

NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of Interest Arbitration Between:

BOROUGH OF MADISON

“Public Employer,”

- and -

FMBA LOCAL 74

“Union.”

**INTEREST ARBITRATION
DECISION AND
AWARD**

Docket No. IA-2023-018

**Before
James W. Mastriani
Interest Arbitrator**

Appearances:

For the Borough:

Matthew J. Giacobbe, Esq.

Adam S. Abramson-Schneider, Esq, On the Brief

Victoria A. Holmes, Esq., On the Brief

Cleary Giacobbe Alfieri Jacobs, LLC

For the FMBA:

Stuart J. Alterman, Esq.

Alterman & Associates, LLC

This Award arises out of a negotiations impasse between FMBA Local 74 [the “FMBA” or “Union”] and the Borough of Madison [the “Borough” or “Employer”]. The existing collective negotiations agreement between the parties has effective dates of January 1, 2018 through December 31, 2021 as a result of a September 17, 2017 a Memorandum of Agreement (MOA) that revised certain terms of the then existing agreement dated January 1, 2014 through December 31, 2017. The terms of that Agreement were carried forward into 2018-2021 except as modified by the terms set forth in the September 17, 2017 MOA.

The parties were unable to reach a new agreement through voluntary, direct negotiations after the December 31, 2021 contract expiration. Due to the impasse, the Borough filed a Petition to Initiate Compulsory Interest Arbitration on January 3, 2023. In accordance with N.J.S.A. 34:13A-16(e)(1), I was randomly selected by the New Jersey Public Employment Relations Commission [“PERC”] on January 10, 2023 to serve as interest arbitrator.

After my designation, I conducted a pre-interest arbitration mediation session on February 1, 2023. A voluntary agreement could not be reached. This required the scheduling of a hearing to develop a full record upon which an Award could be rendered deciding the issues set forth in the parties’ final offer submissions. A schedule was set for the submission of last offers and for the submission of exhibits prior to formal hearing. At hearing, the parties stipulated to the admission of the documents including financial reports. The interest arbitration hearing was held virtually on March 15, 2023. At the hearing, testimony was

received from Raphael J. Caprio, Financial Expert for Local 74, Lieutenant-Firefighter Andrew Atchison, President of Local 74 and Captain Ed Nunn. The Borough and FMBA each filed post-hearing briefs which were reviewed by the arbitrator and transmitted to the parties on March 28, 2023.

FINAL OR LAST OFFERS

As required by statute, each party submitted its last or final offer to each other and the arbitrator on or about February 28, 2023. They are as follows:

FMBA Local 74

Interest Arbitration Best and Final Offer Pursuant to N.J.A.C. 19:16-5.7(g)(2)

Non-bolded terms below appear in the Borough's Proposal of April 12, 2022 or, in instances where contractual language is proposed, non-bolded terms appear in the current contract. Bolded terms below represent appropriate and necessary changes and additions given the factors under N.J.S.A. 34:13A-16(g).

- 4-year contract commencing January 1, 2022 and ending December 31, 2025.
- **Article 19, Wages - 3.5% increase to base pay per year with a top step adjustment increase of \$1,000 for the years 2024 and 2025.**
- **Reduction of Health Care contributions by 10% total over the length of the contract by 2.5% per year.**
- Increase EMT stipend to \$1,200 yearly.
- Increase clothing allowance to \$400 yearly (currently \$200). **The clothing allowance shall be made part of base salary.**
- **Full step movement shall occur beginning on January 1, 2022. On July 1, 2023 all employees on the salary guide shall move one additional full step forward.**

- Bi-Lingual stipend of \$750.
- Fire Inspector Stipend of \$2,500.
- **Lieutenant Rank Differential of 5% with Lt. stipend rolled in to base salary.**
- Article 11 - Add **stepfamily**, sister-in-law and brother-in-law to current bereavement language.
- Article 7, Section 2 – Increase the minimum standby overtime from one hour to **three** hours.
- **Article 8, Section 1 – Change the language to read:**
Standby duty shall consist of an assigned off-duty employee being available and ready for active duty as soon as possible. Whenever any employee shall be and remain available on assigned standby as a regular part of his/her shift work, that employee shall receive the following compensation:
 - A) Standby shall be paid hour-for-hour every other payday (twelve (12) times per year).**
 - B) In the event that an employee performs actual duty while on standby, he/she shall be compensated for such duty at his/her regular overtime rate.
- Article 8, Section 2 – Change the language to read: Whenever an employee shall be, and remains available on his/her normal assigned standby duty, and such standby duty occurs on any borough holiday (12), he/she will be paid time and a half for a minimum of four (4) hours.
- Article 3, Section 7 – Increase the meal allowance to \$10.
- Employees hired after January 1, 2022 shall receive 1 day's pay for every 6 sick days, up to a maximum of 100 day's pay.
- Article 23 – Duration of Agreement read:
 - 1. This Agreement between the Borough of Madison and FMBA Local 74 shall commence January 1, 2022 and end December 31, 2025.**

2. **Negotiations for a successor Agreement shall occur in compliance with N.J.A.C. 19:16-2.1.**
3. **All provisions of this Agreement will continue in full force and effect until a successor Agreement is negotiated.**

Borough of Madison

1. **ARTICLE X - SICK LEAVE, LEAVE OF ABSENCE AND PERSONAL DAYS**

Section 1 – Sick Leave

- (c) Add the following: Employees hired on or after January 1, 2022 who retire from a state or local pension system shall receive one (1) days credit for every six (6) sick days, up to a maximum of one hundred (100) days.

Add new subsection:

- (d) Any payment for sick leave in retirement shall be in compliance with N.J.S.A. 40A:9-10.4.

2. **ARTICLE XI – DEATH IN FAMILY**

- (b) Add sister-in-law and brother-in-law to be included in immediate family.

3. **ARTICLE XIX – WAGES**

Salary Increases as follows:

- 2022 – 2.0% (Retroactive to January 1, 2022)
- 2023 – 2.0% (Retroactive to January 1, 2023)
- 2024 – 2.0%
- 2025 – 2.0%

4. **ARTICLE XXIII – DURATION**

- (a) The term of the Agreement shall be January 1, 2022 through December 31, 2025.

- (b) The benefits and salary step movement contained in this Agreement shall not continue beyond the Agreement's expiration in accordance with the Decision and Award of Arbitrator Brian Kronick in AR-2022-579.

BACKGROUND

The public employer is the Borough of Madison. It is one of 39 municipalities located within Morris County. Approximately 17,000 residents live within an area of 4.3 square miles.

The Fire Department is led by a Chief. He is the only member of the Department who is not a member of the bargaining unit. The Recognition clause of the Agreement, Article I, defines the bargaining unit as "all full-time paid Captain(s) and paid Firefighters. Most unit employees are EMT qualified for which they receive a stipend. Testimony indicates there is presently one (1) Fire Captain, four (4) Lieutenants and five (5) Firefighter/EMTs. One Firefighter/EMT has recently retired. There is a Firefighter/Inspector job title but it is unoccupied at the present time. The Inspector duties are performed by the Captain. The Salary Schedules do not include annual rate of compensation for those who occupy the Lieutenant rank. However, the Agreement specifically references that starting January 1, 2018, the Fire Chief can determine who serves as a Lieutenant as an assignment with a \$2,250 stipend included in pensionable base pay.

Volunteer Firefighters assist with certain department operations as described in the testimony of Lieutenant Andrew Atchison. Lt. Atchison explained

that because of the presence of volunteers, the Department is considered a “combo” operation. However, he testified that volunteer participation is limited because some volunteers are confined to “support” performing outside duties such as connecting hoses to a hydrant, grabbing tools or moving pressure fans around. These “support” volunteers cannot perform direct firefighting such as going into a fire due to lack of qualifications. Other volunteers, now numbering ten (10) or twelve (12), can engage in fire suppression duties. They are qualified to go inside structures due to having completed required education/training. Lt. Atchison expressed concern that there are fewer volunteers and this has adversely impacted on fire services. He testified that due to the two (2) in, two (2) out rule more firefighters are required to be available at any given time. According to Lt. Atchison, volunteer participation has diminished over recent times. He explained:

So as long as I've been around the volunteer firemen supplemented the career department. So when we, on nights and weekends when we have two guys working or during the day when we have five, the volunteers would respond to any fire alarm, any fire call, obviously any fire and assist us. Be another set of hands. They were like the calvary. Since we have lost those ranks now we are -- we have put ourselves in a precarious position where we cannot effectively do what we need to do in those first vital couple minutes of a fire. We don't have the hands. We don't have the people. We are struggling to get things done and accomplish what we need to get done in those crucial first couple of minutes.

The Borough's paid Fire Department is only one of three paid departments in Morris County. The other two are Morristown and Morris Township.¹ Among these, Madison receives the highest level of compensation. The Borough also

¹ It is unclear whether volunteer fire departments in the county have a paid skeleton crew.

engages in mutual aid pacts with the above paid departments as well as neighboring towns Chatham, Florham Park and Green Village who are staffed by volunteers. Lt. Atchison, while testifying that the mutual aid pacts could place significant stress on the Borough's Department if a call were to be made while aiding another jurisdiction, this has "never happened before."

The Department is staffed and deployed on a ten (10) hour day shift from 7:30 a.m. to 5:30 p.m. and a fourteen (14) hour night shift from 5:30 p.m. to 7:30 a.m. According to Captain Ed Nunn, the Chief, two (2) Firefighters and he work a Monday through Friday schedule from 8:00 a.m. to 4:30 p.m. with the remaining force rotating between days and nights. He explained that the deployment of two (2) permanent daytime Firefighters began in 2000 when OSHA imposed a two (2) in and two (2) out rule for safety reasons. Lt. Atchison described how the two (2) in and two (2) out requirement operates in his testimony.

The Department's staffing is augmented by a standby duty system that has been in effect since 2011. Its terms are set forth in Article VIII. Standby duty was explained by both Lt. Atchison and Cpt. Nunn. The contract provision covering standby duty states the following:

ARTICLE VIII – STANDBY DUTY

Section 1

Standby duty shall consist of an assigned off-duty employee being available and ready for active duty as soon as possible. Whenever any employee shall be and remain available on assigned standby as

a regular part of his/her shift work, that employee shall receive the following compensation:

- A) Standby shall be paid at nineteen and one half (19 ½) hours pay every other payday (twelve (12) times per year).
- B) In the event that an employee performs actual duty while on standby, he/she shall be compensated for such duty at his/her regular overtime rate.

Section 2

Whenever an employee shall be, and remains available on his/her normal assigned standby duty, and such standby duty occurs on Christmas Day, New Year's Day, Easter Sunday, Memorial Day, July 4th, Labor Day or Thanksgiving Day, he/she will be paid for four (4) hours compensation at his/her hourly rate in addition to his/her regular standby compensation.

Section 3

The Fire Captain(s) shall not serve on standby duty and shall not be compensated for standby.

The FMBA proposes substantial changes to the existing article.

Lt. Atchison testified that "standby" is "an obligation of the job" and "you are essentially you are the extra man working from home." He testified:

... standby is when you are in between your two day shifts or your two night shifts. You work either a ten hour -- I'm sorry. A 14 hour overnight shift in between your days or a ten hour day shift in between your nights. And what that is essentially you are an extra man working from home. You are required to be in the area, you know, geographically speaking with the firehouse. You are not permitted to consume alcohol or anything like that. You have to be ready and available at all times. ... comes into the firehouse at a moment's notice and you are responsible to take the next engine to the fire or the call, wherever they need extra help. You respond to secondary alarms. Things of that nature.

According to Lt. Atchison, there is a standby schedule [C. Ex. #5] showing twice a week duty (either during the day shift or the night shift) equating to approximately ninety-six (96) hours per month. He referred to Article VIII which provides nineteen and one-half (19 ½) hours of straight time pay per month for standby. This amounts to an additional 234 hours of base pay not reflected in the salary schedule. In addition, if a Firefighter is actually required to respond to a Firehouse for a call, the Firefighter receives at least one hour of overtime pay or overtime pay per hour if the call exceeds one hour. The record does not reflect how many occurrences of response there are annually while on standby.

Captain Nunn testified that he is not included in the standby procedure but responds to any emergency outside of his normal steady dayshift schedule for which he receives overtime except for when the time required is not substantial.

The Department also performs emergency medical services [EMS]. It has expanded its role in supporting the Borough's ambulance squad whose function is to perform emergency medical services. This EMS entity is run by volunteers, is incorporated and accepts funding from the Borough. It is supported by a County ambulance. According to Cpt. Nunn, the Department's involvement in emergency medical services began in 2010 primarily because of the need for lifting individuals in need of assistance. Since then, the Department's role has increased as volunteer EMS crews have diminished. Lt. Atchison also testified to the performance of the EMT function. He testified that the EMS squad is "struggling

to maintain their volunteer ranks” causing a County ambulance to expand its response and requiring the Fire Department to cover some ambulance runs. Presently, the Agreement provides an \$850 non base EMT stipend, an increase of \$300 over what the prior Agreement provided. The FMBA has proposed to increase the EMT stipend from \$850 to \$1,200.

The record also includes extensive evidence as to the Borough’s finances. This was offered by testimony and documentation from the FMBA’s financial expert and certification from the Borough’s CFO. The evidence reflects that the Borough has financial health despite having certain individual instances of stress. While not a specific statutory criterion, “ability to pay” is not in dispute although the Borough submits that the costs of all of the FMBA economic proposals, while not fully reflected in the FMBA presentation, would have adverse impact on its budget and on its relationship with non-public safety units who have reached settlements with the Borough that are generally consistent, but actually less costly than the Borough’s final offer to the FMBA.

This concise backdrop of the Department provides context for review of the evidence submitted to evaluate the parties’ final offers and their disposition with due regard for the statutory criteria.

DISCUSSION

The evidentiary record has been thoroughly reviewed and considered. The parties have submitted a substantial number of exhibits relevant to the issues and have offered argument in their post-hearing briefs referencing the statutory criteria and the weight each seeks to be given to the evidence offered in support of each proposal.² The exhibits offered by the parties are as follows:

FMBA Exhibits

A. PROPOSALS/OFFERS/AGREEMENTS

1. FMBA Local #74 IA Proposal
2. FMBA Local #74 Cost Out
3. Borough's IA Proposal
4. Current Contract
5. Blowup of Previous Salary Guides
6. Previous FMBA Contract — Duration Language Switch
7. Arbitration re Contract Duration Language

B. TAXPAYER IMPACT / ABILITY TO PAY

1. Ability to Pay Report - Dr. Ray Caprio
2. 2019 Madison Financials
 - a. Audit
 - b. Unaudited Financial Statement
 - c. Budget
3. 2020 Madison Financials
 - a. Audit
 - b. Unaudited Financial Statement
 - c. Budget
4. 2021 Madison Financials
 - a. Audit
 - b. Unaudited Financial Statement
 - c. Budget
5. 2022 Madison Financials Budget
6. Madison Financial News and Grants
7. Roster with Pay and Healthcare

² At time of hearing, the 2023 budget had not yet been introduced. It became available after briefs had been submitted. I gave the parties the opportunity to supplement if they so wished. I then received a supplement from the FMBA.

C. FIRE STATISTICS

1. Borough of Madison Call Totals
2. Calls for Service — Types
3. Mutual Aid Totals
4. Personnel Percentages 2017-2022
5. Departmental Schedule for On Call Time

D. DEPARTMENT OPERATIONS

1. Organizational Chart
2. Department Roster
3. Fire Department Rules and Regulations
4. Fire Department Mission Statement
5. Fire Department History 2010-Present
6. Career Fire Department Personnel
7. Volunteer Firefighter Info
8. Fire Prevention

E. SALARIES

1. 2018-2021 Private Salary Analysis

Comparable Jurisdiction Contracts

2. Morris
3. Summit
4. Dover
5. Cranford

Comparable Contracts Within Madison

6. Madison DPW
7. Madison PBA
8. Madison Electric Utility
9. Raymond M. Codey — Business Administrator

Cost of Living Comparison

10. Cost of Living — Madison
11. Cost of Living — Summit
12. Cost of Living — Chatham
13. Cost of Living — Florham Park
14. Cost of Living — New Jersey Overall

F. MISCELLANEOUS

1. FMBA Letter to Residents of Borough

Borough Exhibits

- Exhibit 1 Borough of Madison's Final Offer
- Exhibit 2 N.J.S.A. 34:13A-16, Public fire and police department collective negotiation agreements; time to negotiate; unfair practice charges; impasse procedures; binding arbitration; arbitrator selection; arbitration proceedings; appeal; municipalities in need of stabilization and recovery
- Exhibit 3 N.J.A.C. 19:16-1 et seq., Negotiations, Impasse Procedures, and Compulsory Interest Arbitration of Labor Disputes in Public Fire and Police Departments
- Exhibit 4 Memorandum of Agreement between Borough of Madison and Madison FMBA, Local 74, effective January 1, 2018 – December 31, 2021
- Exhibit 5 Agreement between Borough of Madison and Madison FMBA, Local 74, effective January 1, 2014 – December 31, 2017
- Exhibit 6 U.S. Census Bureau, Borough of Madison Economic Characteristics – 5 Year Estimates
- Exhibit 7 U.S. Bureau of Labor Statistics, New Jersey Economy at a Glance
- Exhibit 8 U.S. Bureau of Labor Statistics, May 2021 State Occupational Employment and Wage Estimates – New Jersey
- Exhibit 9 U.S. Bureau of Labor Statistics, May 2021 Occupational Employment and Wages – Protective Service Occupations
- Exhibit 10 Census Reporter, New Jersey Profile Data
- Exhibit 11 U.S. Bureau of Labor Statistics, Consumer Price Index January 2023
- Exhibit 12 NJLWD Annual Municipal Data by Sector - 2021
- Exhibit 13 NJLWD New Jersey Annual Average Wage – NAICS Industry Sector 2013 to 2021
- Exhibit 14 New Jersey Public Employment Relations Commission Interest Arbitration Salary Increase Analysis 2012-2021

- Exhibit 15 New Jersey Public Employment Relations Commission Biennial Report on Police and Fire Public Interest Arbitration Reform Act, N.J.S.A. 34:13A-14, et seq., May 2022
- Exhibit 16 Interest Arbitration Decision and Award, Township of Hillside and Hillside Fire SOA, IA-2022-006, August 5, 2022
- Exhibit 17 Interest Arbitration Decision and Award, Township of West Windsor and PBA, Local 271, IA-2019-014, June 20, 2019
- Exhibit 18 Interest Arbitration Decision and Award, Township of Bedminster and PBA, Local 366, IA-2019-017, June 15, 2019
- Exhibit 19 Interest Arbitration Decision and Award, Township of Hopewell and PBA, Local 342, IA-2019-016, June 5, 2019
- Exhibit 20 Agreement between Borough of Madison and Borough of Madison Employees Federation, White Collar Workers, effective January 1, 2022 – December 31, 2025
- Exhibit 21 Agreement between Borough of Madison and Borough of Madison Employees Federation, Supervisors, effective January 1, 2022 – December 31, 2025
- Exhibit 22 Agreement between Borough of Madison and Firefighters Mutual Benevolent Association 911 Tele-Communicators, Local No. 474, effective January 1, 2022 – December 31, 2025
- Exhibit 23 Borough of Madison Non-Union Employees 2022 Salary Increases
- Exhibit 24 Borough of Madison Non-Union Employees 2023 Salary Increases
- Exhibit 25 Borough of Madison Annual Financial Statement for the Year 2022 (Unaudited)
- Exhibit 26 Borough of Madison Annual Financial Statement for the Year 2021 (Audited)
- Exhibit 27 Borough of Madison 2022 Municipal User Friendly Budget
- Exhibit 28 Borough of Madison 2022 Budget Summary
- Exhibit 29 Borough of Madison 2022 Budget in Brief
- Exhibit 30 NJ Department of Community Affairs, Borough of Madison 2022 Annual Debt Statement
- Exhibit 31 Borough of Madison 2022 Municipal Data Sheet

- Exhibit 32 Memorandum from the Borough of Madison to FMBA dated April 12, 2022 with Updated Contracts Offers
- Exhibit 33 FMBA's response to the Borough of Madison's April 12, 2022 Updated Contract Offers
- Exhibit 34 Certification of Borough of Madison Chief Financial Officer James Burnet
- Exhibit 35 Borough of Madison Budget Impact of FMBA Contract with Borough's Final Offer
- Exhibit 36 FMBA Comparison Charts
- Exhibit 37 Comparable FMBA Agreements

The parties each urge the arbitrator to apply the statutory criteria in a manner favorable to each of its substantive proposals. The arbitrator must make a reasonable determination of the issues with due regard for the statutory criteria deemed relevant when awarding any or part of the respective proposals for change or for deciding to maintain the status quo in an existing contract term. The party seeking change to the status quo has the burden to establish the basis for its proposal. The burden to be met must be at a level beyond merely seeking to benefit by change without sufficient evidentiary support. I will consider these principles in my evaluation of the issues in dispute. Any decision to award or deny any individual issue in dispute will include consideration as to the reasonableness of that individual issue in relation to the terms of the entire award. Put another way, there may be merit to awarding or denying a single issue if it were to stand alone, but a different result may be reached after assessing the merits of an issue within the context and totality of the overall award, especially on issues of economic and financial impact.

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

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

considering this factor are the limitations imposed upon the employer by the P.L. 1976 c. 68 (C.40A:4-45 et seq.).

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

The parties' proposals must be evaluated within the unique circumstances that surround their specific impasse. All of the criteria are relevant and will be considered. However, each is not necessarily entitled to equal weight and can overlap each other without a fine line of demarcation. I find the interests and

welfare of the public criterion [N.J.S.A. 34:13A-16(g)(1)] must be given the most weight. I recognize that the interests and welfare of the public is an elastic term with varying perspectives as to its meaning. Other criteria, while individually stated in section 16(g), often interrelate within 16(g)(1). Because 16(g)(1) makes specific reference to statutory limitations, the statutory restrictions on the public employer [16(g)(9)] and the lawful authority of the employer [16(g)(5)] clearly fall within 16(g)(1). This is so because an award cannot require a public employer to exceed its lawful authority or ignore any lawful restrictions on its authority. Comparisons of wages and benefits in public employment in the same jurisdiction, commonly referred to as internal comparability [N.J.S.A. 34:13A-16(g)(2)(c)] or similar comparable jurisdictions elsewhere, commonly called external comparability, are entitled to significant weight because such comparisons provide fair context for the consideration of individual proposals. This criterion recognizes the need to maintain harmony and stability within the workplace and requires any proposal by either party that substantially deviates from comparable terms to have justification. Comparisons must also consider the need for equitable treatment of unit employees. In respect to comparable evidence, I find internal comparisons are normally entitled to greater weight than external comparisons because terms and conditions of employment for all units of employees of the employer are jointly set with the public employer rather than set by external jurisdictions whose demographics, funding sources and overall services to their publics may differ. Overall compensation and benefits currently received [16(g)(7)] is a factor linked to comparability because it is a measure for consideration of the reasonableness

of any proposed change to enhance or diminish an existing contract term. The continuity and stability of employment [N.J.S.A. 34:13A-16(g)(8)], which includes “other such factors ... ordinarily or traditionally considered in the determination of wages, etc.”, also serves the public interest because the need to maintain an experienced and competent workforce and the quality of services provided to the public. The cost of living criteria [16(g)(7)] is relevant but not dispositive. The level of economic increases can be influenced by CPI data but cannot be dictated by short term swings in longer term trends or by guessing future economic uncertainties.

Each issue in dispute will be identified and reviewed individually, followed by an award resolving each individual issue. Some, because of their similarities, must be grouped. The totality of the issues awarded will be set forth in a separate Award section.

ARTICLE XXIII – DURATION

The Borough proposes:

- (a) The term of the Agreement shall be January 1, 2022 through December 31, 2025.
- (b) The benefits and salary step movement contained in this Agreement shall not continue beyond the Agreement’s expiration in accordance with the Decision and Award of Arbitrator Brian Kronick in AR-2022-579.

The FMBA proposes:

1. This Agreement between the Borough of Madison and FMBA Local 74 shall commence January 1, 2022 and end December 31, 2025.
2. Negotiations for a successor Agreement shall occur in compliance with N.J.A.C. 19:16-2.1.
3. All provisions of this Agreement will continue in full force and effect until a successor Agreement is negotiated.

The provision prior to January 1, 2018 states the following:

This Agreement shall be effective January 1, 2012 and shall continue and remain in force and effect to and including December 31, 2012 and shall continue from year to year thereafter unless written notice of desire to cancel, modify or terminate same is served by either party upon the other at least sixty (60) days prior to the date of expiration.

The above provision was modified by a September 11, 2017 MOA which changed the effective dates to January 1, 2018 through December 31, 2021 with the prior language carried forward by the terms of the MOA except as modified by the MOA.

Award

Both parties propose an Agreement effective January 1, 2022 and extending through December 31, 2025. Given the common positions on the dates of duration, I receive the positions on the contract dates as a stipulation and award the contract duration as mutually proposed. Accordingly, the terms of the new Agreement, pursuant to the Borough's proposal on Article XXIV(a), shall read "The term of the Agreement shall be January 1, 2022 through December 31, 2025." The

additional language proposed by the parties concerning continuation of status quo, including step movement upon contract expiration shall be evaluated separately under the next heading.

STEP MOVEMENT UPON CONTRACT EXPIRATION

There is no individual and independent contract article that expressly states whether an eligible unit employee must be moved an additional step or increment on the salary schedule if the contract expires without the parties having reached a new agreement succeeding the one that expired. Proposals on this subject appear within both the Duration and Salary proposals. Separate consideration must be given to this issue above and beyond the effective dates of contract duration given the parties' respective proposals on step movement.

The FMBA proposes to add language to Article XXIV – Duration stating: “All provisions of this Agreement will continue in full force and effect until a successor Agreement is negotiated.” The FMBA also proposes to add language to Article XIX – Wages stating: “Full step movement shall occur beginning on January 1, 2022. On July 1, 2023 all employees on the salary guide shall move one additional full step forward.” The Borough proposes to add language to Article XXIV – Duration stating:

The benefits and salary step movement contained in this Agreement shall not continue beyond the Agreement's expiration in accordance with the Decision and Award of Arbitrator Brian Kronick in AR-2022-579.

The respective proposals must be considered in the context of prior contract language going back to the September 11, 2017 MOA creating terms for 2018-2021 and the full contract for 2014-2017 whose terms were carried forward into the 2018-2021 Agreement except as modified by the September 11, 2017 MOA. This language was the subject of a 2022 grievance arbitration award. The proposals require historical review.

After the expiration of the Agreement on December 31, 2021, the FMBA filed a grievance on June 3, 2022. It alleged that the Borough violated the Agreement by failing to advance eligible employees to their next step on the then existing salary schedule. The unresolved grievance was submitted to grievance arbitration by the FMBA after it was denied by the Borough. An arbitration award issued on December 28, 2022. It found that the FMBA had not proven that the language in the Agreement was violated when, on and after 2022, and while negotiations were underway for a new Agreement, the Borough did not pay salary increments on the anniversary dates for eligible employees. The Borough submits that the proposal be denied as inconsistent with the arbitrator's recent construction of contract language.

The FMBA proposal, as it argues, is intended to meet the analysis of the New Jersey Supreme Court In re Atlantic County, 230 N.J. 237 (2017). In pertinent part, it stated that: "... contractual obligations will cease in the ordinary course

upon termination of the bargaining agreement.” However, the Court further stated that it is well established that “[e]xceptions are determined by contract interpretation...[a]nd of course, if a collective bargaining agreement provides in explicit terms that certain benefits continue after the agreement’s expiration, disputes as to such continuing benefits may be found to arise under the agreement.” The FMBA’s proposal, after the arbitration award dismissed its grievance, is intended to provide the “explicit terms” referred to by the Court that would obligate the Borough to continue step movement upon contract expiration in the absence of a new Agreement having been executed.

Initially, the Borough asserted that the June 3, 2022 grievance was untimely because step increases on anniversary dates had not been paid on or after January 1, 2022. For various reasons stated in his award, the arbitrator rejected the Borough’s claim of non-arbitrability and then decided the merits of the grievance. The arbitrator dismissed the grievance after analyzing the relevant contract language and the changes that the parties made to the January 1, 2004-December 31, 2017 Agreement in the September 11, 2017 MOA (which were then placed in the January 1, 2018-December 31, 2021 Agreement).

In particular, and in reliance upon Atlantic County, the arbitrator held:

Here, the term of the agreement and Duration Article is not vague with respect to its “continuation,” and must be given practical consideration based on the totality of the record. There is no evidence how the language in the Duration Article was developed or agreed upon. As such, consideration and weight must be given to all

of the words expressed, the context of all the language, and also the totality of the collective negotiations agreement. The revisions to the Duration Article over the years and circumstances at the time it was negotiated express the intent that it would not continue after expiration of the 2018-2021 MOA. The revisions to the Duration Article since the 2010 Agreement specifically deleting the language “and shall continue from year to year thereafter” in the 2014-2017 Agreement and deleting “shall continue and remain in full force and effect” in the 2018-2021 MOA signify an intent to not continue the terms and conditions of the 2018-2021 MOA past the contract’s expiration.

This is not a situation like Atlantic County and its progeny where the collective negotiations agreements contained a general “continuation” clause and the employer discontinued salary step increments requiring an examination of the salary step increment language. This is not a situation where the Duration Article is silent and does not contain “continuation” language. Rather, the Duration Article contained language that the agreement “shall continue from year to year” and “shall continue in full force and effect” that was deleted by the parties. Thus, this is not a situation like Atlantic County where the collective negotiations agreements expressly provided the terms and conditions would continue in effect until a successor agreement is reached. Instead, the language of the Duration Article here contained “continuation” language that was negotiated and specifically revised over the years to delete the “continuation” language. The 2018-2021 MOA now provides for a specific term of January 1, 2018 through December 31, 2021.

The Wage Article and wage schedules in the 2014-2017 Agreement and 2018-2021 MOA provide they “shall be effective during the term of this agreement.” The Wage Article and wage schedule attachments set out a salary schedule that identify the firefighter’s years of service as the basis to determine the base salary of the firefighter with adjustments to the firefighter’s salary based on anniversary date. The salary schedules are a grid that set forth the years of service in one column and the years of the respective applicable agreement in the other column. The intersection of the two columns is the firefighter’s salary. While the salary schedule determines the firefighter’s salary based on years of service, the salary schedule itself does not extend beyond 2021. The FMBA claims in the Grievance and Grievance Supplement that the Firefighters should be moved on the salary schedule according to their respective years of service in 2022 based on their anniversary dates. However, the “four corners” of the specific salary schedule set forth in the MOA does not provide a column for a 2022 salary. For

example, the FMBA is seeking to have a Firefighter with seven years of service as of April 2022 paid as a Firefighter with seven years of service on the salary schedule that only goes to 2021. In this regard, the application of the Wage Article and wage schedules after the contract's expiration based on an employee's years of service is not clear and unambiguous.

Over the years the Duration Article was revised by the parties to specifically delete the language "shall continue from year to year." The 2018-2021 MOA only provides: "[T]his Agreement is effective January 1, 2018 through December 31, 2021." The 2018-2021 MOA was executed August 11, 2017, and expired December 31, 2021. The Wage Article and wage schedules over the years were "effective during the term of this agreement." There is no evidence that wage salary schedule steps were not paid during the term of an agreement, or that the wage salary schedule steps were not paid upon the expiration of the parties' prior contracts until now. While the collective negotiations agreements here did not have language that the salary schedules would be discontinued or suspended expressing a "clear waiver" as PERC found in In re State (Corrections), the parties here did expressly delete the "continuation" language in prior negotiations unlike Atlantic County and In re State (Corrections). As a result, based on the totality of the evidence, I find the FMBA has not met its burden to prove its interpretation of the collective negotiations agreement is more consistent with the intent of the parties than that advocated by the Borough.

Despite the revisions to the Duration language, the Borough continued to provide all other terms and conditions of employment set forth in the 2014-2017 Agreement and 2018 – 2021 MOA except the salary step increases. In the Borough's response to the Grievance, the Borough indicted that all step increases will be retroactively paid to all employees. As noted in Atlantic County and In re State (Corrections), the employer is required to maintain the status quo during negotiations, and whether step increments continue is to be determined by the parties' agreement. By continuing to provide all other terms and conditions of employment except salary step increments, the Borough's actions support the intent that the salary schedule step increase would cease upon expiration of the 2018-2021 MOA. The only provision of the 2014-2017 Agreement and 2018-2021 MOA that the Borough did not continue was the salaries of those firefighters who achieved a new anniversary date in 2022. The express revisions of the Duration Article deleting the "continuation" language together with the unchanged language of the Wage Article and wage schedules "for the term of this Agreement" support the finding that the Borough's

position is the more reasonable interpretation of the Duration Article and Wage Article.

The Borough's proposals in the most recent round of negotiations with the FMBA are also consistent with the parties' negotiations and evolution of the "continuation" language and the law. In the most recent round of negotiations and prior to an alleged salary step increment for an FMBA member, the Borough proposed specific language to not continue the wage schedule step increments upon the expiration of the agreement. The Borough submits it seeks to codify and/or clarify the existing term that this benefit would not continue beyond the expiration of the agreement and is not an admission that the current practice is not covered by the agreement. The Deletion of the continuation language around the same time as Atlantic County, and the Borough's proposal seeking to now add "clear waiver" language as suggested by PERC in In re State (Corrections) is also consistent with the parties' negotiations and evolution of the Duration Article and the law.

The language of the Borough and PBA collective negotiations agreement, as well as the other Borough collective negotiation agreements with the Teamsters and IBEW have no bearing on the interpretation of the provisions of the FMBA Agreement.

Based on evidence in the record, I find the FMBA has not met its burden to prove that the Borough violated the collective negotiations agreement when it failed to pay firefighters salary increments on their anniversary dates after the expiration of the agreement. The FMBA did not meet its burden to demonstrate, by a preponderance of the evidence, that its interpretation of the collective negotiations agreement is more consistent with the intent of the parties than that advocated by the Borough. Rather, the intent of the parties, express terms of the contract, and surrounding circumstances suggest the terms would not continue after the contract's expiration by deleting the "continuation" language. The FMBA has not shown that the deletion of the "continuation" language from the collective negotiations agreement did not include the salary step increments. Based upon my review of the parties' collective negotiation agreement and the record herein, I find the FMBA has not met its burden to prove the Borough violated the collective negotiations agreement when it failed to pay firefighter salary increments on their anniversary dates. There is no evidence that wage salary schedule steps were not paid during the term of an agreement, or that the wage salary schedule steps were not paid upon the expiration of the parties' prior contracts until now. Unlike Atlantic County and its progeny where the collective negotiations agreements contained

“continuation” language, the parties’ here deleted the “continuation” language. The parties’ revisions to the Duration Article specifically deleted the continuation clause that clearly expressed the intent at the time that the benefits under the agreement would not continue. Thus, I find the FMBA has not met its burden to prove the Borough violated the collective negotiations agreement when it failed to pay firefighter salary increments on their anniversary dates and I find the Grievance and Grievance Supplement are denied.

The FMBA contends that the language it has proposed in this interest arbitration proceeding would require the Borough, in the absence of having reached a new agreement after contract expiration, to move each eligible Firefighter to the next step on the salary schedule pending the negotiations for a new agreement. The FMBA argues:

Regarding the language of Article 23, this change is necessary because previous contracts originally had that type of language, however, the Borough somewhere along the line, wither directly, inadvertently, or surreptitiously, slipped contrary language in the contract regarding duration. The principles of equity require adjusting that language so the terms of the contract remain in full force and effect when and if a current CBA expires. Therefore, FMBA's proposal is the appropriate proposal to award in this matter and the cost is incredibly modest when considering the depth of services the Borough requires of its Firefighters.

The Borough urges the denial of the FMBA’s proposal. It submits that the FMBA proposal to include the “continuation language” and expressly provide for step movement in the salary provision, is contrary to the arbitrator’s recent award which should not, in essence, be vacated and immediately revised by the inclusion of new language.

Award

For several reasons that follow, I decline to award the FMBA proposal. Initially, I note that the Borough has not proposed to freeze step movement in its salary proposal. It paid step movement in the prior contract and has provided cost estimates for advancing employees on the schedule in this Agreement. It has also referenced step movement on a salary schedule as an attractive distinction between this unit and non-public safety units who have reached agreements and do not have similar salary schedules to the FMBA. In this respect, the Award's salary terms in this case will include step movement for eligible Firefighters based on the same procedures and agreements provided in the past. Thus, I find there is no need in this Award for the "continuation language" proposed by the FMBA. Further, the proximity of the "step movement" grievance Award to this interest arbitration award renders the proposal meaningless, except if there is a dispute over step movement upon contract expiration. In the absence of a present dispute over whether unit employees will receive step increases, the parties may revisit the wisdom of including "continuation language" in the next round of negotiations.

In respect to the remaining proposed duration language, I do not find the FMBA's proposal concerning the commencement of negotiations necessary due to clear and unambiguous language in PERC's rules and regulations which govern this issue. Similarly, existing case law preserves the status quo upon contract expiration and there is no compelling need to include language that mirrors the existing case law. Further, the Borough's proposal to include language

incorporating the grievance arbitrator's award is also unnecessary inasmuch as the Award is of binding precedent on the issue of step movement until and unless the parties negotiate language in the future requiring the Borough to advance an eligible employee on the salary schedule upon contract expiration.

ARTICLE XVI – CLOTHING MAINTENANCE

The FMBA proposes to increase the clothing allowance to \$400 yearly and make the clothing allowance part of base salary. The 2014-2017 Agreement did not provide a clothing allowance but included a Clothing Maintenance article stating:

Jackets are provided by the Borough and are replaced when required in accordance with the judgment of the Chief.

The cleaning of these items is provided by the employee. All uniform and safety shoe purchases must be in accordance with specifications established by the Borough.

The Borough shall continue to supply as needed, in the judgment of the Chief, protective firefighting gear such as coats, boots, helmet, face shield and gloves.

The September 11, 2017 MOA revised Article XVI by providing for a dollar amount uniform allowance stating:

Effective January 1, 2018, each employee will be afforded an annual \$200 uniform allowance.

Local 74 President Lt. Atchison offered testimony in support of the Union's proposal to increase clothing allowance from \$200 to \$400. According to Lt.

Atchison, the \$200 allowance was agreed to in the last Agreement but he believes the \$200 is insufficient. He cited to the cost of station wear boots alone at “about \$200” and that this level of allowance “doesn’t go very far.”

The Borough proposes the continuation of the existing terms as set forth in Article XVI as revised by the September 11, 2017 MOA.

Award

The FMBA has established that the increase it has proposed is reasonable and should be awarded as well as its inclusion be made part of base salary. I do not find that the initial allowance provided in the last agreement precludes the revision the FMBA has advanced. Accordingly, Article XVI shall state that:

Effective January 1, 2022, each employee will be afforded an annual \$400 uniform allowance. The allowance shall be part of base pay.

ARTICLE XV – MEDICAL AND HEALTH INSURANCE

The FMBA has proposed a “Reduction of Health Care Contributions by 10% total over the length of the contract by 2.5% per year.” The existing provision currently states:

Section 6

Employees shall be required to contribute to his/her health benefits in accordance with the Tier IV (Year 4) rates as set forth in Chapter 78, P.L. 2011. The contribution charts are attached herewith as Attachment A.

The September 11, 2017 MOA included Attachment “A” which specifically set forth charts containing employee contribution schedules which are consistent with Chapter 78, Tier 4. The Borough opposes any change to the existing contribution schedules that appear in Attachment “A.”

The FMBA’s proposal is primarily an economic proposal that would reduce employee contributions thereby increasing take home pay. The contributions are currently accounted for as revenue in the Borough’s budget. The Borough rejects the proposal and asserts that the FMBA’s proposal would result in a standalone benefit no other bargaining unit or non-unionized employee presently enjoys.

Attachment “A” provides that unit employees are now subject to Year 4 or Tier 4 levels. The schedule provides a linkage between salary and percentages of employee contribution toward premium costs. Chapter 78 provides that each employee’s salary range dictates the percentage of premium costs each must contribute depending on whether the coverage and its cost is Single, Family or Member/Spouse/Partner or Parent/Child.

The FMBA’s proposal to reduce employee percentage rates by 10% over the life of the agreement is economic and not a philosophical issue. Contributions are required by law and were imposed without negotiated agreement. Because the Tier 4 level was reached in the prior Agreement and the contract has expired, the law now allows the parties to negotiate revisions in the levels of contributions

as these negotiations are over the “next” Agreement. Chapter 78 clearly states that the contribution levels in Tier 4 of the Chapter 78 phase-in constitute the status quo for the purpose of negotiating any changes in the “next” Agreement. Thus, any proposed change for more or for less of a contribution would, if accepted or awarded, alter the status quo.

Award

The record does not reflect that any bargaining unit in the Borough has successfully negotiated a reduction in Chapter 78 employee contribution rates. Although other bargaining units have Agreements at Tier 4 levels, I take notice that the PBA negotiations are pending without an agreement having been reached. I find the evidence on internal comparisons are compelling. The FMBA’s proposal would cause deviation from other Borough employees, unionized or non-unionized. Given the internal comparisons, which I give substantial weight to, I decline to award the FMBA proposal. However, I also find that this unit would be undermined if their contribution levels were frozen through December 31, 2025 and the Borough agrees, or an arbitrator awards, a reduction in the contribution rates in any other bargaining unit. Accordingly, I award re-opener language on this issue. This would allow for immediate negotiations for the FMBA on demand, pursuant to the terms of the interest arbitration statute if, during the course of this agreement (Expiration December 31, 2025), the Borough and any other bargaining unit agrees to, or is awarded, a reduction in, or any modification, to existing Tier 4 contribution levels. Accordingly, I award the following language:

During the term of this Agreement, if the Borough and any of its bargaining units agree to revise employee contributions for health insurance at less than a Tier 4 level, the FMBA and the Borough, upon demand of either party, shall reopen negotiations on health insurance contribution levels.

EMT STIPEND

The FMBA proposes to increase the EMT stipend to \$1,200 yearly. The existing provision appears at Article XIX in the wage provision. In the parties' September 11, 2017 MOA, the Firefighter job title was revised to Firefighter/EMT and the EMT stipend was increased in Appendix F as follows:

- B. Effective January 1, 2018, EMT stipend shall be increased to \$850.

The Borough proposes to maintain the stipend at the \$850 level.

Award

The FMBA contends that an increase to \$1,200 is justified. It cites to increasing demands on Firefighters due to a decline in EMS volunteers. This was an important theme in the testimony of Lt. Atchison described above.

I find the FMBA has established a basis for the increase it has sought. I have taken into consideration the fact that the EMT stipend was significantly increased in the prior Agreement. However, the interests and welfare of the public are well served by the prompt response made by Firefighters to emergencies and

the additional stress in performing the EMS while volunteer staffing has diminished. Accordingly, I award an increase in the EMT stipend from \$850 to \$1,200 effective January 1, 2022. Because this stipend is directly attached to normal daily duties, I award its inclusion into base pay.

FIRE INSPECTOR STIPEND

The FMBA proposes to add a new stipend. It would provide the sum of \$2,500 for Firefighters designated as Fire Inspector. The Borough proposes no change.

Ed Nunn is the current and only Captain of the Fire Department. He testified to the scope of the department's operations. He offered specific testimony in response to a question concerning the FMBA proposal for a \$2,500 stipend for the Fire Inspector. This is an assignment now performed solely by him. His testimony included an historical perspective on fire inspection, the scope of a Fire Inspector's duties and the workload connected to the performance of those duties:

Q. So explain how -- explain how the inspection procedure changed over the past ten years or so?

A. ... So I just finished my 20th year last week. So when I started here in the bureau consisted of a captain and two fire inspectors and firefighters. We had three that would do, one of them is sitting here as well, and it was a three person bureau up until 2010 when we had the former chief retire, the current chief took over and then the bureau went down to essentially one because what happened in 2010 was one of my two inspectors became the fire subcode person which was the former role of the chief and had done that for a long time

and the other gentleman was running EMS calls. As we started to do EMS assist full-time daytime hours Monday through Friday and nights and weekends when they didn't have a crew across the street and started that role. So we had a decimation of the bureau and the bureau became of bureau of one. So now for the last 13 years I've done everything with little or no resistance, which, you know, okay. It is what it is. We just have to make it all work and we do. But that's why -- and we're probably doing three to four times more in totality than we did when I first started. We just evolved. We can certainly get into all those details if needed but it is certainly a different day today and it will continue to get more busy and not less. So. ... there's a component, State of New Jersey requires a one and two family retail home inspection on change of tenancy or a sale. So if there's a rental property, apartments that change that are not inspected by the state as a multiple dwelling, that falls to the fire department and that falls basically to me. ... Some are -- most are once a year. Some properties, depending on the type of use, are four times a year, quarterly inspections. And so, you know, it's probably 450 to 500 total inspections and then sometime. I go back to, you know, for re-inspections or follow-ups. So you're probably doing 1200 to 1500 inspections of those a year. ... there is just a salary line in the contract that just says, captain, and that is my salary. I am eligible for overtime, so if I come off duty to a dispatched call then I am compensated for that as overtime. But there is, you know, I don't do the standby that was talked about, that doesn't include me. But I do take a vehicle home, so I'm available for work, and you talked about being available for work and quantifying that. I am really never off. I don't turn my pager off at night. I haven't done so in 32 years that I've been on this department. You know, my phone rings nights, weekends, I can be on vacation, whatever, with questions following me. It's just the nature of the job and that's expected and I'm okay with that. But I am available and the folks here will tell you, I am always available. ... Yeah. I mean, I think, you know, we're looking at stipends and stuff, it should just have been highlighted that, you know, running a bureau that had three down to one essentially for, you know, six months is one thing but now it's about a dozen or 13 years and it's, just to highlight the fact that it's not -- it's not a one person job. And the fact that we got it all done is, you know, we do a pretty decent job here.

The Borough has denied the proposal.

Award

The record reflects that Cpt. Nunn is the sole designee to perform Fire Inspector duties. He performs the duties in addition to his work as Captain. He receives no additional compensation except for when duties are performed on an overtime basis. Ironically, the Agreement contains a separate salary schedule for a Firefighter/Inspector job title but with a less annual salary for Firefighter.

This case is unique and must be considered as such when evaluating its merits. I find there is sufficient evidence to support the FMBA proposal but with modifications tailored to the present circumstances. The Borough benefits by Cpt. Nunn performing these duties and his testimony reflects additional workload for which he should be compensated. However, I find the FMBA proposal overbroad and not in line with current circumstances. Accordingly, I award the following language:

Effective January 1, 2023, Captain Nunn, or his designated replacement who performs substantially similar Fire Inspector duties, shall receive an annual stipend of \$2,500. The stipend shall be part of base pay.

BI-LINGUAL STIPEND

The FMBA proposes to add a new stipend of \$750 for bi-lingual Firefighters. Lt. Atchison testified in support of the Union's proposal for a \$750 Bi-Lingual

Stipend. He testified that the stipend would only involve one firefighter “as of right now.” He offered the following rationale for the proposal:

So one of our members speaks Spanish very well. He is from Columbia, he was, he’s been very helpful when we go on medical calls or fire calls. We have somewhat of a Spanish speaking population here in town and he has been instrumental in helping us communicate with the patient or the victim, whatever you’d like to call it, and so we think he should be compensated for his worth of how he helps on those calls.

The Borough has denied the proposal.

Award

The FMBA proposal is not supported by sufficient evidence justifying its award. While bi-lingual skills are laudable and an asset to the Borough, there is nothing in the record that reflects that the Borough has made it a requirement or a qualification for the performance of the job. Nor is there definition as to whether anyone with bi-lingual skills would qualify for the stipend. Accordingly, the proposal is denied.

APPENDIX F - LIEUTENANT RANK DIFFERENTIAL

The 2014-2017 Agreement did not provide for a Lieutenant rank differential if a Firefighter were to be assigned to a Lieutenant rank. It was the September 11, 2017 MOA that created a dollar amount rank differential beginning with the 2018-2021 Agreement. It stated:

Lieutenant – Starting January 1, 2018, all Firefighters assigned to the rank of Lieutenant will receive a one-time pay adjustment of \$2,250 to be included in their pensionable base pay. It is agreed that the duties of Lieutenant are permanent duties. This position will continue to be an assignment as determined by the Fire Chief.

The FMBA proposes to modify the Lieutenant Rank Differential to 5% with the “stipend” rolled in to base salary. The Borough proposes to maintain the status quo.

Award

It is commonplace in paid departments for Lieutenants to receive a differential. Here, the parties have done so in the prior Agreement. The testimony of Lt. Atchison reflects that an increase is warranted but not to the extent proposed by the FMBA. Accordingly, I award an increase in the differential to \$2,750 effective January 1, 2022 with an additional increase to \$3,000 effective January 1, 2024.

ARTICLE XI – DEATH IN FAMILY

The FMBA proposes to add stepfamily, sister-in-law and brother-in-law to current bereavement language. The existing provision states the following:

- a) In the event of a death in the immediate family an employee shall be granted up to four (4) working days off with pay within seven days of the occurrence. That is, employees can spend seven days with their family and the work time scheduled during these seven days will be paid time off. If there are extenuating circumstances, the Chief of the Department shall make adjustments if necessary.

Immediate family shall be construed as meaning wife, husband, child, father, mother, father-in-law, mother-in-law, sister or brother, grandfather and grandmother. For all other relatives, a one (1) day leave will be granted.

- b) The Fire Captains and Day Shift Firefighters shall be granted five (5) working days leave with pay in the event of a death in the immediate family.

The Borough also proposes to expand eligibility for bereavement leave by adding sister-in-law and brother-in-law to the definition of "immediate family" as stated in Article XI – Death in Family.

Award

I find the Borough's proposal expanding the definition of immediate family to be reasonable during this contract term. It is awarded. Article XI(a) shall be revised to read:

- a) In the event of a death in the immediate family an employee shall be granted up to four (4) working days off with pay within seven days of the occurrence. That is, employees can spend seven days with their family and the work time scheduled during these seven days will be paid time off. If there are extenuating circumstances, the Chief of the Department shall make adjustments if necessary.

Immediate family shall be construed as meaning wife, husband, child, father, mother, father-in-law, mother-in-law, sister or brother, sister-in-law, brother-in-law, grandfather and grandmother. For all other relatives, a one (1) day leave will be granted.

MEAL ALLOWANCE

The FMBA has proposed to increase the meal allowance to \$10. The Borough has not proposed a change. The Agreement only provides reference to a meal allowance in Article VII, Section 3 – Overtime Pay. There, it states: “Any employee who, during periods of emergencies, is ordered by the Governor, the Mayor, Fire Chief or the Borough Administrator to be at the fire house in excess of 24 hours shall receive a reimbursement in each meal in the amount of \$3.50 per meal.” In his testimony, Lt./Firefighter Atchison stated that the meal allowance is invoked only when the Firefighter spends 24 hours or more at the fire house. He acknowledged that “it doesn’t happen often” but can occur if there is a major storm or other such major event. He made specific reference to when Hurricane Sandy created this type of emergency situation.

Award

The Agreements in evidence reflect that the amount of this allowance has been in effect for many years. Currently, Firefighters work a 10/14 schedule or straight 8 hour shifts. Given the infrequent occurrences of work for 24 hours or more that trigger the meal allowance, the proposal is not one of major economic impact. Moreover, equitable considerations dictate that the amount per meal be revised to the amount proposed by the FMBA. Accordingly, the proposal is awarded. Article VII, Section 3 shall state:

Any employee who, during periods of emergencies, is ordered by the Governor, the Mayor, Fire Chief or the Borough Administrator to be

at the fire house in excess of 24 hours shall receive a reimbursement in each meal in the amount of \$10.00 per meal.

ARTICLE X – SICK LEAVE, LEAVE OF ABSENCE AND PERSONAL DAYS

Each party offers a proposal concerning sick leave. The existing provision states the following:

Section 1 - Sick Leave

No employee shall absent himself/herself from duty by reason of sickness or injury without the permission of the Chief of the Fire Department or other officer in charge. He/she shall promptly report such sickness or injury to the Chief or other officer in charge before his/her next tour of duty, if possible, or in any event within twenty-four (24) hours. If such absence is over three (3) working days the employee shall furnish a physicians statement to the Chief of the Fire Department within a week. If an employee is absent for (5) non-consecutive days in a calendar year, such employee may be required to be examined by a physician designated and compensated by the Borough. The physician's statement shall set forth the cause and nature of the illness and certify that the employee is again fit to return to work. Additional physician's statements may be requested by the Borough Administrator in the case of a protracted absence because of illness or injury.

Unless expressly exempted from this provision in whole or in part by the Chief or other officer in charge, no employee who is absent from duty because of an injury or illness requiring the services of a physician shall return to active duty until he/she presents to the Chief a physician's statement indicating that he/she is fit for active duty.

Every employee shall be entitled to sick leave with pay for reason of sickness or disability on the following basis:

- (a) During the first year of employment, one (1) workday of sick leave for each completed calendar month of service.
- (b) After one (1) full year of employment, twelve (12) workdays of sick leave, in each calendar year.

- (c) Employees hired on or before 1/1/06 who retire can cash in two (2) accumulated sick days and receive one (1) day pay for a total of one hundred (100) days. Employees hired on or after 1/1/06 who retire can cash in three (3) accumulated sick days and receive one (1) day for a total of one hundred (100) days. Said days are based on eight (8) hours, except for shift firefighters whose days shall be based on twelve (12) hours. Employees hired on or after January 1, 2018 who retire can cash in five (5) accumulated sick days and receive one (1) day for a total up to one hundred (100) days.

The FMBA proposes to modify sick leave as follows:

Employees hired after January 1, 2022 shall receive 1 day's pay for every 6 sick days, up to a maximum of 100 day's pay

The Borough proposes the following modifications to Article X:

Section 1 – Sick Leave

- (c) Add the following: Employees hired on or after January 1, 2022 who retire from a state or local pension system shall receive one (1) days credit for every six (6) sick days, up to a maximum of one hundred (100) days.

Add new subsection:

- (d) Any payment for sick leave in retirement shall be in compliance with N.J.S.A. 40A:9-10.4.

Award

In the 2014-2017 Agreement, Sections (a), (b) and (c) stated:

- (a) During the first year of employment, one (1) workday of sick leave for each completed calendar month of service.
- (b) After one (1) full year of employment, twelve (12) workdays of sick leave, in each calendar year.

- (c) Employees hired on or before 1/1/06 who retire can cash in two (2) accumulated sick days and receive one (1) day pay for a total of one hundred (100) days. Employees hired on or after 1/1/06 who retire can cash in three (3) accumulated sick days and receive one (1) day for a total of one hundred (100) days. Said days are based on eight (8) hours, except for shift firefighters whose days shall be based on twelve (12) hours.

Then, in the 2018-2021 Agreement (based on the September 11, 2017 MOA), it was revised to read:

- (a) During the first year of employment, one (1) workday of sick leave for each completed calendar month of service.
- (b) After one (1) full year of employment, twelve (12) workdays of sick leave, in each calendar year.
- (c) Employees hired on or before 1/1/06 who retire can cash in two (2) accumulated sick days and receive one (1) day pay for a total of one hundred (100) days. Employees hired on or after 1/1/06 who retire can cash in three (3) accumulated sick days and receive one (1) day for a total of one hundred (100) days. Said days are based on eight (8) hours, except for shift firefighters whose days shall be based on twelve (12) hours. Employees hired on or after January 1, 2018 who retire can cash in five (5) accumulated sick days and receive one (1) day for a total up to one hundred (100) days.

It appears from the parties' respective proposals that they agree on providing one day's pay for every six (6) days up to a maximum of one hundred (100) days for employees hired after January 1, 2022. The main difference in position is the FMBA's omission of the existing requirement that an employee must retire in order to be eligible for the accumulation benefit. The FMBA does not propose, as does the Borough, that a new section (d) be added stating "any

payment for sick leave in retirement shall be in compliance with N.J.S.A. 40A-9-10.4.”

I award the Borough’s proposal. It coincides with the FMBA’s concerning sick leave accumulation and the language it has proposed is consistent with prior contract language linking the cash out to retirement. The language incorporating the statutory reference is consistent with the interest and welfare of the public by adhering to statutory requirements. The language shall state:

- (c) Employees hired on or before 1/1/06 who retire can cash in two (2) accumulated sick days and receive one (1) day pay for a total of one hundred (100) days. Employees hired on or after 1/1/06 who retire can cash in three (3) accumulated sick days and receive one (1) day for a total of one hundred (100) days. Said days are based on eight (8) hours, except for shift firefighters whose days shall be based on twelve (12) hours. Employees hired on or after January 1, 2022 who retire from a state or local pension system shall receive one (1) days credit for every six (6) sick days, up to a maximum of one hundred (100) days.
- (d) Any payment for sick leave in retirement shall be in compliance with N.J.S.A. 40A:9-10.4.

ARTICLE VII – OVERTIME PAY

The FMBA proposes to increase the minimum standby overtime from one (1) hour to three (3) hours. The existing provision states the following:

Section 2

Any employee who is held over his/her assigned shift as the result of an alarm of fire or other emergency declared by the officer in charge of the Fire Department shall be compensated at one and one-half (1

½) times his/her regular straight time rate of pay for the time during which duty is actually performed, but in any event for not less than one (1) hour of time.

The Borough seeks to maintain the existing provision.

Award

The proposal is linked to the standby system that is already in place. The record reflects that compensation for standby is already provided for in Article VII, Section 2. The overtime part of the procedure is triggered when there is an actual call-in as a result of an alarm or other emergency. Then a Firefighter receives at least one (1) hour of time at time and one-half (1 ½) for that hour or for time in excess during the time duty is performed.

The FMBA has established a reasonable basis for an increase in minimum standby overtime but not to the extent it has proposed. I award an increase in Article VIII, Section 2 from one (1) hour to two (2) hours effective July 1, 2023.

ARTICLE VIII – STANDBY DUTY

The department maintains a Standby Duty schedule and a compensation scheme as set forth in Article VIII. It currently states the following:

Section 1

Standby duty shall consist of an assigned off-duty employee being available and ready for active duty as soon as possible. Whenever any employee shall be and remain available on assigned standby as

a regular part of his/her shift work, that employee shall receive the following compensation:

- A) Standby shall be paid at nineteen and one half (19 ½) hours pay every other payday (twelve (12) times per year).
- B) In the event that an employee performs actual duty while on standby, he/she shall be compensated for such duty at his/her regular overtime rate.

Section 2

Whenever an employee shall be, and remains available on his/her normal assigned standby duty, and such standby duty occurs on Christmas Day, New Year's Day, Easter Sunday, Memorial Day, July 4th, Labor Day or Thanksgiving Day, he/she will be paid for four (4) hours compensation at his/her hourly rate in addition to his/her regular standby compensation.

The FMBA proposes to revise Article VIII as follows:

- **Article 8, Section 1 – Change the language to read:**
Standby duty shall consist of an assigned off-duty employee being available and ready for active duty as soon as possible. Whenever any employee shall be and remain available on assigned standby as a regular part of his/her shift work, that employee shall receive the following compensation:
 - A) Standby shall be paid hour-for-hour every other payday (twelve (12) times per year).**
 - B) In the event that an employee performs actual duty while on standby, he/she shall be compensated for such duty at his/her regular overtime rate.
- **Article 8, Section 2 – Change the language to read:** Whenever an employee shall be, and remains available on his/her normal assigned standby duty, and such standby duty occurs on any borough holiday (12), he/she will be paid time and a half for a minimum of four (4) hours.

The Borough proposes to maintain the existing scheme as set in Article VIII.

Testimony as to how Standby Duty operates was described in the testimony of Lt. Atchison. The FMBA's major arguments in support of its proposal are rooted in three main points. It contends that the Borough has inadequately staffed the Department which has compelled Firefighters to be on call at certain times up to 96 hours per month when they are off duty. It further contends that the 19 ½ hours of pay every other payday does not properly compensate them for their availability. An additional burden, according to the FMBA, is that it forces them to live closer to the Borough in a high cost environment.

The FMBA additionally proposes a change to Article VIII, Section 2. This section would expand on a Firefighter's right as to when, due to a holiday, an employee is on standby duty and receives a minimum of four (4) hours pay at time and one-half (1 ½). Specifically, the current Agreement limits the minimum pay to seven (7) specified holidays. The FMBA proposes that eligibility to be expanded to any Borough holiday which now number twelve (12).

The Borough submits that the FMBA's proposals regarding standby pay be denied. It points out that the existing procedure provides generous compensation at 19 ½ hours every other pay period for a total of 234 hours of additional base pay compensation above and beyond that provided in the salary schedule. It points out that the Firefighters, unlike most other municipalities who offer standby pay, are not required to be in the Firehouse in order to receive standby pay, and that if they are required to perform actual duty while on standby, they are guaranteed a

minimum of one overtime hour and, if earned, are entitled to the overtime rate beyond the one hour that is guaranteed. In respect to Article VIII, Section 2, the Borough submits that the existing scheme who earn the payment of a minimum of four hours on holidays is fair and reasonable.

Award

The parties' submissions on the issues relating to Standby Duty have been forcefully articulated. While the FMBA seeks greater compensation for each aspect of the Duty, there is an undercurrent in Lt. Atchison's testimony, and in the formal argument presented, that the existing scheme may be unnecessary if the Department were more fully staffed. This, of course, is beyond the reach and authority of the arbitrator.

The existing system has been in place for many years. While it does place additional responsibility on each Firefighter, this has not been shown to be the equivalent of "working from home." The employee is not required to be in the Firehouse nor at the employee's residence. The record does not include any reference to the number of actual call-ins performed. When this does occur, the Firefighter receives a minimum of one (1) hour at the rate of time and one-half even if no work is performed and then the overtime rate for any hours in excess. This is in addition to the 19.5 hours at straight time received every other payday. This 234 additional hours, annually, are received in base pay representing an additional approximately 12% above and beyond the base salaries that appear in the salary

schedule. This is not to say that proposals for additional compensation are without rational basis. However, the formula advanced for hour-for-hour pay could represent such a substantial increase in base pay that has not been justified. Moreover, this award has increased minimum standby overtime from one (1) to two (2) hours in addition to the two (2) to four (4) hours of standby pay now received at the overtime rate. Accordingly, the FMBA proposal is not awarded.

I next turn to Section 2 which concerns minimum pay for standby performed on holidays. Currently, employees receive four (4) hours at the hourly rate in addition to regular pay if required to be on standby during seven (7) specified holidays. After review of this issue, I conclude that the FMBA has justified the receipt of holiday standby pay for all of the Borough's twelve (12) holidays and that the rate of payment be revised from straight time to time and one-half for a minimum of four (4) hours for each holiday that an employee is required to be on standby. The award will revise Article VIII, Section 2 to read as follows:

Whenever an employee shall be, and remains available on his/her normal assigned standby duty, and such standby duty occurs on any Borough holiday (12), he/she will be paid time and a half for a minimum of four (4) hours.

ARTICLE XIX – WAGES

The parties' positions on salary differ significantly. This issue appears in Article XIX – Wages in the Agreement. Article XIX has reference to wage schedules that are marked as ATTACHMENT A, B, C, D, E, and F. The

attachments provide wage schedules based upon dates of hire. The parties' last offers on wages are as follows. The FMBA proposes 3.5% increase to base pay per year with a top step adjustment increase of \$1,000 for the years 2024 and 2025. The FMBA's final offer does not make specific reference to equalization of salary schedules. However, its cost out for its wage proposal includes comprehensive charts providing for the equalization of several salary schedules that appear in Attachment A, B, C, D, E and F. The FMBA also proposes to change the timing of the receipt of step movement on the salary schedules. Currently, years of service for step movement on the Firefighter's anniversary date of hire (see second paragraph, Article XIX). The FMBA proposes to change when step movement occurs to the first of the year. It is also proposing what essentially is double step movement in 2023. Its proposal is as follows:

Full step movement shall occur beginning on January 1, 2022. On July 1, 2023 all employees on the salary guide shall move one additional full step forward.

The Borough's proposal is as follows:

2022 – 2.0% (Retroactive to January 1, 2022)
2023 – 2.0% (Retroactive to January 1, 2023)
2024 – 2.0%
2025 – 2.0%

The Borough's last offer is silent concerning step movement on the salary schedules. However, the cost out of its proposal includes the cost of moving eligible employees on each salary schedule.

The evidence and arguments offered by the parties on salary are far ranging with emphasis on differing criteria. They will be summarized concisely although their full submissions have been fully reviewed and considered.

The FMBA submits that the Borough is “financially well off” and relies heavily on the testimony and charts offered by its financial expert, Dr. Ralph Caprio. Dr. Caprio conducted a thorough review of the Borough’s budgets, including a supplement on the recently submitted 2023 budget after close of record, its expenditures, fund balances and miscellaneous revenues. Dr. Caprio included:

- Madison Borough is financially well situated with an ability to provide a competitive settlement with FMBA Lodge 74 members without detrimental impact upon the community nor local governments ability to provide required services.
- Revenue from non-property tax areas has been robust, with excess collections in 2022 of more than \$1.2 million. Total miscellaneous revenue has exceeded the amount budgeted in six of the past seven years (2020, COVID) the exception.
- Property Tax levy increases have been modest, increasing only 8.64% between 2017 and 2022, an average of 1.44% annually.
- The municipal fund balance has increased during this time from \$8.47 million at the start of 2017 to more than \$10 million at the start of 2023, approximately a 20% growth.
- In 2022, as an example, the Borough budgeted \$5.96 as revenue from the fund balance, yet reconstituted more than \$6.7 million, thus increasing the fund balance from \$9.37 million to more than \$10.15 million.
- The Borough has the statutory ability to appropriate more and raise revenue to offset increased appropriations. 2022 appropriations could

have been more than \$200,000 more while the property tax levy was almost half a million under the statutory limit.

- The Borough also has P.I.L.O.T. revenue providing additional revenue capacity not affected by the Levy Cap. This source is more than \$400,000 more than in 2017.
- The equalized average value of residences (\$684,758, an average ranking 6th highest from among Morris County's 39 municipalities), Madison reflects a community able to support necessary services.
- The equalized municipal tax rate in Madison is the 36th lowest in Morris County, and the 473rd lowest among the State's 564 municipality; there are no tax levy red flags.
- The projected cost of the FMBA proposal will be approximately \$100,000 annually; among Morris municipalities, the impact on Madison taxpayers - assuming all revenue will be coming from the existing tax base - will be \$19.48 per residential parcel, an amount being the 24th (of 39) lowest among Morris municipalities.
- There is an enhanced Fund Balance, excess miscellaneous and property tax revenue, a pattern of subsequent appropriation recovery from overbudgeting, and more suggesting a positive economic environment and an ability to sustain a competitive labor agreement.

At hearing, Dr. Caprio concluded that the FMBA's salary proposals, which he estimated at a cost of \$100,000, could be funded within the Borough's legal obligations and without adverse financial impact on the governing body, its residents and taxpayers:

I reviewed the unaudited annual financial statements back through 2016, including the most recent 2022 that was released within the last week or two. I reviewed the budgets back to the same time period. I do not have, and the Borough does not yet have, introduced the 2023 budget, so some 2023 material will be speculative, but I have looked at that in a conservative manner. I've also reviewed several of the audits. In addition to that I took material from the State Department of Community Affairs Local Government Services website for a comparable analysis within Morris County of the Borough to other municipalities in the county for a comparative data.

I have also used that site for user friendly budgets and material that was provided to me through your office on the roster of professional firefighters, paid firefighters. In addition to that I used the state PFRS active member files for what was paid to firefighters in the last year 2022. Other materials that were available on the Boroughs website and material from the federal government on cost – the CPI and more. So I have utilized a wide range of materials to both assess and come to a conclusion as to whether the proposal being submitted by the FMBA could be funded without detriment to their community by the Borough.

The FMBA also points to cost of living (CPI) data showing inflation rising at 6% rate. It also cites to record exhibits reflecting that the cost of having to live in or near the Borough are high and between two and three times the national average. The FMBA further points to the impacts of “low staffing” on unit employees that also serves to justify the wage package it has proposed.

The Borough rejects the FMBA wage proposals for several reasons. It first submits that unit employees’ overall compensation and benefits are generous and above average. It points to salaries which it contends are the highest among the municipalities in the County (Morristown and Township of Morris) who have paid fire departments and highly competitive among comparable jurisdictions such as Bergenfield, Carteret, Cranford, Cresskill, Dover Township, Hillside, Millburn, Nutley, Springfield, Union and Upper Freehold. It submits charts reflecting its contention.

The Borough does not deny that it enjoys positive financial health. However, its Certified Financial Officer James Burnet cited to many factors which

have placed stress on its budget. These include purchase of a new fire truck, decreases in state aid, increases in health insurance and PFRS costs, waste removal, capital projects and the absence of separate reserve for accumulated absences which are accounted for in the Borough's fund balance and reserves.

The Borough emphasizes that its proposal of 2% annually across the board is consistent with the amount of increase it agreed to with other Borough bargaining units including Madison Employees Federation White Collar Workers, Borough of Madison Employees Federation Supervisors and the FMBA 911 Telecommunicators Local 479. It points out that these unit employees, unlike FMBA Local 74, have lower salaries, no step movements and no standby pay such as the additional 234 hours of straight time pay received by Local 74. The Borough contends that these internal settlements represent a pattern of bargaining which would be broken by awarding the FMBA wage proposal thereby creating instability and lower morale within the other bargaining units. It further points to the 2% annual increase provided to non-unionized employees.

Award

I conclude in this case, and on this record, that an award of across the board increases of 2% annually at each step of the salary schedules represents a reasonable determination of the salary issue with due regard for the statutory criteria. While the four year cost cannot be precisely determined, I am persuaded that CFO Burnet's estimate of costs rising from \$1,150,456 in 2021 to \$1,446,823

in 2025 to be reasonably accurate. The interests and welfare of the public [16(g)(1)] will be served by an across the board increase that is consistent with what has been negotiated with the Borough's other bargaining units and provided to non-unionized employees. While the across the board increases are consistent with the step movement of 3% to 4% it is not enjoyed by the other units. Absent a conclusion to PBA negotiations, I do not find the aforementioned settlements to necessarily constitute a pattern of settlement but they are entitled to significant weight when considering the internal comparisons [16(g)(2)] that exist. The record includes reference to many cases which place significant emphasis on the weight to be given to evidence concerning internal comparisons. Although the FMBA argues that its proposal would not cause conflict with the limitations imposed on the Borough [16(g)(1)] by P.L. 1976, c. 68 (C. 40A:4-45.1 et. seq.), exceed the lawful obligations of the employer [16(g)(5)] or conflict with the limitations imposed on the Borough [16(g)(9)] by section 10 of P.L. 2007, c. 62 (C. 40A:4-45.45), these criteria are not violated by its proposal or the award. This does not support an award beyond that which has been rendered.

The FMBA has also shown that an award beyond 2% across the board would not, depending on the amount, cause adverse financial impact on the Borough [16(g)(6)]. However, less weight must be given to this factor because, even if the argument is valid, it is outweighed by other factors including overall compensation presently received [16(g)(3)] which will be enhanced not only by 8% un-compounded increases to base pay, but also by receipt of annual step increases

which, when coupled with across the board increases, cause base salary increases that exceed 25% over the life of the four year Agreement. Additional economic enhancements awarded must also be considered when reviewing overall compensation and continuity and stability of employment [16(g)(8)]. These include increases in the Lieutenant stipend, increase in minimum standby overtime from one to two hours, time and one-half pay (as opposed to straight time) for when standby duty occurs on all of the holidays now provided in the expired contract, increase in clothing allowance, increase in EMT stipend, increase in meal allowance, increase in sick leave accumulation pay and addition of the Fire Inspector stipend.

I do not find that comparisons to private employment [16(g)(2)(a)] or public employment in general [16(g)(2)(b)] are entitled to significant weight nor to cost of living data which are subject to wide swings and must be weighed in context of the overall economic package awarded.

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

AWARD

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

2. **Duration** – Article XXIV(a) shall read:

The term of the Agreement shall be January 1, 2022 through December 31, 2025.

3. **Article XVI – Clothing Maintenance**

Effective January 1, 2022, each employee will be afforded an annual \$400 uniform allowance. The allowance shall be part of base pay.

4. **Article XV – Medical and Health Insurance**

During the term of this Agreement, if the Borough and any of its bargaining units agree to revise employee contributions for health insurance at less than a Tier 4 level, the FMBA and the Borough, upon demand of either party, shall reopen negotiations on health insurance contribution levels.

5. **EMT Stipend**

Effective January 1, 2022, the EMT stipend shall be increased to \$1,200. The stipend shall be part of base salary.

6. **Fire Inspector Stipend**

Effective January 1, 2023, Captain Nunn, or his designated replacement who performs substantially similar Fire Inspector duties, shall receive an annual stipend of \$2,500. The stipend shall be part of base pay.

7. **Appendix F – Lieutenant Rank Differential**

Effective January 1, 2022, the Lieutenant Rank Differential shall be increased to \$2,750 and an additional increase to \$3,000 effective January 1, 2024.

8. **Article XI – Death in Family**

Article XI(a) shall be revised to read:

- a) In the event of a death in the immediate family an employee shall be granted up to four (4) working days off with pay within seven days of the occurrence. That is, employees can spend seven days with their family and the work time scheduled during these seven days will be paid time off. If there are extenuating circumstances, the Chief of the Department shall make adjustments if necessary.

Immediate family shall be construed as meaning wife, husband, child, father, mother, father-in-law, mother-in-law, sister or brother, sister-in-law, brother-in-law, grandfather and grandmother. For all other relatives, a one (1) day leave will be granted.

9. **Article VII – Meal Allowance**

Section 3 shall state:

Any employee who, during periods of emergencies, is ordered by the Governor, the Mayor, Fire Chief or the Borough Administrator to be at the fire house in excess of 24 hours shall receive a reimbursement in each meal in the amount of \$10.00 per meal.

10. **Article VII – Overtime Pay**

Effective July 1, 2023, the minimum standby overtime shall be increased from one (1) hour to two (2) hours.

11. **Article VIII – Standby Duty**

Article VIII, Section 2 shall be revised to read as follows:

Effective January 1, 2022, whenever an employee shall be, and remains available on his/her normal assigned standby duty, and such standby duty occurs on any Borough holiday (12), he/she will be paid time and a half for a minimum of four (4) hours.

12. **Article X – Sick Leave, Leave of Absence and Personal Days**

Section 1 shall be revised to state:

- (c) Employees hired on or before 1/1/06 who retire can cash in two (2) accumulated sick days and receive one (1) day pay for a total of one hundred (100) days. Employees hired on or after 1/1/06 who retire can cash in three (3) accumulated sick days and receive one (1) day for a total of one hundred (100) days. Said days are based on eight (8) hours, except for shift firefighters whose days shall be based on twelve (12) hours. Employees hired on or after January 1, 2022 who retire from a state or local pension system shall receive one (1) days credit for every six (6) sick days, up to a maximum of one hundred (100) days.

(d) Any payment for sick leave in retirement shall be in compliance with N.J.S.A. 40A:9-10.4.

13. **Article XIX – Wages**

The wage schedules shall each be revised to provide 2% annual increase effective and retroactive to January 1, 2022. There shall be step movement in all four years, pursuant to existing procedures. The schedules shall read:

Firefighter, hired before March 14, 2010

Steps	Jan 1, 2021	Jan 1, 2022 2%	Jan 1, 2023 2%	Jan 1, 2024 2%	Jan 1, 2025 2%
Probationary Year	\$53,983	\$55,063	\$56,164	\$57,287	\$58,433
First Year	\$66,260	\$67,585	\$68,937	\$70,316	\$71,722
Second Year	\$74,426	\$75,915	\$77,433	\$78,981	\$80,561
Third Year	\$85,064	\$86,765	\$88,501	\$90,271	\$92,076
Fourth Year	\$95,809	\$97,725	\$99,680	\$101,673	\$103,707
Over 4 Years	\$113,360	\$115,627	\$117,940	\$120,299	\$122,705
Captain	\$134,045	\$136,726	\$139,460	\$142,250	\$145,095

Firefighter/Inspector, hired before March 14, 2010

Steps	Jan 1, 2021	Jan 1, 2022 2%	Jan 1, 2023 2%	Jan 1, 2024 2%	Jan 1, 2025 2%
Probationary Year	\$53,400	\$54,468	\$55,557	\$56,669	\$57,802
First Year	\$65,136	\$66,439	\$67,767	\$69,123	\$70,505
Second Year	\$72,943	\$74,402	\$75,890	\$77,408	\$78,956
Third Year	\$83,110	\$84,772	\$86,468	\$88,197	\$89,961
Fourth Year	\$93,384	\$95,252	\$97,157	\$99,100	\$101,082
Over 4 Years	\$110,199	\$112,403	\$114,651	\$116,944	\$119,283

Firefighter, hired between March 14, 2010 and December 8, 2014

Steps	Jan 1, 2021	Jan 1, 2022 2%	Jan 1, 2023 2%	Jan 1, 2024 2%	Jan 1, 2025 2%
Probationary Year	\$59,755	\$60,950	\$62,169	\$63,412	\$64,681
First Year	\$68,059	\$69,420	\$70,809	\$72,225	\$73,669
Second Year	\$75,466	\$76,975	\$78,515	\$80,085	\$81,687
Third Year	\$82,875	\$84,533	\$86,223	\$87,948	\$89,707
Fourth Year	\$90,280	\$92,086	\$93,927	\$95,806	\$97,722

Fifth Year	\$97,690	\$99,644	\$101,637	\$103,669	\$105,743
Sixth Year	\$105,098	\$107,200	\$109,344	\$111,531	\$113,761
Over Six Year	\$113,360	\$115,627	\$117,940	\$120,299	\$122,705

Firefighter/Inspector, hired between March 14, 2010 and December 8, 2014

Steps	Jan 1, 2021	Jan 1, 2022 2%	Jan 1, 2023 2%	Jan 1, 2024 2%	Jan 1, 2025 2%
Probationary Year	\$59,755	\$60,950	\$62,169	\$63,412	\$64,681
First Year	\$67,605	\$68,957	\$70,336	\$71,743	\$73,178
Second Year	\$74,562	\$76,053	\$77,574	\$79,126	\$80,708
Third Year	\$81,517	\$83,147	\$84,810	\$86,506	\$88,237
Fourth Year	\$88,474	\$90,243	\$92,048	\$93,889	\$95,767
Fifth Year	\$95,428	\$97,337	\$99,283	\$101,269	\$103,294
Sixth Year	\$102,383	\$104,431	\$106,519	\$108,650	\$110,823
Over Six Year	\$110,199	\$112,403	\$114,651	\$116,944	\$119,283

Firefighter hired after December 8, 2014

Steps	Jan 1, 2021	Jan 1, 2022 2%	Jan 1, 2023 2%	Jan 1, 2024 2%	Jan 1, 2025 2%
Probationary Year	\$46,407	\$47,335	\$48,282	\$49,247	\$50,232
First Year	\$58,292	\$59,458	\$60,647	\$61,860	\$63,097
Second Year	\$64,872	\$66,169	\$67,493	\$68,843	\$70,220
Third Year	\$71,451	\$72,880	\$74,338	\$75,824	\$77,341
Fourth Year	\$78,031	\$79,592	\$81,183	\$82,807	\$84,463
Fifth Year	\$84,610	\$86,302	\$88,028	\$89,789	\$91,585
Sixth Year	\$86,829	\$88,566	\$90,337	\$92,144	\$93,987
Seventh Year	\$88,792	\$90,568	\$92,379	\$94,227	\$96,111
Eighth Year	\$92,878	\$94,736	\$96,630	\$98,563	\$100,534
Ninth Year	\$96,964	\$98,903	\$100,881	\$102,899	\$104,957
Tenth Year	\$101,049	\$103,070	\$105,131	\$107,234	\$109,379
Eleventh Year	\$105,135	\$107,238	\$109,382	\$111,570	\$113,802
Twelfth Year	\$109,221	\$111,405	\$113,634	\$115,906	\$118,224
Over Twelfth Year	\$113,358	\$115,625	\$117,938	\$120,296	\$122,702
Captain	\$134,045	\$136,726	\$139,460	\$142,250	\$145,095

Appendix F - Firefighter/Inspector hired after December 8, 2014

Steps	Jan 1, 2021	Jan 1, 2022 2%	Jan 1, 2023 2%	Jan 1, 2024 2%	Jan 1, 2025 2%
Probationary Year	\$46,407	\$47,335	\$48,282	\$49,247	\$50,232
First Year	\$58,080	\$59,242	\$60,426	\$61,635	\$62,868
Second Year	\$64,447	\$65,736	\$67,051	\$68,392	\$69,760
Third Year	\$70,814	\$72,230	\$73,675	\$75,148	\$76,651
Fourth Year	\$77,182	\$78,726	\$80,300	\$81,906	\$83,544
Fifth Year	\$83,549	\$85,220	\$86,924	\$88,663	\$90,436
Sixth Year	\$85,791	\$87,507	\$89,257	\$91,042	\$92,863
Seventh Year	\$87,373	\$89,120	\$90,903	\$92,721	\$94,575
Eighth Year	\$91,088	\$92,910	\$94,768	\$96,663	\$98,597
Ninth Year	\$94,802	\$96,698	\$98,632	\$100,605	\$102,617
Tenth Year	\$98,516	\$100,486	\$102,496	\$104,546	\$106,637
Eleventh Year	\$102,230	\$104,275	\$106,360	\$108,487	\$110,657
Twelfth Year	\$105,945	\$108,064	\$110,225	\$112,430	\$114,678
Over Twelfth Year	\$110,199	\$112,403	\$114,651	\$116,944	\$119,283

Dated: April 10, 2023
Lincroft, New Jersey



James W. Mastriani

State of New Jersey }
County of Monmouth }ss:

On this 10th day of April, 2023, before me personally came and appeared James W. Mastriani to me known and known to me to be the individual described in and who executed the foregoing instrument and he acknowledged to me that he executed same.


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

