The executive management and administrative control of the City Government and its properties and facilities and activities of its Uniformed Firefighting Personnel utilizing personnel methods and means of the most appropriate and efficient manner possible as may from time to time be determined by the City.
- b. To make rules of procedure and conduct. to use improved methods and equipment, to determine work schedules and shifts, to decide the number of Firefighters needed for any particular time and to be in sole charge of the quality and quantity of the work required. The right of management to make such reasonable rules and regulations as it may from time to time deem best for the purposes of maintaining order, safety and/or the effective operation



of the Department after advance notice thereof to the Firefighters.

c. To hire all Firefighters to promote, transfer, assign or retain Firefighters in positions within the Township.

d. To suspend, demote, discharge or take any other appropriate disciplinary action against any Firefighters for good and just cause according to law.

e. To lay off Firefighters in the event of lack of funds under conditions where continuation of such work would be inefficient and non-productive.

f. The City reserves the right with regard to all other conditions of employment not reserved to make such changes as it deems desirable and necessary for the efficient and effective operation of the Fire Department.

#### Section 2

In the exercise of the foregoing powers, rights, authority, duties and responsibilities of the City the adoption of policies, rules, regulations, Code of Conduct and practices in the furtherance thereof, and the use of judgment and discretion in connection therewith, shall be limited only by the specific and expressed terms of this Agreement and then only to the extent such specific and expressed terms thereof are in conformance with the Constitution and laws of New Jersey and of the United States.

#### Section 3

Nothing contained herein shall be construed to deny or restrict the City of its rights, responsibilities and authority under any National, State, County or local laws or regulations.

The City has not supported the awarding of this proposal.

Most of the contents of this proposal are reiterations of managerial prerogatives already in the City's management authority. Therefore, the proposal is denied.

**AWARD****Duration of Agreement:**

Five year awarded covering January 1, 2009 through December 31, 2013.

**Salaries:**

I award the following salary increases:

2009 - 1.97%  
 2010 - 1.59%  
 2011 - 1.59%  
 2012 - 1.6%  
 2013 - 0%

No retroactive raises for 2009 and for 2010, either on base pay or on calculations built upon base pay, i.e., overtime payments and longevity percentages. Percentage increases will not be compounded from year to year from 2009 and 2010 into 2011.

Salary rates will be adjusted effective January 1, 2011, by 5.15%. Thereafter, effective January 1, 2012, salary rates will be adjusted by 1.6% of the 2011 base.

This award results in the following new Salary Guide:

<b>BASE PAY SALARY GUIDE</b>					
<b>Step</b>	<b>2009</b>	<b>2010</b>	<b>2011 (5.15%)</b>	<b>2012 (1.59%)</b>	<b>2013 (0%)</b>
<b>Firefighters</b>					
Start	29,828	29,828	31,364	31,863	31,863
1	44,806	44,806	47,114	47,863	47,863
2	51,272	51,272	53,913	54,770	54,770
3	57,736	57,736	60,709	61,675	61,675
4	64,199	64,199	67,505	68,579	68,579
5	70,664	70,664	74,303	75,485	75,485
6*	76,161	76,161	80,083	81,357	81,357

<b>Fire Prevention Specialists</b>					
1	61,233	61,233	64,386	65,410	65,410
2	67,698	67,698	71,184	72,316	72,316
3	74,163	74,163	77,982	79,222	79,222
4	81,241	81,241	85,425	86,783	86,783
5*	84,445	84,445	88,794	90,206	90,206
*Entering the 18th year in PFRS					

Notwithstanding the foregoing salary increases, the City shall be entitled to recoup the amount of increases already paid to unit employees under the Pierson award.

**Pay Periods, Article XXVII, Section 1:**

Modify as follows:

In years where there are 27 pay periods, the bi-weekly pay shall be adjusted so that the annual salary shall be paid over the 27 pay periods, but there shall be no adjustment of the hourly wage rate.

**Article VII, Vacations, Section 4:**

Modify the existing language as follows:

Vacation time is intended to be taken in the year in which it is earned. However, if the Department provides written notice to the employee affirmatively permitting the employee to carry vacation time into the following year, then the employee may carry a maximum of 15 vacation days into the following year. Such deferred vacation time must be used in the year following the year in which it was earned. Vacation days not taken by the end of that year shall expire at the end of that year, with no cash compensation.

The vacation accumulation for all firefighters shall be capped at the amount of accumulated vacation time on the City's records as of December 31, 2011, and such employees shall be permitted to utilize any such accumulated time prior to retirement. For employees who retired prior to the date of this award, the

vacation accumulated prior to this date shall be paid in full upon retirement.

**Article X, Sick Leave:**

Modify the existing language as follows:

Effective January 1, 2010, and except for present employees employed prior to January 1, 2009 and who have an accumulation of sick time exceeding \$15,000, employees shall receive payment for unused accumulated sick time at the time of retirement or termination in an amount not to exceed \$15,000.

**Article XXX, Insurance, Health and Welfare:**

Modify the existing language as follows:

Section 14:

Effective the date of this award, the co-pay for generic prescriptions shall be \$10.00 and the co-pay for brand name prescriptions shall be \$17.00.

Section 15: (New):

Effective May 22, 2010, all employees shall contribute 1.5% of their base salary toward the cost of their insurance benefits.

Effective June 28, 2011, all employees shall make contributions toward the cost of their insurance benefits in the amounts set forth in P.L. 2011 C.78. Under no circumstances, shall the minimum employee health insurance premium contribution be less than 1.5% of base salary for all employees receiving any health insurance coverage from the City. All employee premium contributions shall be deducted on a pre-tax basis as permitted by law.

Section 16 (New):

Effective the date of this award, the co-payment for doctor's visits shall be \$20.00.

Section 17 (New):

Effective January 1, 2013, the City shall provide health benefits through the New Jersey State Health Benefits Program. The City shall have the right to change health benefit carriers or administrators

provided that the benefits are equal to or better than the level of benefits in effect as of January 1, 2013.

**Article XII - Limited Duty Assignments -**

Modify Section 2 as follows:

Such duty ~~shall~~may continue, at the discretion of the City, until the employee is certified as capable of returning to full duty by the Examining Physician.

Add (New) Section 4.

Nothing in this article shall create a duty on the part of the City to create or maintain light duty assignments where such assignments do not exist or are not efficient to the operations of the Department.

All proposals by the IAFF and the City not awarded herein are denied. All provisions of the existing agreement shall be carried forward except for those which have been modified by the terms of this Award.

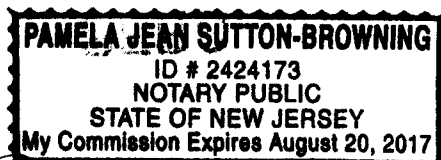
\* \* \* \*

Pursuant to N.J.S.A. 34:13A-16(f), I certify that I have taken the statutory limitation imposed on the local tax levy cap into account in making the award. My Award also explains how the statutory criteria factored into my final determination.

*Susan W Osborn*  
 Susan W. Osborn  
 Interest Arbitrator

Dated: May 13, 2013  
 Trenton, New Jersey

On this 13th day of May, 2013, before me personally came and appeared Susan W. Osborn to me known and known to me to be the individual described in and who executed the foregoing instrument and she acknowledged to me that she executed same.



*Pamela J. Sutton-Browning*