

**STATE OF NEW JERSEY**  
**PUBLIC EMPLOYMENT RELATIONS COMMISSION**

In the Matter of Interest Arbitration Between:

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**COUNTY OF BURLINGTON,**  
**“County or Employer”**

- and -

**PBA LOCAL 249**  
**“PBA or Union”**

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**INTEREST ARBITRATION**  
**DECISION AND AWARD**

Docket No. IA-2021-023

**Before:** Brian W. Kronick, Esq.  
Interest Arbitrator

**Appearances:**

**For the County:**

Evan Crook, Esq.  
Malumet & Associates

**For the PBA:**

Frank Crivelli, Esq.  
Crivelli & Barbati, LLC

## **PROCEDURAL HISTORY**

The County of Burlington (the “County” or “Employer”) and PBA Local 249 (the “PBA” or “Union”) are parties to a Collective Negotiations Agreement with an effective term of January 1, 2012 through December 31, 2020 (the “Agreement”). The PBA represents the County’s Corrections Officers and ID Officers.

The parties met and engaged in negotiations for a successor collective negotiations agreement that reached an impasse. On June 24, 2021, the PBA filed the instant Petition to Initiate Compulsory Interest Arbitration (the “Petition”) with the Public Employment Relations Commission (“PERC”) pursuant to the Police and Fire Interest Arbitration Reform Act, N.J.S.A. 34:13A-16 (the “Act”). On July 6, 2021, PERC randomly appointed me as Interest Arbitrator. On August 26, 2021, a virtual mediation session was held as required by the Act. Since a settlement was not achieved through mediation, Interest Arbitration hearings were held on September 20, 2021, and October 27, 2021, in-person at the County Administration Building.

The parties were directed to submit Final Offers by Friday, September 10, 2021, and could amend their Final Offers up to the close of hearing. The PBA submitted its Final Offer on September 10, 2021. The County submitted its Final Offer on September 14, 2021, and the personnel and financial information required under N.J.A.C. 19:16-5.7(g)(1)(i-v) on September 15, 2021. The PBA objected to the acceptance of the County’s Final Offer and consideration of the personnel/financial information due to its untimeliness. I noted the PBA’s objection and accepted the County’s Final Offer and personnel and financial information. I note that the PBA was not prejudiced by the delayed filing and that each Party had until the close of the record to amend their Final Offers.

At the hearing, both Parties were represented by competent and professional counsel, and each had an opportunity to present evidence and offer testimony. The PBA submitted thirty-five (35) exhibits with numerous subparts, and offered testimony from Donald Barbati, Esq. (“Barbati”), PBA President Leroy Handberry (“Handberry”), and Dr. Raphael Caprio, Ph.D., PBA financial consultant (“Dr. Caprio”). The County submitted nine (9) exhibits and offered the testimony of County Certified Financial Officer Carolyn Havlick (“CFO Havlick”). The testimony from all of the witnesses was credible and the financial exhibits were detailed in outlining the County’s budget, finances, and each parties Final Offers. The parties were given until December 17, 2021, to submit post-hearing briefs that were mutually exchanged by me. The PBA’s submission was received on December 17, 2021, and the County’s on December 19, 2021, due to computer server issues.

This proceeding is governed by the Police and Fire Interest Arbitration Reform Act as set forth in N.J.S.A. 34:13A-16 through N.J.S.A. 34:13A-16.9 as amended on June 24, 2014, by P.L. 2014, c.11 (the “Act”). The Act requires the use of conventional arbitration. The strict limits on the amount of base salary increases have sunset and this agreement is not subject to those limitations. Still, any Interest Arbitration Award must be in compliance with the Act, the appropriations and tax levy limitations in P.L. 1976, c. 68 (C. 40A:4-45, *et. seq.*) and Section 10 of P.L. 2007, c. 62 (C. 40A:4-45:45) and, most importantly, must be in the interest and welfare of the public. This Interest Arbitration Award is issued in accordance with the 16g interest arbitration criteria to the extent deemed relevant. *See* N.J.S.A. 34:13A-16.7(b) and N.J.S.A. 34:13A-16g.

## THE FINAL OFFERS

In accordance with the Act, each party submitted a Final Offer (the "Final Offer"). These Final Offers are set forth as follows:

### PBA FINAL OFFER

#### Final Offer Number 1

#### ARTICLE II, Salary

Delete Sections A. through F. in their entirety and replace with the following:

A. The base annual salaries for employees covered under this Agreement shall be set forth in Appendix A below and shall be modified on each effective date and retroactive to each effective date as applicable:

1. Effective January 1, 2021, each step on the salary guide shall be increased by 4%.
2. Effective January 1, 2022, each step on the salary guide shall be increased by 4%.
3. Effective January 1, 2023, each step on the salary guide shall be increased by 4%.
4. Effective January 1, 2024, each step on the salary guide shall be increased by 4%.

#### B. Salary Guide

Steps one (1) and two (2) of the salary guide shall be combined and renumbered as Step one (1).

This contract contains an automatic annual step increment system for Correctional Police Officers which provides each Correctional Police Officer on the guide an advancement of one (1) step on the salary guide on January 1 of each year with the exception of officers on steps four (4), eight (8) and twelve (12). Officers on steps four (4), eight (8) or twelve (12) will advance two (2) steps on January 1 after spending one (1) year in step in that particular year.

Therefore, as an example, an officer currently on step four (4) will advance to step (6), an officer currently on step eight (8) will advance to step ten (10) and an officer currently on step twelve (12) will advance to step fourteen (14) on January 1, 2021. In addition, an officer that reaches step four (4), step eight (8) or step twelve (12) during any year of the contract will advance to step six (6), step ten (10) or step fourteen (14) respectively after spending one year on step four (4), step eight (8) or step twelve (12).

The continuation of step movement shall expressly survive the expiration of this contract and Correctional Police Officers shall continue to advance on the salary guide until a new agreement has been ratified and executed.

## Appendix A

<b>2021 New Guide</b>	<b>2021 Salary</b>	<b>2021 Salary 4% ATB</b>	<b>2022 Salary 4% ATB</b>	<b>2023 Salary 4% ATB</b>	<b>2024 Salary 4% ATB</b>
<b>1</b>	\$41,000	\$42,640	\$44,346	\$46,119	\$47,964
<b>2</b>	\$42,396	\$44,092	\$45,856	\$47,690	\$49,597
<b>3</b>	\$43,698	\$45,446	\$47,264	\$49,154	\$51,120
<b>4</b>	\$45,000	\$46,800	\$48,672	\$50,619	\$52,644
<b>5</b>	\$47,335	\$49,228	\$51,198	\$53,245	\$55,375
<b>6</b>	\$48,200	\$50,128	\$52,133	\$54,218	\$56,387
<b>7</b>	\$50,545	\$52,567	\$54,669	\$56,856	\$59,131
<b>8</b>	\$52,829	\$54,942	\$57,140	\$59,425	\$61,802
<b>9</b>	\$55,409	\$57,625	\$59,930	\$62,328	\$64,821
<b>10</b>	\$57,989	\$60,309	\$62,721	\$65,230	\$67,839
<b>11</b>	\$60,598	\$63,022	\$65,543	\$68,165	\$70,891
<b>12</b>	\$63,206	\$65,734	\$68,364	\$71,098	\$73,942
<b>13</b>	\$67,335	\$70,028	\$72,830	\$75,743	\$78,772
<b>14</b>	\$69,430	\$72,207	\$75,095	\$78,099	\$81,223
<b>15</b>	\$75,890	\$78,926	\$82,083	\$85,366	\$88,781

### **Final Offer Number 2**

#### **ARTICLE III, Uniform Allowance**

Amend Section D. 1. as follows:

#### **D. Annual Allowance**

1. Each eligible officer shall be paid the lump sum of ~~\$750~~ **one thousand two hundred dollars (\$1,200.00)** for the calendar year payable December 1, for each year of the contract.

### **Final Offer Number 3**

#### **ARTICLE X, Holidays**

Modify as follows:

**Juneteenth shall be added to the list of celebrated holidays.**

**Should the eight (8) hour schedule be awarded, the Union proposes the following modifications:**

A. If an employee works a regularly scheduled day on a holiday, the employee shall receive eight (8) hours of straight time pay **in addition to his or her regular wages earned while working;** and the holiday shall be “put on the books” **to be used by the employee as time off from work at a later date.** If the employee is called in to work a holiday on a scheduled day off, the employee shall receive twelve (12) hours of pay **for working on the scheduled day off in addition to his or her regular wages earned while working; and accrue such holiday and the holiday shall be “put on the books” to be used by the employee as time off from work at a later date.** If the employee is scheduled off on a holiday, the holiday shall be accrued **“put on the books” to be used by the employee as time off from work at a later date.**

C. An employee can carry a holiday for one (1) year from the date that it is earned. Each June 1 and December 1 an employee with holidays on the books can elect to receive monetary compensation for said holidays at straight time pay based on the **hourly** rate of pay in which the holiday was earned. **All holidays on the books that an employee elects for payment shall be compensated at the hourly rate multiplied by the eight (8) hours worked.** ~~If the employee does not use or does not elect to be monetarily compensated for a holiday within a year from the date it is earned, the holiday is lost.~~ Any payment made by the employer on June 1 and December 1 shall be paid to the employee by separate check.

**Should the twelve (12) hour schedule remain in place, the Union proposes the following modifications:**

A. If an employee works a regularly scheduled day on a holiday, the employee shall receive ~~eight (8) hours~~ **twelve (12) hours** of straight time pay **in addition to his or her regular wages earned while working** and the holiday shall be “put on the books” **to be used by the employee as time off from work at a later date.** If the employee is called in to work a holiday on a scheduled day off, the employee shall receive twelve (12) hours of pay **for working on the scheduled day off in addition to his or her regular wages earned while working; and accrue such holiday and the holiday shall be “put on the books” to be used by the employee as time off from work at a later date.** If the employee is scheduled off on a holiday, the holiday shall be accrued **“put on the books” to be used by the employee as time off from work at a later date.**

C. An employee can carry a holiday for one (1) year from the date that it is earned. Each June 1 and December 1 an employee with holidays on the books can elect to receive monetary compensation for said holidays at straight time pay based on the **hourly** rate of pay in which the holiday was earned. **All holidays on the books that an employee elects for payment shall be compensated at the hourly rate multiplied by the twelve (12) hours worked.** ~~If the employee does not use or does not elect to be monetarily compensated for a holiday within a year from the date it is earned, the holiday is lost.~~ Any payment made by the employer on June 1 and December 1 shall be paid to the employee by separate check.

## Final Offer Number 4

### ARTICLE XXXVII, Term of Agreement

Modify as follows:

This Agreement shall be effective as of **January 1, 2018-2021** and shall remain in full force and effect through **December 31, 2019 2024**. ~~The Agreement shall be automatically renewed thereafter, unless notice is given in writing at least one hundred twenty (120) days prior to the expiration of this Agreement. In the event that such notice is given, negotiations for a new Agreement shall begin no later than ninety (90) days prior to the expiration of this Agreement.~~ Negotiations for a successor agreement shall commence in accordance with the time limits referenced in N.J.S.A. 34:13A-1. et. seq. ~~The time limits set forth herein are minimum limits and nothing herein shall limit the right of any party to request contract negotiations at an earlier date.~~

## Final Offer Number 5

### ARTICLE IV, Health Benefits

Modify Section A. as follows:

A. Health plan: Family Hospital, Surgical and Major Medical or other medical benefits shall be available for all full-time employees on the first of the month after three (3) months of service pursuant to the following provisions:

**Commencing on January 1, 2022 and thereafter, all employees shall pay the percentage designated in Appendix B (attached below) as an annual contribution towards the cost of health benefits.**

All employees shall be covered by a ~~non-contributory~~ comprehensive ~~County self-funded~~ medical, optical and prescription plan to include co-pays as follows:

<u>Doctor's</u>	<u>Prescription</u>	<u>Brand</u>	<u>Brand</u>
<u>Visits</u>	<u>Generic</u>	<u>Preferred</u>	<u>Non-Pref.</u>
\$20.00	\$0.00	\$30.00	\$45.00

Additionally, visits to the emergency room will have the following co-pays:

\$50.00

Pre-certification and second opinion deductible for non-compliance shall be

\$500.00.

The Health Plan shall provide for well child and baby care, including vaccinations and gynecological coverage for dependents, consistent with coverage that is provided to members of other County bargaining units.

After the first 90 days a prescription has been filled, all maintenance medications (with the exception of insulin for diabetics) must be filled via Mail Order(examples of maintenance

medications include high blood pressure, cholesterol, kidney and heart medications, etc.). Mail Order medications for a 90 day supply shall cost one-and-a-half times (1.5x) the applicable retail co-pay indicated above.

All prescription medications must be processed through a pharmaceutical clinical case management program through the prescription third-party administrator (TPA). As a pre-condition to using the prescription benefits plan, allemployees must sign a HIPAA compliant release enabling the health benefits third-party administrator to share protected health information (PHI) with the prescriptionbenefits TPA.

In the case of a husband and wife working for the County, the employee with the earliest hire date shall be listed for coverage and the other spouse will nothave separate coverage. If for any reason, the subscriber has his/her coverage terminated, the spouse shall be added immediately. The children dependents of the employee shall be covered until the end of the month in which they reach the age of ~~19~~ **26**, or if the dependent ~~(as evidenced by being claimed on the employee's Federal income tax)~~, is in school as a full-time student, until the end of the month in which they reach the age 26 in accordance with the Affordable Care Act. ~~Employees must submit a copy of their Federal 1040 tax form and information from the school that demonstrates that the child is still a dependent and still in school.~~

The County shall furnish an annual stipend for opting out of the County's health benefits plan (medical and Rx – so long as employee furnishes proof of other coverage) in the amount of \$750 payable in November of each calendar year. An employee who experiences a catastrophic life event wherein other, available coverage is lost shall be automatically reenrolled in the County's plan, and the stipend shall be pro-rated accordingly.

Modify Section D. as follows:

~~**D. — During the term of this Agreement, there shall be no change in the Medical Insurance Program or any type of insurance presently maintained and paid for by the Employer on behalf of the employees shown above. However, this shall not prevent the Employer from substituting new and equivalent or more beneficial plans for the ones now in effect.**~~

**D. It is acknowledged that pursuant to law, the County may seek to purchase health insurance coverage from other providers so long as said coverage is equivalent to or better than the existing plan. The County shall provide at least one hundred and twenty (120) days notice of its intent to change insurance carriers to the Union prior to the date that the change in carriers is to be implemented. Along with the notice of its intent to change carriers, the County shall provide a detailed summary description of the newhealth insurance coverage plan it seeks to implement to include:**

- 1. Cost of coverage;**
- 2. Cost of single visit and maximum annual co-pays;**
- 3. Cost of single visit and maximum annual deductibles;**
- 4. A detailed list of medical providers and hospitals participating in the provider network and tier of participation if applicable;**
- 5. Cost of prescriptions coverage;**

- 6. Any other information that the Union requests concerning the New plan it deems necessary to evaluate the plan as to whether the coverage is equivalent to or better than the current plan that is in place.**

**The County agrees that should a grievance be filed concerning whether a potential health insurance plan it seeks to purchase and implement will provide equal to or better coverage, the purchase and implementation of the plan shall be held in abeyance until the grievance proceeds to arbitration and a decision and award is rendered.**

## **APPENDIX B**

### **HEALTH BENEFITS ANNUAL PREMIUM CONTRIBUTION RATES FOR SINGLE COVERAGE AS OF JANUARY 1, 2022**

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

**HEALTH BENEFITS ANNUAL PREMIUM CONTRIBUTION RATES  
FOR FAMILY COVERAGE AS OF JANUARY 1, 2022**

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

**HEALTH BENEFITS ANNUAL PREMIUM CONTRIBUTION RATES  
FOR HUSBAND/WIFE AND PARENT/CHILD COVERAGE AS OF JANUARY 1, 202**

<b>Salary Range</b>	
Less than 25,000	2.625%
25,000-29,999.99	3.375%
30,000-34,999.99	4.50%

35,000-39,999.99	5.25%
40,000-44,999.99	6.00%
45,000-49,999.99	7.50%
50,000-54,999.99	11.25%
55,000-59,999.99	12.75%
60,000-64,999.99	15.75%
65,000-69,999.99	17.25%
70,000-74,999.99	19.50%
75,000-79,999.99	20.25%
80,000-84,999.99	21.00%
85,000-99,999.99	22.50%
100,000 and over	26.25%

#### **Final Offer Number 6**

#### **ARTICLE XVII, Work Schedule**

The PBA proposes an eight (8) hour work schedule for the County Correctional Police Officers that are employed by the Burlington County Department of Corrections. Should the Interest Arbitrator fail to grant an eight (8) hour work schedule as proposed herein, the PBA seeks a modification to the Pitman or twelve (12) hour work schedule that is currently in place to bring it into compliance with the applicable law.

#### **Eight (8) Hour Shift**

**Effective January 1, 2022, Senior County Correctional Police Officers shall be employed on a normal work schedule of five (5) consecutive days consisting of eight (8) consecutive hours. Each eight (8) hour work day shall be considered a work shift. Each officer shall have thirty (30) minutes for meal time within each work shift during which time an officer is subject to recall in order to respond to emergency situations. The work week shall be forty (40) hours per week with two consecutive days off from work.**

**A. When there is more than one (1) work shift per day within a given classification, preference of job assignment will be given to the most senior employee.**

**B. Employees shall be scheduled to one of the following work shifts:**

**6:00 a.m. to 2:15 p.m.**

**2:00 p.m. to 10:15 p.m.**

**10:00 p.m. to 6:15 a.m.**

The final fifteen (15) minutes of each shift shall be constituted as shift overlap to allow officers being relieved to share information with oncoming officers concerning incidents and events that occurred during their tour of duty.

C. An employee's work shifts shall not be changed without two (2) weeks' notice to the affected employees unless deemed an emergency by the Jail Administrator in order to provide for the orderly running of the institution.

D. Overtime shall be paid for any time worked in excess of an employee's normal workday and/or for any work on a scheduled day off.

### **Twelve (12) Hour Shift**

A. The regular starting time of work shifts shall not be changed without ~~one (1)~~ two weeks' notice to the affected employees unless deemed an emergency by the Jail Administrator in order to provide for the orderly running of the institution.

B. When there is more than one (1) work shift per day within a given classification, preference of job assignment will be given to the most senior employee.

C. A workday shall consist of twelve (12) paid consecutive hours, including two paid thirty (30) minute non-guaranteed breaks. During the aforementioned breaks, employees are subject to recall to respond to emergency situations. The breaks shall be scheduled based on the operational necessities of the jail and the jail's administration shall make all reasonable efforts to relieve each employee with a break once within the first six (6) hours of the shift and once within the second six (6) hours of the shift. Outside of being recalled to respond to an emergency situation, should an employee not receive either or both of his or her breaks, or should his or her break be shortened, he or she shall have his or her compensatory time off from work bank credited with the missed break time on a minute for minute basis.

D. Employees shall be scheduled in accordance with the "Pitman Schedule" with twelve (12) hour work days to be scheduled so as to provide two (2) days off, followed by two (2) days on duty, followed by three (3) days off, followed by two (2) days on duty, followed by two (2) days off, followed by three (3) days on duty unless otherwise requested by the employee and approved by the Jail Administrator. All employees whose schedules are changed to meet emergent needs of the present work week schedules shall be notified in writing.

The work year for all employees shall consist of 2,080 hours. Each employee whose planned Pitman work schedule results in he or she working in excess of 2,080 hours shall receive compensatory time off at the rate of one (1) hour for one (1) hour for the excess time scheduled. Due to the nature of the planned schedule, officers will be credited with the excess hours scheduled to work on January 1st of that year in anticipation of continued employment. This will be referred to as "Pitman Adjustment Time (PAT Time)". The utilization of PAT Time off from work must be pre-scheduled and used in the calendar year in which it was earned and may not be carried over unless specifically approved by the Warden. PAT Time off from work will be scheduled during the same time that officers choose their vacation time off from work.

Should scheduled PAT off from work be cancelled by administration, the officer shall have said time deducted from his or her PAT bank but will be compensated at the premium rate of pay (time and one half) for the hours that he or she is required to work.

Overtime shall be paid for any time worked in excess of an employee's normal workday and/or for any work on a scheduled day off.

~~D.~~ E. Employees shall be scheduled as follows:

6:00 a.m. to 6:00 p.m.

9:00 a.m. to 9:00 p.m. (Power Shift)

6:00 p.m. to 6:00 a.m.

### Final Offer Number 7

#### **NEW ARTICLE, Hazardous Duty Pay**

A. County Correctional Police Officers shall be entitled to Hazard differential pay. Hazardous differential pay shall be considered additional pay for any employee assigned to perform hazardous duty or work involving physical hardship. A duty shall be considered hazardous if it involves extreme physical discomfort or distress especially if protective devices will not entirely mitigate the danger or hardship involved; and/or it could result in serious injury/illness or death.

B. The County shall compensate an employee in the performance of a hazardous duty with a 20% premium over the employee's regular hourly wage. This differential shall be paid for all of the hours in which the employee is scheduled to work said hazardous duty and shall be retroactive to the date of March 9, 2020. Furthermore, an employee shall receive hazard pay differential for any work performed during overtime hours associated with the hazardous duty.

C. Hazard pay differential shall be warranted under the following conditions:

- 1) Whenever a State or County Emergency is declared because of a hazardous condition;
- 2) for exposure to a physical hardship;
- 3) for exposure to a hazardous condition.

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

**Final Offer Number 8-** withdrawn by the PBA on October 27, 2021.

## **ARTICLE V, Sick Leave**

Amend as follows:

Full-time employees in the County service shall be entitled to sick leave with pay in accordance with the following schedule:

A. New employees shall receive eight (8) hours of sick time for the initial month of employment if they begin work on the 1st through the 8th day of the calendar month. Employees who begin work on the 9th through the 23rd day of the month shall receive four (4) hours of sick time for that month. Employees who begin work after the 23rd day of the month shall not receive any paid sick leave for that month. All such time shall be credited on the first day of the following month.

B. After the initial month of employment and up to the end of the first calendar year, employees shall receive eight (8) hours of sick time credited the first day of the next month for each month of service. Thereafter, on January 1st of each year, employees shall receive one hundred and twenty (120) hours of sick leave for each year of service.

C. Sick leave may be taken as credited. Although each employee is credited with one hundred and twenty (120) hours of sick leave every January 1st, after the first calendar year, sick time is earned at ten (10) hours per month for purposes of computing time owed to the County in the event an employee should leave prior to the completion of that calendar year having used all credited sick leave. Employees who at the end of the calendar year have been paid more sick leave hours than those earned shall have the excess payment deducted from their last paycheck. Employees who leave the employ of the County prior to the end of the calendar year and who have been paid more sick leave hours than those actually earned shall similarly reimburse the County.

D. Permanent part-time employees shall be eligible for sick leave of absence with pay in accordance with Department of Personnel Rules and Regulations.

E. An employee who exhausts all accumulated paid sick leave in any one (1) year shall not be credited with additional paid sick leave until the beginning of the next calendar year.

F. Paid sick leave shall not accrue during a leave of absence without Pay.

G. Sick leave is defined as absence of an employee from duty because of personal illness by reason of which the employee is unable to perform the usual duties of his position, or exposure to contagious disease. Sick leave may also be requested for following reasons:

1. Up to eighty (80) hours of sick leave of emergency attendance upon an immediate family member who is seriously ill and requires the presence of such employee. Immediate family shall be defined as set forth in Section H below.
2. In the event of the death of a member of employee's immediate family, as defined by Article V (H), an employee shall be granted, at his request,

up to forty-~~eight (40)~~ (48) hours of sick leave as bereavement leave. **This bereavement leave shall be available for use by the employee in conjunction with the paid bereavement leave referenced in Article , entitled Bereavement.** Upon written request of the employee and approval of the Jail Administrator, this time may be expanded. Such time may be taken, at the employee's option, from available sick leave hours, personal leave hours, vacation hours or holiday's hours.

H. Immediate family means an employee's spouse, child, legal ward, grandchild, foster child, father, mother, legal guardian, grandfather, grandmother, brother, sister, father-in-law, mother-in-law, and other relative residing in the employee's household.

I. If an employee is absent for forty (40) consecutive sick leave hours for any of the reasons set forth in sub-paragraph G of this Article, the appointing authority shall require acceptable medical evidence on the form prescribed.

J. If it is reasonably suspected that the employee is abusing the sick leave privilege, the Jail Administrator may require the employee seeking leave to submit proof of illness. If the employee fails to provide proof of illness, the employee shall suffer loss of pay for such time.

K. An employee who does not expect to report for work because of personal illness or for any of the reasons included in the definition of sick leave set forth above shall notify his immediate supervisor by telephone or personal message two (2) hours prior to the normal starting time or he shall suffer loss of pay for the absence. It is agreed, however, that the aforesaid two (2) hours' notice requirement may be waived in the event of a bona fide emergency. **In addition, the employee shall maintain a cellular telephone number on file with the Employer for ease of contact and verification. Sick verification shall not take place until an officer has exhausted the entire allotment of sick time for the calendar year.**

L. Sick leave hours may accumulate.

M. If an employee becomes ill while on duty and is unable to complete his tour of duty as determined by the on duty nurse, he shall be released from duty and required to submit a doctor's certificate upon return to duty.

N. Employees who have exhausted their sick leave benefit due to an extended illness certified by the employee's treating physician and who wish to substitute vacation, holiday, personal leave hours or any other compensable time shall make such a request based upon the specific circumstances.

## **Final Offer Number 9**

### **Article XXXIV, Jury Duty**

Amend Section A. as follows:

A. If an employee is called to serve on a jury, the service time will not be deducted from any leave, and he will receive full pay, if his jury check is turned over to the Employer. Once an employee is notified of his call to serve he shall immediately notify the jail Administrator. **Once**

an employee has been dismissed by Jury Management for the day, said employee shall not be required to return to work and may leave for the remainder of the day.

#### Final Offer Number 10

##### NEW ARTICLE, Bereavement

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

#### Final Offer Number 11

##### NEW ARTICLE, Time Off from Work—Special Event or Weather Related Events

###### Time Off from Work to Observe a Special Event:

Whenever the Governor or County Commissioners declares that a special event shall be observed through the authorization of County employees receiving unplanned or unscheduled paid time off from work, those employees covered by this Agreement who are required to work during the period of the authorized time off shall be compensated for such hours worked as outlined in Article XII, Overtime and Article XVII, Work Schedule.

###### Time Off from Work—Weather Related Emergency:

Whenever the Governor or County Commissioners declares a weather related emergency and authorizes time off to employees of the State or County as a result of such an event, those employees covered by this Agreement who are required to work during the period of the authorized time off shall be compensated for such hours worked as outlined in Article XII, Overtime and Article XVII, Work Schedule.

#### Final Offer Number 12

##### Article XXIV, Rights And Privileges Of The Association

Amend as follows:

D. The President, Vice President, State Delegate, Treasurer and Recording Secretary, if on duty, shall be given time off for the purpose of attending the regularly monthly meetings of the Association, suffering no loss of time or pay. ~~If the President is ill or on vacation, then the Vice President shall take his place.~~ They shall in writing give the Employer one (1) week notice of said meetings.

E. In each year of the contract, the designated Union representatives shall be granted a total,

in the aggregate, of ~~fifteen (15)~~ **seventeen (17)** paid days of excused absences to conduct Union business away from the workplace. Unpaid days, **or accrued time off from work with the exception of sick time**, may also be taken for this purpose according to the following schedule:

~~2018~~ **2021** - 13 days

~~2019~~ **2022** - 13 days

~~2020~~ **2023** - 13 days

2020 **2024** - 13 days

Designated representatives may also use accrued vacation and holidays on the books for PBA business, subject to the approval of the Jail Administration.

## **COUNTY FINAL OFFER**

### **ARTICLE II, Salary**

Delete Sections A. through G. in their entirety and replace with the following:

A. The base annual salaries for employees covered under this Agreement shall be Increased as follows:

1. Effective and retroactive to January 1, 2021, each officer's base salary shall be increased by 1.95%.
2. Effective January 1, 2022, each officer's base salary shall be increased by 1.95%.
3. Effective January 1, 2023, each officer's base salary shall be increased by 1.95%.
4. Effective January 1, 2024, each officer's base salary shall be increased by 1.95%.

### **ARTICLE III, Uniform Allowance**

Implementation of Voucher/Reimbursement Procedure for Uniform Allowance.

### **ARTICLE X, Holidays**

Union Proposal to Modify as follows:

Juneteenth shall be added to the list of celebrated holidays.

County Offer: Union Proposal Accepted.

### **ARTICLE XXXVII, Term of Agreement**

Union Proposal to Modify as follows:

This Agreement shall be effective as of January 1, ~~2018~~ **2021** and shall remain in full force and effect through December 31, ~~2019~~ **2024**. The Agreement shall be automatically renewed thereafter, unless notice is given in writing at least one hundred twenty (120) days prior to the expiration of this Agreement. In the event that such notice is given, negotiations for a new Agreement shall begin no later than ninety (90) days prior to the expiration of this Agreement. The time limits set forth herein are minimum limits and nothing herein shall limit the right of any party to request contract negotiations at an earlier date.

County Offer: Union Proposal Accepted.

#### **ARTICLE IV, Health Benefits, Subparagraph A.**

Union Proposal to Modify as follows:

“In the case of a husband and wife working for the County, the employee with the earliest hire date shall be listed for coverage and the other spouse will not have separate coverage. If for any reason, the subscriber has his/her coverage terminated, the spouse shall be added immediately. The children dependents of the employee shall be covered until the end of the month in which they reach the age of ~~19~~ **26**, or if the dependent (as evidenced by being claimed on the employee's Federal income tax), is in school as a full-time student, until the end of the month in which they reach the age 26 in accordance with the Affordable Care Act. Employees must submit a copy of their Federal 1040 tax form and information from the school that demonstrates that the child is still a dependent and still in school.”

County Offer: Union Proposal changing Age 19 to 26 Accepted.

#### **ARTICLE V, Sick Leave**

Union Proposal to Modify as follows:

- A. An employee who does not expect to report for work because of personal illness or for any of the reasons included in the definition of sick leave set forth above shall notify his immediate supervisor by telephone or personal message two (2) hours prior to the normal starting time or he shall suffer loss of pay for the absence. It is agreed, however, that the aforesaid two (2) hours notice requirement may be waived in the event of a bona fide emergency. In addition, the employee shall maintain a cellular telephone number on file with the Employer for ease of contact and verification.

County Offer: Union Proposal regarding cell phone Accepted.

Union Proposal for New Article as follows:

#### **Bereavement**

Employees shall be entitled to utilize paid bereavement leave of up to three (3) working days for the death of an immediate family member, which shall not exceed fifteen (15) total bereavement days in a calendar year. “Immediate family” shall be defined per the sick leave article of this Agreement. The definition of “immediate family” may be expanded by the County Administrator with approval

**of Human Resources. If bereavement leave is exhausted, an employee may utilize sick, holiday, compensatory time off, personal and vacation time in that order for bereavement.**

County Offer: Union Proposal Accepted.

## **BACKGROUND**

### **County Background and Demographics**

Burlington County is the largest county in New Jersey by area. The County consists of 524,160 acres bordered by Mercer County from the north, Monmouth County from the northeast, Ocean County from the east, Atlantic County from the southwest, and Camden County to the west. The County is the largest in New Jersey covering 827 square miles. Forty political subdivisions exist within the County, consisting of three cities, six boroughs and thirty-one townships. Its county seat is Mount Holly. While the County is principally known for its agriculture, there is considerable manufacturing, particularly along the Delaware River Waterfront.

As of the 2020 United States Census, Burlington County's population was 461,860, making it the 11th-largest of the state's 21 counties, representing a 13,126 (2.9%) increase from the 448,734 residents enumerated in 2010 U.S. Census, which in turn was an increase of 25,340 (6.0%) from the 423,394 enumerated in the 2000 Census. The most populous place in the County was Evesham Township, with 45,538 residents at the time of the 2010 Census, while Washington Township covered 102.71 square miles (266.0 km<sup>2</sup>), the largest area of any municipality in Burlington County.

The 2010 United States census counted 448,734 people, 166,318 households, and 117,254 families in the county. The population density was 561.9 per square mile (217.0/km<sup>2</sup>). There were 175,615 housing units at an average density of 219.9 per square mile (84.9/km<sup>2</sup>). The racial makeup was 73.84% (331,342) White, 16.60% (74,505) Black or African American, 0.22% (985) Native American, 4.32% (19,395) Asian, 0.05% (219) Pacific Islander, 2.05% (9,193) from other races, and 2.92% (13,095) from two or more races. Hispanic or Latino of any race were 6.42% (28,831) of the population.

Of the 166,318 households, 31.3% had children under the age of 18; 54.3% were married couples living together; 12% had a female householder with no husband present and 29.5% were non-families. Of all households, 24.4% were made up of individuals and 9.5% had someone living alone who was 65 years of age or older. The average household size was 2.62 and the average family size was 3.14. 23.2% of the population were under the age of 18, 8.3% from 18 to 24, 25.4% from 25 to 44, 29.2% from 45 to 64, and 13.9% who were 65 years of age or older. The median age was 40.4 years. For every 100 females, the population had 96.6 males. For every 100 females ages 18 and older there were 94.6 males.

The median household income in 2019 dollars was \$87,416.00. The per capita income in 2019 was \$43,187.00. Six (6%) percent of the County population lives in poverty.

Burlington County is governed by a Board of County Commissioners consisting of five members elected at-large by the voters in partisan elections that serve staggered three-year terms, with one or two seats up for election each year in a three-year cycle. Burlington County Board of County Commissioners have both administrative and policy-making powers. Each Burlington County Commissioner oversees a particular area of service: Administration & Natural Resources; Education & Justice; Public Works & Veteran Services; Public Safety & Health and Human Services; and Hospital and Medical Services & Elections. In 2016, commissioners were paid \$10,553.00 and the commissioner director was paid an annual salary of \$11,553.00; the commissioner salaries are the lowest of the state's 21 counties.

### **Burlington County Department of Corrections**

The Burlington County Corrections Department (the “Department”) oversees the Burlington County Detention Center in Mount Holly, New Jersey (“the Jail”), which is owned and operated by the County. The Corrections Department is tasked with operating the Jail twenty-four (24) hours per day, seven (7) days a week, three hundred and sixty-five (365) days per year. The Corrections Department provides secure custody to approximately 450 or more inmates on any given day, although inmates are committed to and released on a frequent basis so that the number of inmates routinely fluctuates. The inmate population ranges from pre-trial detainees to State-sentenced prisoners (including inmates awaiting transportation to State correctional facilities and inmates sentenced to county time). The inmate population includes, from time to time, other types of prisoners such as those in federal custody. The violations committed (or alleged to have been committed) by incarcerated individuals vary from motor vehicle violations and municipal violations to more serious offenses such as armed robbery and murder.

The employment title County Correctional Police Officer carries full police powers under New Jersey law and, as such, the members of the PBA possess great responsibility in discharging their job duties to the citizenry of the County as well as the State of New Jersey. Under supervision during an assigned tour of duty within an adult county correctional facility or institution, a County Correctional Police Officer performs a wide variety of tasks in support of the safety, security, and welfare of inmates, facility personnel, and visitors.

According to the New Jersey Civil Service Commission Job Specification, the employment title “County Correctional Police Officer” include the following duties, amongst many others:

Maintains care, custody, and control of inmates in accordance with established policies, rules, regulations and procedures;

Physically patrols and visually inspects cell block areas, tiers, grounds and corridors to check for safety and security hazards such as fires, smoke, broken pipes, unlocked doors and windows or locks that have been tampered with;

Escorts groups of inmates during movements within or outside the institution to prevent disorder or breaches in security;

Observes inmates directly and indirectly through visual, audio and video monitoring to check for unusual or abnormal activity and ensure the security, safety and welfare of inmates, facility personnel and the public;

Prepares written reports concerning incidents of inmate disturbances and/or injuries;

Collects contraband introduced into facility and conducts further investigation to ascertain the source of such; and

Physically restrains inmates when necessary, to prevent injuries and maintain security.

## The Pitman Work Schedule

In 2013, a twelve (12) hour work schedule, the “Pitman Schedule” was awarded by Arbitrator Susan Wood Osborn in the interest arbitration between the Burlington County Department of Corrections and PBA Local No. 249, IA-2013-005 (the “Osborn Award”). Under the Osborn Award, the Pitman Schedule was put into effect as an “experimental schedule” for a period of 18 months, after which both parties were to evaluate its effects to determine whether it accomplished the County’s stated goals and whether it was palatable to the members of the bargaining unit. In that Award, as supplemented, Arbitrator Osborn also converted all paid leave benefits from days to hours based on a multiplier of 8 hours. For example, a Corrections Officer having ten (10) vacation days under the 5/2 Schedule would now have 80 hours of vacation time (or 6.67, 12-hour days). In 2018, in the interest arbitration between the Burlington County Department of Corrections and PBA Local No. 249, IA-2018-002, Arbitrator Licata examined and upheld the continuance of the Pitman Schedule and holiday conversion as awarded by Arbitrator Osborn (the “Licata Award”).

Under the Pitman Schedule, Corrections Officers have, in sequence, two days off, two days on, three days off, two days on, two days off, and three days on (and repeating). This results in officers working three shifts in one week (34.5 hours) and four shifts (46 hours) the next with three consecutive days off (Friday – Sunday), every other weekend. The original Pitman shifts were 6:00 a.m. - 6:00 p.m., 9:00 a.m. - 9:00 p.m. (overlap) and 6:00 p.m. - 6:00 a.m. The PBA subsequently agreed to the County’s request to add a fourth shift, i.e., 5:00 a.m. to 5:00 p.m. Each work shift is comprised of eleven and one half (11.5) hours of paid time, including a one-half (1/2) hour paid break as well as a ten (10) minute paid break, and a separate one-half (1/2) hour unpaid break. The Pitman Schedule is credited by the County and Corrections Department administrations for increasing coverage during busiest times (due to overlap in shifts), and in the reduction of overtime.

The prior eight (8) hour Work Schedule, which the PBA has included in its Final Offer, consisted of five (5) 8 ½ hour days (8 paid), followed by two (2) days off. The 5/2 eight (8) hour Work Schedule operated over three (3) standard shifts: 7:00 a.m. - 3:30 p.m., 3:00 p.m. - 11:30 p.m., and 11:00 p.m. - 7:30 a.m., and in some cases 9:00 a.m. - 5:00 p.m. on Saturdays and Sundays.

## **PBA Local 249**

The PBA represents the County’s Correction Officers and ID officers. The PBA and County are parties to an agreement for the term January 1, 2012 through December 31, 2020. The Corrections Center houses approximately 450 inmates. The Department is authorized for 175 Corrections Officers and employs 145. The Officers work twelve (12) hour shifts or a Pitman Schedule. The starting base salary in 2020 was \$39,000.00 for the Academy increasing to \$41,000.00. The top step salary in 2020 was \$75,889.81. The 2020 salary guide is comprised of sixteen (16) steps. The amount of each step varies from \$865.00 (Step 6 to 7) to \$6,460.00 (Step 15 to 16), with the average step increase being \$2,326.00.

Based on the personnel and financial information provided by the County, the unit as of December 31, 2020, was comprised of 145 Corrections Officers. The total base salary of the unit as of December 31, 2020, per the County was \$8,725,777.00. Based on the personnel and financial information and the County scattergram, as of December 31, 2020, there were nine (9) Officers at step 1 earning \$39,000.00; six (6) Officers at step 2 earning \$41,000.00; fifteen (15) Officers at step 3 earning \$42,396.00; twenty-six (26) Officers at step 5 earning \$45,000.00; eight (8) Officers at step 9 earning \$52,829.00; two (2) Officers at step 10 earning \$55,409.00; three (3) Officers at step 11 earning \$57,989.00; twelve (12) Officers at step

13 earning \$63,206.00; and sixty-three (64) Officers at top step earning \$75,890.00. The PBA's scattergram and cost-out shows a total base salary for 2020 of \$8,774,454 for 148 Corrections Officers. The differences in the Parties' cost-outs and scattergrams is discussed in the cost-out section of this Award.

## **STATUTORY CRITERIA AND PARTIES POSITIONS**

### **A. The Arbitrator's Authority**

Public employers and Public Safety Associations are statutorily mandated to resolve their labor disputes pursuant to the Police and Fire Interest Arbitration Reform Act, N.J.S.A. 34:13A-16 (the "Act"). By enacting the Act, the Legislature recognized the unique and essential duties police officers and firefighters perform and the life-threatening dangers they face. The purpose of the interest arbitration procedure is to promote and protect the well-being of New Jersey citizens, the efficient operation of police and fire departments as well as the high morale of employees that perform this important work.

### **B. Statutory Criteria**

In rendering an award, the Arbitrator must consider the following nine (9) factors:

1. The interest and welfare of the public.
2. Comparison of wages, salaries, hours and conditions of employment of the employees involved in the arbitration proceedings with 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;
  - b. In public employment in general;
  - 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)
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. The stipulation of the parties;
5. The lawful authority of the employer;
6. The financial impact on the governing unit, its residents and taxpayers;
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 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 Arbitrator must render an award based on the evidence on the record considering the statutory criteria set forth above. The opinion and award must clearly address the criteria. It must include a discussion of the evidence as it relates to the statutory criteria, the weight accorded to each criterion and the reason for the decision. The opinion and award must also explain whether any of the criteria were deemed to be irrelevant and why.

This Award will be issued under concept of “conventional authority” pursuant to N.J.S.A. 34:13A-16d; and, N.J.A.C. 19:16-5.7(e). Under conventional authority, an arbitrator’s award is not limited by either party’s final offer. Rather, the arbitrator has the power to select from either party’s last offer or, alternatively, the arbitrator may use his or her judgment and grant an award that he or she feels is more reasonable than any offers made by the parties. *See, e.g., Hudson County Prosecutor and PBA Local 232, IA-96-178* (July 28, 1997) (Arbitrator did not err by establishing third year salary for County Prosecutor investigators which was lower than the employer’s offer).

N.J.S.A. 34:13A-16g(8) requires consideration of those factors ordinarily or traditionally considered in the determination of wages, benefits, and employment conditions. One such consideration is that the party proposing a change in an employment condition bears the burden of justifying the proposed change. The burden must be met by sufficient evidentiary support. No proposed issue can be deemed presumptively valid in the absence of justification that is supported by credible evidence. Indeed, labor stability is partly conditioned upon the parties’ consistency in the application and implementation of terms and conditions of employment as set forth in the parties’ agreement. For this reason, changes in terms and condition of employment should not be awarded lightly. Moreover, any decision to award or deny any individual issue in dispute, especially those having economic impact, will include consideration as to the reasonableness of that individual issue in relation to the terms of the entire award. A decision on an individual issue will include consideration of the reasonableness of awarding that issue in relation to the overall terms of the award. Indeed, while there may be merit to awarding or denying a single issue if it were to stand alone; a different conclusion is reached when considered within the context of the entire award. I am also required by statute to determine the total net annual economic cost of the terms required by the award.

### **The Interest and Welfare of the Public, N.J.S.A. 34:13A-16g(1)**

The Interest and Welfare of the Public criteria is the most significant of all statutory factors to be considered and an Arbitrator must give due weight to the interest and welfare of the public when issuing an award. It is a criterion that includes the financial impact of the awarded increases and the desirability of maintaining employee morale for the County’s Correction Officers. The criteria recognizes the interest of the public in knowing that its Corrections Department is staffed by competent, dedicated personnel possessing good working morale, and the interest of the public in avoiding higher taxes and/or diminished services.

As Arbitrator Mastriani recognized in Point Pleasant and PBA Local 106, IA-2012-001 (September 19, 2011): “The interest and welfare of the public is entitled to the most weight because it is a criterion that embraces many other factors and recognizes their interrelationships, including the financial impact of an award on the governing body and taxpayers.” *See also* County of Seaside Park and PBA Local 182, IA-2012-022 (April 9, 2012) (“The interest and welfare of the public is not only a factor to be considered, it is the factor to which the most weight must be given.”). “Arbitrators have reviewed the public interest as encompassing the need for both fiscal responsibility and the compensation package required to maintain an effective public safety department with high morale.” *See* Sayreville and PBA Local 98, IA 2006-047 (November 5, 2008).

The New Jersey Supreme Court emphasized that “the public is a silent party” to the interest arbitration process, and that “an award runs the risk of being found deficient if it does not expressly consider” the public interest. PBA Local 207 v. Borough of Hillsdale, 137 N.J. 71 (1994), at 82-83. “Indeed, the Arbitration Act expressly requires the arbitrator to consider the public interest and public welfare.” *Id.* “An award that ignores the interests and welfare of the public or subordinates these interests to other considerations would tend to undermine the intent and purpose of the Act itself.” County of West Windsor, IA-2019-014 (June 20, 2019). In the Appellate Division’s decision in the Hillsdale matter, the Court found that the public interest factor “focuses in part on the priority to be given to the wages and monetary benefits of public employees within a municipality’s budget and plans.” Hillsdale, 263 N.J. Super. at 88. “It is not enough to simply assert that the public entity involved should merely raise taxes to cover the costs of a public interest arbitration award. That would also conflict with other enumerated factors and render them hollow.” *Id.* Arbitrators historically understood this criterion as requiring that public safety employees be well compensated. However, the Appellate Division directed that this criterion be interpreted differently, holding that it “focuses in part on the priority to be given to wages and monetary benefits of public employees within a public employer’s budget and plans.” Hillsdale, 263 N.J. Super. at 88. In other words, an interest arbitrator is required to balance the expense borne by the taxpaying public with the need to ensure that the necessary services are provided.

The PBA emphasizes the importance of the jobs performed by the members of the PBA and the unique difficulties presented in their position of employment. They note the services provided by the PBA as County Correctional Police Officers are an important aspect of the overall public safety in Burlington County and the State of New Jersey. The PBA argues the County’s ability to attract, retain, and promote qualified Correctional Police Officers has a significant impact on the quality of life of its residents, measured in the comprehensive safety and security of the correctional system.

The PBA notes that maintaining and manning a correctional facility is a twenty-four (24) hour a day, seven (7) day a week operation. They argue it is an operation that is extremely demanding upon its personnel, most notably Correctional Police Officers. They note its uniformed personnel have to interact with all types of convicted criminals including murderers, rapists, and individuals that are alleged to have committed other serious types of felonies. In addition, many of the detainees and convicted criminals locked within the correctional facility hold membership with various, violent organized crime associations or “gangs.” Correctional Police Officers are also exposed to a wide range of communicable diseases from inmates including hepatitis, MRSA, and tuberculosis. The PBA submits that as a result of these unique occupational dynamics and “less than forgiving” job conditions, a large amount of physical, mental, and emotional stress is placed upon correctional personnel and Correctional Police Officers especially.

The PBA argues that employment as a Correctional Police Officer is unlike most civilian, and even other law enforcement, employment positions. They submit that very few law enforcement officers working in other departments in the State, counties, or municipalities face the routine dangers that correctional personnel face on a daily basis. The PBA argues that the maintenance and successful operation of a correctional facility is imperative in preserving the public safety, and Correctional Police Officers are instrumental in achieving this paramount goal.

The PBA argues that based upon their vital role in preserving the public safety and the unique circumstances of their employment, an analysis of the services provided by PBA members supports the award of the PBA's Final Offers in their entirety. The PBA argues that awarding the PBA's Final Offers would promote the County's ability to attract and retain qualified Correctional Police Officers, which positively impacts the quality of life and safety of the residents of Burlington County by ensuring the effectiveness of the correctional system.

The PBA argues that in assessing the interest and welfare of the public, the impact on the morale of the negotiations unit must be considered. The PBA argues that awarding the County's Final Offers in would not boost the morale of the PBA members. The PBA argues that such an award would further demoralize PBA members based on the proposed four (4) year step freeze, the recent history of step freezes, additional guide steps, and meager pay increases as a result of the statutory restrictions imposed by the 2% salary cap. The PBA notes the County conceded that if the County's wage proposal was awarded it would be demoralizing for PBA members and not serve as an incentive for an individual to seek employment as a Correctional Police Officer with the County.

The PBA maintains that the interest and welfare of the public supports the PBA's Final Offer. The PBA argues its compensation package is fair, affordable, and well-deserved based upon the significance and nature of the members' duties, responsibilities, and risks of employment. They submit an award of the same will adequately compensate these public safety officers; would boost morale of all members of the negotiations unit; and is fiscally responsible according to the financial data available. As such, the County's ability to attract, retain, and/or promote current and/or prospective negotiations unit members would be furthered which, in turn, positively impacts the public.

The County submits that N.J.S.A. 34:13A-16g requires the Arbitrator to consider the "lawful authority" of the County and the impact on the Parties of the Arbitrator's Award. The County submits the Final Offers of the Parties vary significantly as it pertains to salary. The County argues the PBA's flawed cost-out and proposal equates to an overall dollar increase over four years of \$1,609,233.00, which equates to an increase of 17.30%, for an average increase of 4.325% per year. The County maintains that the PBA's cost-out of its proposal is flawed in that it did not include the anticipated salary costs over four (4) years for fourteen (14) Corrections Officers that were hired in 2021. The County notes that the PBA's proposed step movements and 4% increases to steps for each year of the contract demonstrated that the PBA's proposed salary increases including the additional fourteen (14) Corrections Officers would raise the overall dollar cost of the PBA's final salary offer by \$2,346,245 over four (4) years, for a 24.42% increase over the four (4) years, or an annual average increase of 6.11% per year.

### **Comparability N.J.S.A. 34:13A-16g (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 C.34:13A-16.; provided, however, that each party shall have the right to submit additional evidence concerning the comparability of jurisdictions for the arbitrator's consideration.

The comparability criterion warrants great weight in deciding the terms and conditions of employment that form the most reasonable resolution of the issues in dispute in an interest arbitration. As such, this criterion requires a thorough, comparative examination of the compensation package previously received by members of this negotiations unit with that received by other employees in comparable public and private positions of employment. Again, in assessing this criterion, an arbitrator must consider the duties required of unit members, training, job-related hazards, and overall working conditions.

Consideration is usually given to the following employee comparisons: (1) with employees in the private sector generally; (2) with employees in the public sector generally; (3) with employees having the same employer; and (4) with employees who perform the same or similar functions with comparable employers.

#### **Employment in General**

In Burlington County, the median household income was \$87,416 and the per capita income was \$43,187. It is estimated that the unemployment rate in Burlington County was 4.5% compared to 6.60% in New Jersey.

#### **Private Employment in General**

Since 2011, the national increase in salary and wages in private employment was only a total of 16.30%. In New Jersey specifically, the private sector increase from 2011 to 2017 was 13.6%, which is an average of 1.9% per year. Furthermore, real average hourly and weekly earnings were only up 1.1% from November 2018 to November 2019, and 0.7% from March 2019 to March 2020. Finally, the real average weekly earnings decreased 1.4 percent for year ended April 2021 and were down 2.2% from May 2020 to May 2021.

On July 9, 2021, PERC published its most recent report of private sector wage changes based on data compiled by the New Jersey Department of Labor and Workforce Development. For the fiscal year period July 1, 2019 through June 30, 2020, according to PERC's reporting, private sector wages increased 10.5%; government wages increased 5.7%; and total average annual wages increased 9.8%. The government wage increases were .5% for the federal government, 2.9% for state government, and 7.2% for local government.

### Public Employment in General

#### Internal Comparisons

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

#### External Comparisons

External comparability consists of comparisons between the group subject to the petition and other public safety employees in similar jurisdictions, other public employees, generally, and private sector comparisons. In weighing salary statistics introduced by a party, PERC has promulgated guidelines that may be broken down into the following five general categories:

1. Geographic comparability, contiguous jurisdiction or nearby, size of jurisdiction, and nature of employing entity;
2. Socioeconomic considerations, basically a comparison of the type of statistics found in the New Jersey Municipal Data Book and the UCR, such as population density, cost of living, crime rate, violent crime rate, fire incident and crime rate, etc.;
3. Financial considerations, such as the tax collection rate, state aid, budget surplus, surplus history, ratios of tax revenue to total revenue, etc.;
4. Compensation/benefits provided to employees of the comparison group; and
5. Any other comparability considerations deemed relevant by the arbitrator.

#### Salary comparisons

Since 2011, comparability of percentage increases for interest arbitration has been considered but has been less relevant due to the 2% salary cap. Now that the 2% salary cap has sunset, comparability has once again become a significant criterion to address.

According to the 2018 Biennial Report on the Police and Fire Interest Arbitration Reform Act issued by PERC, the number of interest arbitration petitions decreased since the implementation of the 2% hard cap. After enactment of the law, there were twenty (20) petitions in 2015, nine (9) in 2016, and twenty-

nine (29) in 2017. The number of interest arbitration awards issued has remained low with two (2) issued in 2018; six (6) in 2019; six (6) issued in 2020; and six (6) issued in 2021. For the years 2012 through 2019, the average annual salary increases for all interest arbitration awards were: 2012-1.82%; 2013-1.85%; 2014-1.71%; 2015-1.71%; 2016-2.65%; 2017-1.74%; 2018-2.01%; 2019-3.36%.

The County notes that PERC's website includes the most recent salary increase analysis for interest arbitration awards for calendar years 2012 through 2019. The County notes the average increase for all awards in 2018 was 2.01%, and 3.36% in 2019. The County cites the average increase for interest arbitration voluntary settlements in 2018 was 1.75% and 1.64% in 2019. The County submits the PBA's Final Salary Offer, when corrected for the missing fourteen Officers, represents a 24.42% increase over the four (4) years, or an annual average increase of 6.11% per year, which is far in excess of the averages for post 2% cap Interest Arbitration Awards as demonstrated by the PERC data. The County submits that even the uncorrected cost out submitted by the PBA equates to an increase of 17.30%, for an average increase of 4.325% per year, well above the average PERC post cap Interest Arbitration Awards.

The County maintains that a review of the most recent relevant Interest Arbitration Awards issued post-expiration of the 2% salary cap do not support the exorbitant steps, and excessive percentage increases to steps being proposed by the PBA. The County argues the range of recent relevant post 2% cap Interest Arbitration Awards has been between 1.85% to 2.25% per year, with step movement. The County notes the PBA's Final Offer seeks year one step adjustments in excess of 3%, with some officers moving 2 steps; and 4% increases to all steps every year of the contract with each Officer receiving yearly step movement. The County submits the PBA's Final Offer on salary must be rejected as it is exorbitant and excessive when considered against the County comparable salary agreements, and far in excess of the ranges of current Interest Arbitration Awards.

The PBA submits its wage proposal is supported by an Interest Arbitration Award rendered by Arbitrator Mastriani in I/M/O Township of West Windsor and P.B.A. Local Number 271, IA-2019-014 (2019). The PBA submits that in that matter, during a time when inflation was practically non-existent, the Interest Arbitrator awarded a four (4) year agreement with across-the-board wage increases of 2.0%, 2.0%, 2.25% and 2.25%. Additionally, the PBA notes the Arbitrator awarded step movement for each year of the agreement.

The PBA submits the most relevant employees for comparison with the members of the PBA are: (1) law enforcement personnel, to include municipal police officers, employed within the County of Burlington; and (2) Correctional Police Officers employed by and throughout the State. The PBA submits that no consideration should be given to "employees in the private sector" as there are no comparable private sector employees to consider that perform the same law enforcement function as the members of the PBA. Additionally, the PBA argues that minimal consideration should be given to the "employees having the same employer" that work as civilians for the County as their duties and responsibilities do not include the daily dangers faced by PBA members.

Like other interest arbitration proceedings, I note the Parties can find "comparable" data from "comparable jurisdictions" that support their Final Offers. The analysis includes the numbers they seek comparing salaries in different jurisdictions, salary guides, work schedules, longevity, fringe benefits, and other terms of employment. The percentage and monetary comparison of various salaries alone are problematic when the only item cited is "salary." What makes up "salary" and salary guides significantly vary. Also, collective negotiations by definition involve a "give and take" with the goal of structuring an overall package that includes health benefits, sick leave, vacation leave, longevity, work schedules, tuition

reimbursement, uniform allowance, retiree health benefits, among other items. The comparable data, as asserted by the County, must be examined in this context.

#### Comparability with Burlington County Municipalities

The PBA submits that a comparison of the wages of its members to comparable public sector employees, to include the municipal police departments throughout Burlington County, is appropriate and warranted in this matter. The PBA submits that its members routinely work alongside various municipal police departments in Burlington County in a variety of scenarios. It is the PBA's position that its members should be paid commensurate wages and benefits with those Burlington County Municipal Police Departments to ensure parity amongst employees performing similar job duties and responsibilities in the same locale.

The PBA notes that a review of the wages provided to PBA members in comparison with those given to comparable law enforcement agencies in Burlington County illustrates there is great disparity present that must be corrected.

UNIT	FINAL CONTRACT YEAR	TOP SALARY PATROL OFFICER
Cinnaminson	2019	\$116,562
Evesham	2017	\$113,734
Mount Laurel	2024	\$112,300
Burlington Township	2019	\$108,531
Medford	2020	\$108,431
Mapleshade	2022	\$105,887
Moorestown	2018	\$104,484
Riverside	2021	\$103,945
Bordentown Township	2021	\$103,211
Mount Holly	2024	\$103,180
Florence	2020	\$101,832
Willingboro	2018	\$101,156
Delran	2020	\$100,645
Chesterfield	2022	\$100,375
Eastampton	2021	\$99,000
Delanco	2022	\$98,666
Burlington City	2020	\$95,354
Palmyra	2020	\$94,438
Westampton	2021	\$92,435
Lumberton	2022	\$91,553
Bordentown City	2020	\$87,037
Edgewater Park	2020	\$83,000
Beverly City	2021	\$81,530
Medford Lakes	2021	\$81,314
Riverton	2021	\$80,000
Pemberton Borough	2024	\$77,684
<b>PBA 249</b>	<b>2020</b>	<b>\$75,890</b>

They note that the top salary for rank-and-file members of the PBA is well below the other law enforcement units in Burlington County. The PBA asserts the top salary for its members is the lowest of

the twenty-seven (27) law enforcement collective negotiations units in Burlington County. They note that even if their wage proposal was awarded in its totality, the top salary for PBA members would still rank in the bottom third. The PBA maintains that an award of its wage proposal is necessitated so as to ensure its members are compensated in a manner commensurate with their Burlington County law enforcement peers.

#### Comparability with Correctional Police Officers Statewide

The PBA submits the most appropriate comparison to demonstrate its wage proposal must be awarded is a comparison with other County Corrections Departments throughout the State. The PBA notes that the PBA's standing in that regard has faltered in recent years in terms of the salary increases that have been achieved.

UNIT	TOP SALARY RANK & FILE
Bergen	\$136,509
Passaic	\$122,878
Middlesex	\$112,343
Monmouth	\$109,100
Union	\$106,957
Hudson	\$105,274
Morris	\$101,071
Somerset	\$100,814
Camden	\$97,679
Cape May	\$96,200
Mercer	\$95,934
Ocean	\$95,000
Sussex	\$94,060
Gloucester	\$92,899
Essex	\$90,728
Atlantic	\$90,332
Salem	\$89,211
Warren	\$86,995
Hunterdon	\$85,983
<b>PBA 249</b>	<b>\$75,890</b>
Cumberland	\$74,000

The PBA notes that many of the Departments are either negotiating new collective negotiations agreements or will be negotiating new collective negotiations agreements in the near future. When agreements are reached with those units, and unless an award is entered for the PBA that allows its salaries to stay on pace with its peers, the disparity in salaries will grow even larger going forward.

The PBA argues the pay disparity is even more problematic when evaluating the number of steps on the PBA salary guide compared to other County Correctional Police Officer units. Significantly, the PBA notes they rank second to last in terms of number of steps and the number of years to reach the top of the salary guide and/or maximum pay.

#### Number of Steps

UNIT	NUMBER OF STEPS
Essex	6

Gloucester	6
Mercer	8
Bergen	8
Passaic	10
Middlesex	10
Camden	12
Hudson	12
Salem	12
Atlantic	12
Sussex	12
Warren	12
Morris	13
Union	13
Monmouth	13
Somerset	13
Cumberland	15
Ocean	15
Hunterdon	16
<b>PBA 249</b>	<b>16</b>
Cape May	17

The PBA submits the comparability data supports its wage proposal as this unit is the second lowest paid Correctional Police Officer collective negotiations unit in the State, behind only Cumberland County. The PBA notes that the Cumberland County Department of Corrections will be “closing its doors” as the County entered into several shared services agreements to have its inmates housed and cared for in other counties throughout southern New Jersey. When this takes place and is finalized, the PBA submits its members will be the lowest paid County Correctional Police Officers in the State of New Jersey.

The PBA notes that compounding its standing as the second lowest paid County Correctional Police Officers in the State, the PBA also has the second highest amount of steps on its salary guide. The PBA submits its standing amongst its peers must improve if the County has any interest in attracting and retaining individuals that possess the qualities needed to perform the duties and responsibilities of a Correctional Police Officer. The PBA notes that even if its wage proposal is awarded, the PBA will still be in the lower third of all counties statewide and have only three (3) other collective negotiations units behind it, namely Cumberland, Warren, and Hunterdon at the end of the agreement.

The PBA notes that if its wage proposal were awarded, the top salaries for its members for each year of the collective negotiations agreement would be as follows: 2021: \$78,926.00; 2022: \$82,083.00; 2023: \$85,366.00; and 2024: \$88,781.00. The starting salaries for its members for each year of the collective negotiations agreement would be: 2021: \$42,640.00; 2022: \$44,346.00; 2023: \$46,119.00; and 2024: \$47,964.00. They submit that such an award is not unreasonable and is still behind the majority of County Correctional Police Officer units. At the same time, they submit such an award would also prevent the PBA from falling further behind its counterparts, improve the employee retention issue at the Department, and incentivize individuals to obtain employment as a Correctional Police Officer with the County.

The County notes that simply analyzing the step systems set forth in other governmental units’ contracts in isolation, without an analysis of the actual demographics of how many employees fall on any given step and how the subject employees move through the step system, can be misleading and lead to inaccurate and incorrect conclusions. As such, the County urges that the Arbitrator be circumspect in

considering the arguments made by PBA in regard to the alleged salary increases in other governmental units.

#### Comparability for PBA Wage Proposal/Double Step Movement

The PBA argues the comparability evidence supports the PBA's wage proposal for double steps based on the agreement the County reached with another law enforcement unit, P.B.A. #320, the collective negotiations unit representing the Burlington County Prosecutor's Detectives and Investigators. The PBA cites to a collective negotiations agreement that was executed between the parties, which is effective from January 1, 2020 through December 31, 2022.

The PBA notes P.B.A. #320 went from a ten (10) step salary guide to a new thirteen (13) step salary guide, with a "Senior Status" rate for members at the top step. The PBA argues that P.B.A. #320 members advanced two (2) steps on the new salary guide in 2020 along with advancing one (1) step in 2021 and 2022. The PBA's Final Offer for "double step" movement for those Officers on steps 4, 8, and 12 was expressly predicated and based upon the double step movement given to P.B.A. #320. The PBA asserts that there is clear "pattern of settlement" or "comparability" criterion to award the same here. The PBA submits that many P.B.A. #320 members will realize over a thirteen percent (13%) increase in their compensation over the duration of the three (3) year agreement, with certain members obtaining over seventeen (17%). The PBA argues that given that both it and P.B.A. #320 are collective negotiations units representing Burlington County law enforcement officers who both perform important services for the County's residents, the units should be treated in a comparable manner and, thus, provided comparable benefit packages not only as a matter of fairness, but to ensure labor stability throughout the County.

The County argues the PBA's reliance on and comparing itself to the Prosecutor's Assistant Prosecutors contracts, the Prosecutor's Detectives/Investigators contracts, as well as the Sheriff's Officers contracts is misplaced. The County argues these contracts are not relevant and should not be considered in this matter. They submit that both the Prosecutor and Sheriff are Constitutionally authorized offices which are independent appointing authorities, legally separate and apart from the County Commissioners. The County notes that although the County Commissioners have a right to review and approve salary increases proposed by the Prosecutor and Sheriff, it does so in the capacity of the "funding agency."

With respect to the Prosecutor's agreements with the Assistants and Detectives, the County submits that Prosecutor presented the Commissioner's with salary proposals that exceeded the 1.95% established in the County/CWA contract. The County maintains that the Prosecutor also submitted an overall budget that stayed within the Office's overall 2% statutory budget CAP. The County maintains the same situation would apply to the Sheriff. The County maintains that the Commissioner's function is to act as a check to ensure the Prosecutor and Sheriff remain within the overall 2% statutory budget CAP. The County suggests that pursuant to P.L. 2015, c. 249, signed into law on January 19, 2016, Constitutional offices, such as the Prosecutor's and Sheriff's Offices, shall limit any increase in that portion of its budget request to 2.0% of the previous year's budget request. The County submits that the discretion to distribute funds, including the allocation of salaries within the 2% budget CAP, remains solely within the Prosecutor's or Sheriff's discretion.

I note that in the Licata Award, Arbitrator Licata found the Sheriff's Officer's represented by FOP Lodge 166 to be the most comparable internal law enforcement bargaining unit followed by the Prosecutor Investigators and Detectives. I also note the Sheriff and FOP Lodge 166 are presently in interest arbitration for a successor contract.

### Comparability with Civilian Bargaining Units

The PBA argues an award of its wage proposal is warranted after reviewing evidence of the compensation packages provided to the County's civilian bargaining unit employees in recent contract negotiations cycles. The PBA submits the County's civilian bargaining units were not subjected to the restrictions of the 2% salary cap as their members do not serve as law enforcement officers and, thus, cannot avail themselves of the interest arbitration process. They submit that compared to their law enforcement counterparts, many County civilian bargaining unit employees were able to secure generous percentage increases to their salaries for the several years during the 2% salary cap's existence and applicability.

The County submitted its contract with the Communications Workers of America, Local 1036 (CWA). The County notes that the CWA represents the majority of the county employees (approximately 650 employees). The County notes the CWA agreed to salary increases as follows: 1% increase to base salary plus a one-time (not to base) payment of \$500.00 for 2020; and 1.95% increases to base salary for 2021 and 2022. The County submits its Administrative and non-represented employees have or will receive the same increases as CWA employees for 2020, 2021 and 2022.

The PBA notes that prior contracts establish that the civilian employees have received different economic packages than PBA in terms of salary increases. Specifically, they suggest the average salary increases for the PBA have been higher than those of the civilian units in most instances. The PBA suggests that when circumstances such as those exist, arbitrators have consistently refused to sustain a "pattern of settlement" argument amongst civilian and law enforcement personnel. Township of Woodbridge and P.B.A. Local 81, IA-96-119 (1998). The PBA maintains that the disparity amongst the duties performed by the County's civilian work force and law enforcement work force is evidenced by the fact that the County has not treated PBA members the same as civilian employees with respect to compensation in past collective negotiations. They submit that prior to the 2% salary cap's existence, past contract negotiations reflected that PBA members were compensated at a higher rate of pay and received higher pay increases compared to their civilian employee counterparts.

### Private Sector Wage Data

Although an arbitrator must consider the general level of wage increases in the private sector, an arbitrator is not required to accord such statistics any weight. Indeed, unless a party presents credible evidence comparing a private sector classification to a public sector classification, the private sector comparison will be considered but not given much weight. The PBA submits that no consideration should be given to "employees in the private sector" as there are no comparable private sector employees to consider that perform the same law enforcement function as the members of the PBA. Accordingly, I do not consider or give any weight to private sector wage data.

### Comparability for PBA Uniform Allowance Proposal

The PBA's Final Offer seeks payment of an annual uniform allowance to its members in the amount of one thousand two hundred dollars (\$1,200.00). Currently, PBA members receive an annual uniform allowance of seven hundred fifty dollars (\$750.00). The PBA is seeking an annual uniform allowance increase of four hundred fifty dollars (\$450.00).

The PBA submits that many Correctional Police Officer units throughout the State receive an annual uniform allowance consistent with the PBA's proposal:

UNIT	UNIFORM ALLOWANCE
State Corrections	\$2,200.00
Atlantic	\$1,350.00
Monmouth	\$1,250.00
Bergen	\$1,200.00
Middlesex	\$1,200.00
Cape May	\$1,000.00
Sussex	\$1,000.00

Based upon this comparability data, the PBA argues its proposal seeking a uniform allowance is fully supported and/or warranted. They suggest an award of a uniform allowance would make the compensation package afforded to PBA members more competitive, thus allowing the County to better attract and/or retain highly qualified Correctional Police Officers. They argue the allowance being sought is “in line” with the uniform allowances and identical to the allowance given to Bergen and Middlesex Counties. They maintain these facts demonstrate that the PBA’s request is reasonable, and they should receive a benefit comparable to many other County Correctional Police Officers throughout the State.

The PBA submits its reasoning behind its proposal to receive an increase in the uniform allowance that has not been increased in over seventeen (17) years is to provide a monetary stipend to assist in defraying the rising cost of law enforcement uniforms. The PBA argues that since the PBA members are responsible for purchasing and maintaining their uniforms, and uniforms must be worn while performing their job duties, awarding a uniform allowance as proposed by the PBA is appropriate. The PBA notes that no evidence was submitted by the County to substantiate its Final Offer for a voucher or reimbursement program. The PBA argues it has put forth ample evidence and/or proof that an increase in its uniform allowance is warranted and must be awarded and the County’s proposal must be denied.

In its Final Offer, the County has proposed a voucher and/or stipend reimbursement program as it relates to uniforms. The County also maintains that the present contractual amount of \$750.00 per calendar year is fair and appropriate noting that the Burlington County Sheriff and FOP 166 recently agreed to and stipulated to a \$750.00 per calendar year uniform allowance.

#### Comparability for PBA Healthcare Proposal

The PBA argues the comparability data supports its proposal for the reduction in healthcare contributions. They note that with the expiration of Chapter 78, law enforcement collective negotiations units throughout the State have negotiated and reduced the amount its members are contributing toward the cost of healthcare. The PBA cites six (6) municipal PBA’s that negotiated reductions in contributions to healthcare and eight (8) other negotiations units that have achieved concessions in the reduction of healthcare contributions, albeit in different forms.

The PBA argues there is a continuing trend among law enforcement collective negotiations units in the State reducing the amount of their members’ healthcare contributions in the aftermath of the mandates of Chapter 78. The PBA argues its proposal seeking contributions to be set at the Tier 3 level is consistent with this pattern and is reasonable in scope given the PBA only seeks to reduce its members contribution levels beginning in 2022, the second year of the proposed agreement. The PBA suggests that given it does not seek to reduce its members’ healthcare contributions until the second year of the proposed agreement, such a proposal takes the affordability of the proposal into account.

The PBA argues its analysis of the increase in cost to the County in the event its healthcare proposal is awarded would result in an increased annual cost for this unit of approximately \$51,863.97. The PBA notes the County conducted a similar analysis and determined the cost of switching to Tier 3 for every County employee not just PBA members. The PBA recognizes that an award of its proposal has the potential to be felt Countywide through a “pattern of settlement,” but suggests the cost of the proposal need only be applied to the members of the PBA in this proceeding.

The PBA argues its members have been contributing to the payment of their healthcare for a substantial period of time at the highest level of the mandates of Chapter 78. The PBA argues that along with the restrictions of the 2% salary cap, the County reaped a windfall of concessions and/or savings from the PBA for the past several years. The PBA maintains an award maintaining the current contribution levels would create an inequitable scenario for PBA members.

### **Overall Terms and Conditions of Employment, N.J.S.A. 34:13A-16g(3)**

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.

The evidence considered by the Arbitrator encompasses the *status quo* terms and conditions of employment and note that that this unit receives the following: holiday pay, uniform allowance, payment for unused sick leave upon retirement, personal leave, sick leave, vacation leave, tuition reimbursement, overtime, pension, and health insurance. I note this unit does not receive longevity.

The PBA argues an evaluation of the overall compensation presently received by its members establishes that there are certain areas in the overall benefit package which are lacking. The PBA suggests it submitted various proposals addressing these problematic areas. The PBA also submits that there are a number of current practices amongst the County and PBA that are not expressly codified within the collective negotiations agreement between the Parties, and should be codified in the collective negotiations agreement hereafter.

### **The Stipulation of the Parties, N.J.S.A. 34:13A-16g(4)**

The PBA and the County agreed upon the award of certain proposals, or portions thereof, contained in the Final Offers. First, both Parties have submitted proposals for a four (4) year contractual term effective from January 1, 2021 through December 31, 2024. Thus, the Parties have, in essence, stipulated to this contractual term and the same should be awarded.

Moreover, the Parties have stipulated to the following, which consist of portions of PBA proposals: (1) Article X, Holidays: Juneteenth shall be added to the list of celebrated holidays; (2) Article IV, Health Benefits: change age from 19 to 26 regarding children of dependents; (3) Article V, Sick Leave, paragraph (K): employees maintaining a cellular telephone number on file with the County for ease of contact and

sick verification. Finally, the County has accepted the PBA's proposal for a New Article entitled "Bereavement" as follows:

### **Bereavement**

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

### **The Lawful Authority of the Employer, N.J.S.A. 34:13A-16(g)(5)**

While the 2% salary cap has sunset, statutory limitations are specifically referenced in other criteria, including the lawful authority of the employer, the tax cap levy and other statutory restrictions upon the employer. N.J.S.A. 34:13A-16(g)(5) requires the arbitrator to consider the "lawful authority of the employer," and specifically references P.L. 1976, c. 68, which is codified at N.J.S.A. 40A:4-45.1 et seq. The aforementioned statute is commonly known as the "Local Government Cap Law" and states "it is hereby declared to be the policy of the Legislature that the spiraling cost of local government must be controlled to protect the homeowners of the state and enable them to maintain their homesteads." N.J.S.A. 40A:4-45.1. The New Jersey Legislature established a second tax levy cap established by section 10 of P.L. 2007, c. 62, which is now codified at N.J.S.A. 4-45.45. Section 10 of P.L. 2007, c.62 originally established a tax levy cap of four percent (4.0%) above the previous year's tax levy. On July 13, 2010, P.L. 2010, c. 44 was enacted and cut the allowable tax levy increase to two percent (2.0%). As part of this legislation, the Interest Arbitration Act was also amended to include a ninth and final criteria for the arbitrator's consideration, "the statutory restrictions imposed upon the employer," which specifically includes "the limitations imposed upon the employer by section 10 of P.L. 2007, c.62." N.J.S.A. 34:13A-16(g)(9).

The Appellate Division in Hillsdale interpreted the "lawful authority of the employer" criterion to refer to the Local Government Cap Law. Hillsdale, 263 N.J. Super. at 193. The Supreme Court agreed, stating, "Given the existence of financial constraints and budget caps... an award to police or fire departments necessarily affects other municipal employees and the entire municipal budget." Hillsdale, 137 N.J. at 86. In Hillsdale, the Appellate Division required the arbitrator to consider the impact of the award on other budget items. Hillsdale, 263 N.J. Super. at 194. When applying the lawful authority of the employer criterion, the Arbitrator must address the County's budget cap situation, as well as the statutory requirement that the County prepare a balanced budget each year.

The PBA argues the County has not presented sufficient evidence that it cannot lawfully meet any and/or all of the proposals submitted by the PBA. The PBA argues that since the evidence does not establish any issue with respect to the lawful authority of the employer, the award of the PBA's proposals in their entirety is fully within the parameters of the County's lawful authority and the authority of the Interest Arbitrator.

Here, the County does not argue its “ability to pay.” The County submits that N.J.S.A. 34:13A-16g requires the Arbitrator to consider the “lawful authority” of the County and the impact on the parties of the Arbitrator’s Award.

**The Financial Impact on the Governing Unit, Its Residents, The Limitations Imposed Upon the Local Unit’s Property Tax Levy, and Taxpayers, N.J.S.A. 34:13A-16g(6)**

N.J.S.A. 34:13A-16g (6) also requires the Arbitrator to consider the financial impact of the parties’ offers on the governing unit, its residents and taxpayers. In Hillsdale, 137 N.J. 71 (1994), the court noted that the financial impact requirement in the statute does not equate with the municipalities’ ability to pay. Id. at 88. The Supreme Court stated in Hillsdale that a municipality should not have to prove that it is not financially able to afford the PBA’s final offer. 137 N.J. at 86. This criterion encompasses a far more searching and critical analysis than simply whether a local government has the ability to pay an award. It does not require the local government to prove that it would suffer financial difficulties as a result of an award. Id. Put differently, a local government “should not have to demonstrate it would be financially crippled before its arguments could be found to be sufficient.” Id. at 94. Arbitrators have recognized this fact as well. Arbitrator Barbara Tener analyzed this issue in In the Matter of Interest Arbitration between Borough of Oakland and Oakland PBA Local 164, IA-93-069 (1994) noting that “[T]he affordability of the respective packages is not, in my view, a very weighty factor unless the more reasonable package is also the more expensive. The question of whether the Borough can afford the PBA’s offer is not dispositive in this case.”

The New Jersey Supreme Court emphasized that “it is not enough to simply assert that the public entity involved should merely raise taxes to cover the costs of the public interest arbitration award.” Id. (quoting Hillsdale, 263 N.J. Super. at 188). Moreover, the municipality does not carry the burden of proving its financial inability to meet the Association’s final offer. Id. In addition, the correct application of this criteria does not require an employer to provide that it would suffer a “substantially detrimental result,” or that the financial difficulties would be created or worsened. Hillsdale, 263 N.J. Super. at 194. Rather, the effect that the award will have on other employees and the employer’s overall budget must be considered by the Arbitrator. Hillsdale, 137 N.J. at 86.

The financial impact criterion is a very important component of the interest arbitration process. When considering this factor, an arbitrator must take into account the extent of how the award will affect the County’s statutory purpose, the impact of the award for each economic sector, and the impact on the governing body to: (1) maintain existing programs and services; (2) expand existing programs and services for which public monies have been designated by the governing body; and (3) initiate any new programs and services. As such, this criterion has a strong overlap with the fiscal component of the public interest criterion and consideration of the legal limits of a County’s taxation authority.

The PBA argues the County has not presented sufficient, substantial, and/or credible evidence to establish an inability to pay its members the wage increases and other economic incentives that have been requested. The PBA argues the County concedes it can pay the wage proposal sought by the PBA, and its analysis of the available data establishes that the County does have the ability to pay for the economic incentives sought by the PBA. The PBA argues the County’s ability to pay for the economic increases requested by it was set forth in the expert report submitted into evidence and testimony rendered by Dr. Caprio. The PBA argues that Dr. Caprio reviewed all of the County’s applicable financial data and/or documents to establish it is in sound financial condition. The PBA argues Dr. Caprio concluded the County

can afford the PBA's wage proposal without any detrimental impact upon the County, its municipalities, and/or its residents.

The PBA notes that Dr. Caprio analyzed the County's revenue constraints due to the tax levy caps. They note he determined that, since 2016, in three (3) of the past six (6) years the County has been modestly constrained by the Appropriations Cap until the onset of COVID-19. Dr. Caprio noted that the County has significant revenue raising potential even within the constraints of the property tax cap and indicated that the County has chosen not to use any of the one million sixty-three thousand dollars (\$1,063,000.00) available and at its disposal under the Appropriations Cap in 2021, which remains available.

Dr. Caprio examined the County's revenue raising resources against appropriations it has committed to pay. Dr. Caprio noted that the County's appropriations have increased approximately 2.3% between 2016 and 2020. During this same period, property tax increases have been below the two percent (2.0%) CAP levy, namely 1.79% annually. Dr. Caprio highlighted that the County has forgone almost six million dollars (\$6,000,000.00) in revenue raising capacity that it has had available by not raising taxes.

Dr. Caprio also examined the County's expenditures and cancellations. He noted the amount the County has reserved has increased by approximately three million dollars (\$3,000,000.00) between 2016 and 2020, while the amount of current year appropriations cancelled spiked in 2020. The PBA notes that Dr. Caprio evaluated the County's pattern of cancellation of prior year expenditures and given the pattern of cancellations of prior year "reserved" resources, his prudent projection was that four million seven hundred thousand dollars (\$4,700,000.00) of the eight million five hundred sixty thousand dollars (\$8,560,000.00) of appropriations reserved for 2020 will be cancelled in 2021, thus providing resources for 2022. In turn, he submitted a reasonable estimate of at least four million dollars (\$4,000,000.00) in fund balance will be regenerated year-over-year from this particular resource.

The PBA notes that Dr. Caprio examined the miscellaneous local revenue that is generated and budgeted annually. According to Dr. Caprio, with the exception of the COVID impact experienced in 2020, the County has generated excess miscellaneous revenue on average of more than one million one hundred thousand dollars (\$1,100,000.00) annually. To this end, he noted the amount collected ranged from one hundred nine and nine-tenths percent (109.9%) of the amount budgeted to a low of one hundred two and one-tenth percent (102.1%) of the amount budgeted. Dr. Caprio also noted that excess collections will likely recur in 2021 as the economy returns to more normal activity levels. Dr. Caprio anticipates smaller excess collections of approximately two percent (2.0%) that will assist in reconstituting an already stable and growing fund balance.

Dr. Caprio examined the State Aid provided to the County over the past five (5) years, which he determined has been stable and predictable. Dr. Caprio noted the revenues and appropriations associated with costs of County social and welfare services along with psychiatric facilities typically offset and any variances tend to be minor. Moreover, Dr. Caprio indicated that no major changes are anticipated in this area of the County budget in 2021.

The PBA notes that Dr. Caprio also examined and/or analyzed the County's Special Items, namely public and private revenues with offsetting appropriations. Dr. Caprio determined the County has a dependable revenue pattern for these special items with offsetting appropriations, with little, if any, residual deficit or excess. Dr. Caprio also analyzed the County's other special items of revenue, which range from indirect library cost reimbursements to added and omitted tax amongst other items. According to Dr. Caprio, these items generate only modest net resources.

Dr. Caprio also examined the County's miscellaneous revenue for the last five (5) years and determined the County's total miscellaneous revenue received in 2021 should be consistent with past experience as no overriding "red flags" exist. Dr. Caprio noted that an additional two hundred sixty-seven thousand four hundred sixty-six thousand dollars (\$267,466.00) may be anticipated from these various miscellaneous revenue sources.

The PBA notes that Dr. Caprio analyzed the changes to the County's Fund Balance for the past five (5) years. They note the County's Fund Balance, since the start of the 2016 fiscal year, has increased by approximately seven million seven hundred thousand dollars (\$7,700,000.00). They submit the unencumbered balance of the fund in 2021, even after budgeting a high of ten million dollars (\$10,000,000.00), is approximately three million eight hundred thousand dollars (\$3,800,000.00) or thirty-one percent (31%) larger than the 2016 unencumbered balance. The PBA suggests this illustrates the County's is in a stable financial state and continues to improve year-over-year.

The PBA asserts that Dr. Caprio noted the County's fund balance has increased from approximately eighteen million dollars (\$18,000,000.00) to twenty-five million eight hundred thousand dollars (\$25,800,000.00), while use of the fund balance for revenue only increased slightly during this same period of time. They note that Dr. Caprio concluded that the County was able to reconstitute more of its fund balance in 2020 than in any of the preceding four (4) years. The PBA submits that given ten million dollars (\$10,000,000.00) was budgeted in 2021 as revenue and almost eleven million dollars (\$11,000,000.00) was regenerated in the COVID-impacted year of 2020, Dr. Caprio stated that the ending fiscal year balance of almost twenty-eight million dollars (\$28,000,000.00), is prudent and reasonable.

The PBA notes that Dr. Caprio provided an overview of the County's appropriations for the past five (5) years. They submit he noted that total County appropriations have only increased by approximately ten million two hundred thousand dollars (\$10,200,000.00) in the past five (5) years, specifically from one hundred forty-five million dollars (\$145,000,000.00) in 2016 to one hundred fifty-five million dollars (\$155,000,000.00) in 2021. According to Dr. Caprio, this represents an annual average increase of only 1.37%.

Dr. Caprio also noted that total operations, including outside funding and contingency spending, stood at one hundred sixty-one million six hundred thousand dollars (\$161,600,000.00) in 2016 as compared with one hundred seventy-seven million one hundred thousand dollars (\$177,100,000.00) in 2021. This represents a five (5) year increase of fifteen million five hundred thousand dollars (\$15,500,000.00) or an annual average increase of 2.09%.

The PBA notes that Dr. Caprio determined an award of the PBA's wage proposal would have an insignificant and/or negligible impact on the County's residents. The PBA argues that if the Final Offer was awarded in its totality, the cost to the average County residential property owner, by municipality, equates to an average annual cost of \$0.52 annually for every one hundred thousand dollars (\$100,000.00) of contract cost when "breakage" is considered. The PBA notes that Dr. Caprio determined that if the funding of the wage proposal was only through residential taxation, the annual average impact for each residential property owner in the County is \$2.16, an increase of \$.18 per month. Given the increase would not be borne by residential parcels alone, Dr. Caprio explained that the cost to each residential homeowner when commercial, industrial, and other ratable parcels are considered would be considerably less.

The PBA notes that Dr. Caprio opined that the County can afford the PBA's wage proposal without any detrimental impact on the community. They note Dr. Caprio stated, "Burlington County exhibits a health financial condition and is in a position to fund a competitive settlement with PBA Local 249." The PBA asserts the County has the ability to regenerate surplus, continues to have excess budget appropriations that are annually cancelled sending the excess revenue into reserve, and maintains budget flexibility due to increasing revenue sources. They submit the County's revenue sources are stable, recent property tax increases have been modest, and the County's fund balance has been reconstituted and has increased by approximately forty-three percent (43%) over the past five (5) years. All of these factors result in expected County tax increases being modest, thereby having less of an impact on property owners in Burlington County.

The PBA argues the financial impact criterion clearly supports the award of their economic proposals, most notably its wage proposal. They maintain an award of the same will not create a financial hardship and would be negligible in the overall County budget scheme. They argue sufficient evidence is present to establish the County's ability to pay the wage increases sought.

The County argues that N.J.S.A. 34:13A-16g(6) specifically requires the Arbitrator to consider the financial impact of the parties' offers on the governing unit, its residents, and its taxpayers. The County maintains that financial impact criterion requires the Arbitrator to consider how awarding the PBA's offer will impact on the County's other employees and upon the entire budget.

The County submits the Final Offers of the parties vary significantly on salary. The County argues the PBA's flawed cost-out and proposal equates to an overall dollar increase over four years of \$1,609,233.00, which equates to an increase of 17.30%, for an average increase of 4.325% per year. The County maintains that the PBA's cost-out of its proposal did not include the anticipated salary costs over four (4) years for fourteen (14) corrections officers that were hired in 2021. The County notes that the PBA's proposed step movements and 4% increases to steps for each year of the contract, including the additional fourteen (14) corrections officers, would raise the overall dollar cost of the PBA's final salary offer up to \$2,346,245.00 over four (4) years, for a 24.42% increase over the four (4) years, or an annual average increase of 6.11% per year.

#### **Cost-of-Living Criterion, N.J.S.A.34:13A-16g(7)**

The Consumer Price Index "CPI" is a measure of the average change, over time, in the prices paid by consumers for a market basket of consumer goods and services. Goods and services measured by the CPI include food and beverages, housing, apparel, transportation, recreation, education and communication, and all other goods and services. The CPI is the most widely used measure of inflation. The CPI for all urban consumers in the United States was 4.1 percent in June 2021 based on CPI data with the CPI in the Northeast reported at 4.6%. Compensation costs rose 2.8% for the year ended March 2021.

An annual Cost-of-Living Adjustment (COLA) is authorized under the Budget Cap Law, N.J.S.A. 40A:4-45.1.a. Under the Budget Cap Law, the Department of Local Government Services ("DLGS") announces the COLA. The DCA announced COLA for calendar year 2022 budgets is 2.5%. In addition, the CPI is often used to adjust consumer's income payments, for example, Social Security, to adjust income eligibility levels for government assistance and to automatically provide cost of living wage adjustments to millions of American workers. The COLA for Social Security benefits in 2018 was 2.8%, in 2019 was 1.6%, in 2020 was 1.3%, in 2021 was 1.3%, and in 2022 is 6.9%.

The cost of living has increased since the expiration of the parties' agreement. In the New York/Newark area, the CPI increased 1.7% during the twelve (12) months ending June 31, 2019, and 1.3% during the twelve (12) months ending June 31, 2020. During the most recent twelve (12) months ending June 30, 2021, the CPI increased 4.1%. On July 13, 2021, BLS reported that for the entire Northeast Region the CPI-U had advanced 4.6 percent, over the last twelve (12) months.

The PBA argues the cost-of-living criterion weighs heavily in favor of awarding its final economic offers, especially with respect to its wage proposal. The PBA argues it presented extensive evidence to establish that its economic proposals should be awarded to maintain its members' current standard of living. The PBA notes that beginning in 2011, the CPI and rate of inflation increased steadily through 2021 in the Southern NJ region of the United States. More specifically, they argue in the Southern NJ region, the change in the cost of living between 2011 and 2021 has been approximately thirteen percent (13%), with the change between 2018 and 2021 alone being approximately 5.2%. The PBA argues the percentage increase of the CPI should set a minimum level of wage increases necessary for an employee to maintain his or her standard of living.

The PBA argues that a review of the increasing rate of inflation paints a more dismal picture of the PBA members' purchasing power in conjunction with the wage increases received by its members at the top step of the salary guide. The PBA notes that for the past twelve (12) years, the inflation rate has risen 28.10% and the top step on the PBA salary guide increased by 20.63% in that same time period. The PBA argues the wage increases that the members have received for the past decade have failed to keep pace with the rate of inflation. The PBA argues the rate of inflation should establish the minimum wage increases necessary for an employee to maintain his or her standard of living. The PBA notes that even if the wage proposal submitted by it is granted in its entirety, the increases that will be realized on the salary guide will fall short of the increases in the price of goods as inflation is currently rising at the rate of 6.8% per month.

The PBA submits its wage proposal is more reasonable and justifiable when considering its members are currently paying legislatively mandated healthcare contributions under the Tier 4 contribution rates established by Chapter 78. As a result of these contributions, the PBA argues its members' salaries are directly impacted and reduced. For example, they cite to a member at the top step of the salary guide has a current salary of approximately \$75,890.00. They note that if that member has family coverage, he/she is required to contribute \$8,768.52 "pre-tax" dollars toward the cost of healthcare. Additionally, they submit ten percent (10%) of a member's gross salary also gets deducted for pension contributions, which equates to a \$7,589.00 gross wage reduction. The PBA argue that a top step PBA member paying for family healthcare coverage actually makes \$59,532.48 (\$75,890.00 - \$8,768.52 - \$7,589.00) when the healthcare and pension contributions are deducted from the gross salary earned. They argue a salary of \$58,532 is akin to being between Step 8 and 9 on the current salary guide and the top salary afforded prior to 2009. The PBA argues its members are currently taking home "2008" money in "2021" and, thus, are, at least, thirteen (13) years behind the times in "purchasing power."

The PBA argues that since the CPI and/or rate of inflation is expected to increase 6.69% over the next three (3) years, its wage proposal is well supported by the projected CPI and/or inflation increase, whereas the County's wage proposal clearly is not. The PBA maintains that the cost-of-living criterion supports the award of PBA final economic offers in their entirety. They argue that should the PBA's economic proposals not be awarded; the members will not maintain their current standard of living and their purchasing power will be significantly reduced which would further devastate member morale and have a deleterious impact on public safety throughout the County based on the increased difficulty of recruiting and retaining quality law enforcement officers.

**Continuity and Stability of Employment, N.J.S.A. 34:13A-16g(8)**

N.J.S.A. 34:13A-16g(8) provides for consideration of:

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 bargaining between the parties in the public service and in private employment.

The continuity and stability of employment criteria incorporates several concepts. The first providing a competitive compensation and benefits package that alleviates excessive turnover thus maintaining "continuity and stability in employment." The second is the concept of the "relative standing" of a negotiations unit with respect to other units of similar employees. Last, the continuity and stability of employment criteria incorporates the consideration of internal settlements and comparability, since deviation from such settlements can undermine morale, discourage future settlements, and affect labor relations stability.

Burlington Correction Officers have seen a dramatic diminution in ranks over the years and high turnover in the Corrections Department. The Licata Award noted that the Department was authorized for 223 Correction Officers and employed 209 in 2012, and in 2018 was authorized for 175 and employed 162 Corrections Officers. Currently, the Department is authorized for 175 Corrections Officers, and the personnel and financial information submitted by the County shows 145 Corrections Officers as of December 31, 2020.

The County's personnel and financial it submitted on September 15, 2021 shows there were 145 Corrections Officers as of December 31, 2020 with a base salary of \$8,725,777.00. The scattergram and cost-out it submitted shows twelve (12) Correction Officers resigned, two (2) Corrections Officers transferred and two (2) retired. In 2021, there were twenty-one (21) new hires, six of whom resigned, one (1) transfer, and fourteen (14) new hires that are still employed with the Department. The PBA notes the County agreed that many PBA members have resigned over the past year. The PBA submits that fifteen to seventeen percent (15%-17%) of the members of the Department resigned in 2021 alone. This unit has no longevity benefit, it experiences some of the lowest salaries in the State, and because of the 2% salary cap on interest arbitration has had a salary step guide that for the past two contracts that could not allow for annual step movements.

The PBA argues the County has not provided any evidence that implementation of the PBA Final Offers would have a detrimental effect on the continuity and/or stability of the employment of its members. In fact, they argue awarding the PBA's Final Offers would only serve to promote continuity and stability of employment. In contrast, the PBA argues if the County's proposals were awarded, a negative impact on the continuity and stability of employment of PBA members, and the Department, would result.

The PBA submits it "lags behind" most comparable law enforcement units in terms of top pay and are among the lowest paid County Correctional Police Officers in the State, and the time it takes a member to reach the top of the salary guide is one of the highest. Low morale is an unfortunate byproduct of these compensation dynamics that had led to many officers leaving the Department. The PBA argues that as a result of the poor compensation scheme there are significant staffing issues for the Corrections Department. They submit this pattern will continue unless fundamental changes to the PBA's compensation package are made.

The PBA argues the Department has become a “training ground” for individuals to obtain law enforcement experience and then a “springboard” to obtain employment with other law enforcement entities with more favorable compensation packages. They submit there are a number of other officers who leave employment as a County Correctional Police Officer and choose not to continue a career in law enforcement. Instead, they return to private sector jobs which offer similar pay, but much less risk. The PBA maintains the continuity and stability of employment of PBA members has already been compromised to a large degree.

The PBA argues that promoting and/or maintaining continuity and stability of employment necessitates the issuance of a fair compensation package to boost the morale and to maintain the outstanding level of service provided by its members. The PBA submits its Final Offers represent such a fair and reasonable compensation package and, therefore, should be awarded in its entirety. They maintain that should its Final Offers not be awarded, the continuity and stability of employment at the Department will be further compromised to the detriment of the Department, the County, the officers themselves, and ultimately, the taxpayer.

**Other Restrictions Imposed on the Employer, N.J.S.A. 34:13A-16g(9)**

The Legislature has codified the “cap consideration” requirements and statutory limitations on the employer set forth in section 10 of P.L. 2007, c.62 (C. 40A:4-45.45) in section 16g(9). Those restrictions are not applicable to the Award rendered herein.

The PBA notes that the imposition of the 2% salary cap and Chapter 78 health care contributions has resulted in PBA members’ wages being dramatically reduced over the last decade. The PBA argues that these statutory restrictions, along with increases in pension contributions by members of the Police and Firemen’s Retirement System, casted a large shadow over collective negotiations between the parties and the interest arbitration process as a whole for the past decade. The PBA notes that these statutory restrictions are significant since they are no longer applicable. As a result, they argue the interest arbitration is not confined to any certain mandates and/or restrictions regarding the award of any proposal sought by the PBA in this matter, whether economic or non-economic.

## **ANALYSIS AND AWARD**

The Parties have submitted extensive documentation and comprehensive position statements addressing the statutory criteria in support of their Final Offers. I have reviewed and analyzed the exhibits, testimony and Parties' submissions and application of the 16(g) criteria to same. The Parties were represented by extremely competent and zealous advocates. The exhibits were well organized, relevant and the testimony of the witnesses was credible. After review of the Final Offers, evidence and arguments, the Interest Arbitration Award in this proceeding is analyzed and discussed below.

The interest and welfare of the public has been given the most weight in this Award. Significant weight was also given to the comparison of PBA members salary, work schedule, and benefits to the other County law enforcement units as well as County Correctional Police Officer salaries, work schedules and benefits from other jurisdictions. Virtually no weight was given to private sector employment and wages. Great weight has also been applied to the cost-of-living criterion, the lawful authority of the employer, and the financial impact criteria though I note the County did not argue its "ability to pay." I have also given great weight to the continuity and stability of employment criteria.

I note that the Parties have been involved in numerous interest arbitration proceedings dating back to 2002. I specifically note that the Parties were involved in prior interest arbitration proceedings that are relevant to this proceeding. In 2013, the twelve (12) hour work schedule, "Pitman Schedule," was awarded by Arbitrator Osborn. In that Award, as supplemented, Arbitrator Osborn also converted all paid leave benefits from days to hours based on a multiplier of 8 hours. For example, a Corrections Officer having ten (10) vacation days under the 5/2 Schedule would now have 80 hours of vacation time (or 6.67, 12-hour days). In 2018, Arbitrator Licata examined and upheld the continuance of the Pitman Schedule and holiday conversion as awarded by Arbitrator Osborn. Arbitrator Licata also awarded the salary guide and addressed issues like increases to uniform allowance.

After review of the Final Offers, evidence and arguments, the Interest Arbitration Award in this proceeding is analyzed and discussed below.

### **Article II, Salary**

Like most interest arbitrations, the primary issue in dispute is the wage proposals of the Parties. The PBA notes that this is the first collective negotiations agreement between the Parties being negotiated and/or awarded after the expiration of the 2% interest arbitration salary cap. They argue that this is significant as the PBA has been subject to the 2% salary cap on the economic portion of any collective negotiations agreement that could be awarded in interest arbitration and, by extension, through the negotiations process as a whole for approximately the past decade. They suggest this forms a crucial backdrop and much needed context in evaluating the economic proposals being sought by the PBA.

The PBA notes that it and the County have each submitted proposals for a four (4) year contractual term. They note that there is a sixteen (16) step salary guide that became effective on July 1, 2017 through the implementation of the Licata Award for the 2015-2017 collective negotiations agreement between the Parties. Prior thereto, they note that the salary guide for the PBA only consisted of seven (7) steps. They argue the additional nine (9) steps added to the salary guide drastically increased the amount of time it takes a PBA member to reach the top step of the salary guide and/or maximum pay. The PBA notes that new guide with the corresponding nine (9) steps significantly decreased the value of the increments between the steps, thereby reducing the increase in compensation a PBA member would realize as they advance on the salary guide from year to year.

The PBA argues that increasing the number of years required to reach the top step of the salary guide resulted in numerous “step freezes” over the past decade. Specifically, they argue PBA members were “frozen” at their current step on the salary guide in 2012, 2013, 2014 (with the exception from July 1, 2014 through August 1, 2014), 2015, 2016, 2017, and 2020. They submit that for approximately seven (7) of the last ten (10) years, PBA members progressing on the salary guide did not advance and/or realize any step progression. As a result, they argue salary advancement for PBA members, and the integrity of the salary guide and/or advancement system as a whole, was undermined and/or compromised through the most recent collective negotiations agreements between the Parties.

The PBA argues the creation of the sixteen (16) step salary guide, the various “step freezes” imposed, and the delay of step movement for several years for members still progressing on the salary guide were all a direct result of the confines and/or restrictions imposed by the 2% salary cap. The PBA notes that these drastic alterations to PBA members’ advancement on the salary guide and, the compensation they received each year, were compounded by the fact that they are among the lowest paid County Correctional Police Officers in the State. The PBA maintains the compensation package afforded to its members has been eviscerated to such an extent that meaningful enhancements must be made.

The PBA submits its wage proposal seeks to return a level of parity and stability to its members’ compensation through the implementation of reasonable measures. Under the current salary guide, steps 1 and 2 each take a period of six (6) months to advance to the next step. The PBA proposes combining these steps, thereby making the salary guide fifteen (15) steps instead of sixteen (16), with each step taking one (1) year to advance. They submit that given steps 1 and 2 are currently for a period of six (6) months each, the combination of these steps and the resulting one (1) step reduction of the salary guide does not alter the time it takes members to reach the top of the salary guide. The PBA notes that it seeks to increase the compensation and/or starting salary, thereby fostering the County’s ability to attract and hire more County Correctional Police Officers going forward.

The new guide the PBA proposes, without any further increases and/or adjustments, would contain the following salary steps and salary values:

<b>1</b>	<b>\$41,000.00</b>
<b>2</b>	<b>\$42,396.00</b>
<b>3</b>	<b>\$43,698.00</b>
<b>4</b>	<b>\$45,000.00</b>
<b>5</b>	<b>\$47,335.00</b>
<b>6</b>	<b>\$48,200.00</b>
<b>7</b>	<b>\$50,545.00</b>
<b>8</b>	<b>\$52,829.00</b>
<b>9</b>	<b>\$55,409.00</b>
<b>10</b>	<b>\$57,989.00</b>
<b>11</b>	<b>\$60,598.00</b>
<b>12</b>	<b>\$63,206.00</b>
<b>13</b>	<b>\$67,335.00</b>
<b>14</b>	<b>\$69,430.00</b>
<b>15</b>	<b>\$75,890.00</b>

The PBA submits the remainder of its wage proposal for its members is a four percent (4.0%) across-the-board increase to the salary guide for each year of the agreement. They note that while four

percent (4.0%) increases may seem audacious, they note that PBA members' earnings would still not be keeping up with the rise in inflation even the same were awarded given inflation currently stands at 6.2%.

The PBA's wage proposal also provides that all those Officers still progressing on the salary guide would receive one increment, or advance one step, on January 1<sup>st</sup> of each year of the agreement, irrespective of their date of hire, with the exception of Officers on steps four (4), eight (8), and twelve (12). They propose that Officers on these particular steps, regardless of when they reach these particular steps throughout the duration of the agreement, will advance two (2) steps on January 1<sup>st</sup> after spending one (1) year in "step" immediately prior thereto. For example, if an Officer is on step 4 for one (1) year, he/she would then advance to step 6, instead of step 5. This double step movement would similarly be applied to Officers who spend one year on steps 8 and 12.

The PBA proposed new salary guides in the event PBA wage proposal is awarded would be as follows:

STEP	2021	2022	2023	2024
1	\$42,640.00	\$44,346.00	\$46,119.00	\$47,964.00
2	\$44,092.00	\$45,856.00	\$47,690.00	\$49,597.00
3	\$45,446.00	\$47,264.00	\$49,154.00	\$51,120.00
4	\$46,800.00	\$48,672.00	\$50,619.00	\$52,644.00
5	\$49,228.00	\$51,198.00	\$53,245.00	\$55,375.00
6	\$50,128.00	\$52,133.00	\$54,218.00	\$56,387.00
7	\$52,567.00	\$54,669.00	\$56,856.00	\$59,131.00
8	\$54,942.00	\$57,140.00	\$59,425.00	\$61,802.00
9	\$57,625.00	\$59,930.00	\$62,328.00	\$64,821.00
10	\$60,309.00	\$62,721.00	\$65,230.00	\$67,839.00
11	\$63,022.00	\$65,543.00	\$68,165.00	\$70,891.00
12	\$65,734.00	\$68,364.00	\$71,098.00	\$73,942.00
13	\$70,028.00	\$72,830.00	\$75,743.00	\$78,772.00
14	\$72,207.00	\$75,095.00	\$78,099.00	\$81,223.00
15	\$78,926.00	\$82,083.00	\$85,366.00	\$88,781.00

The PBA submits its wage proposal was predicated on a number of factors. First, for approximately ten (10) years, the PBA argues it was restricted in the amount it could obtain by way of wage increases on account of the imposition of the 2% salary cap. In addition to the restrictions imposed by the 2% salary cap, the PBA argues its members contributed toward their healthcare coverage at the highest rate permissible under Chapter 78. The PBA maintains the entire compensation structure previously afforded to PBA members was fundamentally altered in a detrimental fashion. They maintain the compensation provided to PBA members remained stagnant which destroyed morale for PBA members. The PBA notes that the compensation package afforded to PBA members has resulted in 30-40% of PBA members seeking secondary employment in order to make "ends meet." The PBA submits that high rate of PBA members engaging in secondary employment in order to make a living illustrates the current compensation package is insufficient and inadequate to provide PBA members with the ability to earn a modest living.

The PBA submits its wage proposal was crafted in consideration of its members' salaries as compared to those of their peers, most notably other Correctional Police Officers throughout the State of New Jersey; and the County's current financial state and its ability to pay the wage increases proposed. The PBA submits that a comprehensive analysis of its wage proposal demonstrates it is reasonable, and fiscally responsible when the "true cost" of the wage proposal including "breakage" is considered.

The PBA argues the County's wage proposal is draconian and seeks to prolong the economic hardship and/or restrictions imposed upon PBA members for the past decade. The PBA notes the County proposes a four (4) year agreement that does not include across-the-board salary increases to the salary guide and/or modifying the salary guide currently applicable to PBA members. Instead, the PBA notes the County seeks to institute a "step freeze" for the duration of the four (4) year proposed agreement as members would remain on the step on the salary guide, they currently occupy until the end of the four (4) year contractual term. To this end, all members would receive a 1.95% increase to their base salary in each of the four (4) years effective on January 1<sup>st</sup> in 2021, 2022, 2023, and 2024. The PBA submits that if the members were to be frozen on the step that they occupy on January 1, 2021 and only receive a 1.95% increase per year for the life of the proposed four (4) year contract, it is unclear whether there will be the existence of a step system upon the expiration of the contract, if the members would be advanced to a step commensurate with their salary upon the contract's expiration, or whether each members' salary would be "frozen" upon the agreement's expiration.

The PBA argues the County's wage proposal is unreasonable and will have a detrimental impact on the continuity of Correctional Police Officer employment within the Department. The PBA notes that the County did not take employee retention into consideration when crafting its wage proposal and that the County's proposal will create Officer retention issues and serve as a disincentive for individuals to seek employment as Correctional Police Officer with the County Department of Corrections. The PBA notes the County's wage proposal was strictly a mathematic formula and, employee staffing and retention issues were not a consideration.

The PBA submits that when comparing the competing wage proposals, the PBA Final Offer is more reasonable than the County's and is grounded in the interest arbitration criteria. The PBA submits its wage proposal attempts to incentivize its members for the restrictions they have been subjected to and the concessions they made for the better part of the last decade. They argue it is reasonable and cost-effective for the County and its taxpayers, all while providing each and every member with adequate cost of living adjustments comparable to other law enforcement collective negotiations units.

The County submits the Final Offers of the Parties vary significantly on salary. The County argues the PBA's flawed cost-out and proposal equates to an overall dollar increase over four years of \$1,609,233.00, which equates to an increase of 17.30%, for an average increase of 4.325% per year. The County maintains that the PBA's cost-out of its proposal is flawed in that it did not include the anticipated salary costs over four (4) years for fourteen (14) Corrections Officers that were hired in 2021. The County notes that the PBA's proposed step movements and 4% increases to steps for each year of the contract demonstrated that the PBA's proposed salary increases including the additional fourteen (14) Corrections Officers would raise the overall dollar cost of the PBA's final salary offer by \$2,346,245 over four (4) years, for a 24.42% increase over the four (4) years, or an annual average increase of 6.11% per year.

### **Cost-out of Salary Final Offers**

While it is undisputed the restrictions of the 2% salary cap no longer apply, N.J.A.C. 19:16-5.7(g)(2) demands that the parties submit written estimates of the financial impact of their respective final offers on the taxpayers. Moreover, N.J.A.C. 19:16-5.9(c) requires that an interest arbitrator's decision shall set forth the cost of all "base salary" items for each year of the award, to include the salary provided pursuant to a salary guide or table, any amount provided pursuant to a salary increment, and amount provided for longevity or length of service amongst other items. According to the express terms of N.J.A.C. 19:16-5.9(c), these cost out figures are necessary in order for an interest arbitrator to determine, pursuant to N.J.S.A. 34:13A-16(d), whether the total net annual economic changes for each year of the award are reasonable under the statutory criteria.

On September 15, 2021, in accordance with N.J.A.C. 19:16-5.7(g)(1)(i-v), the County submitted the personnel and financial information for the unit. The information entitled “PBA 249 Correction Officers Unit Members as of 12/31/2020” shows 145 Correction Officers with a total base salary of \$8,725,777.00. The County’s personnel and financial information and scattergram and cost-out shows the following for 2020: nine (9) Correction Officers at step 1 salary of \$39,000.00 (CO Badesha not on PBA roster); six (6) Corrections Officers at step 2 salary of \$41,000.00; fifteen (15) Corrections Officers at step 3 salary of \$42,396.00 (CO Felder and CO Carroll not on PBA roster); twenty-six (26) Corrections Officers at step 5 salary of \$45,000.00; eight (8) Corrections Officers at step 9 salary of \$52,829.00; two (2) Corrections Officers at step 10 salary of \$55,409.00; three (3) Corrections Officers at step 11 salary of \$57,989.00; twelve (12) Corrections Officers at step 13 salary of \$63,206.00; and sixty-four (64) Corrections Officers at top step salary of \$75,890.00. The total base salary for the unit as of December 31, 2020, per this cost-out/scattergram is \$8,725,777.00.

The PBA notes that the cost-out of its wage proposal was calculated using a 2020 baseline salary amount of \$8,774,454.00, the amount it asserts was paid to PBA members during the last year of the expired agreement. As indicated by Mr. Barbati, the amount paid to PBA members during the last year of the expired agreement and the employee/salary information was verified by the PBA to the extent possible given the County’s delay in providing the requisite personnel/financial information. The PBA’s cost-out shows 148 Correction Officers with a total base salary of \$8,774,454.00. The PBA’s scattergram shows the following: ten (10) Corrections Officers at step 1 salary of \$39,000.00 (CO Parks listed here and step 2, CO Weldon not on the County roster); eight (8) Corrections Officers at step 2 salary of \$41,000.00 (CO Parks; CO Lewis not on County roster); thirteen (13) Corrections Officers at step 3 salary of \$42,396.00; twenty-six (26) Corrections Offices at step 5 salary of \$45,000.00; eight (8) Corrections Officers at step 9 salary of \$52,829.00; two (2) Corrections Officers at step 10 salary of \$55,409.00; three (3) Correction Officers at step 11 salary of \$57,989.00; twelve (12) Corrections Officers at step 13 salary of \$63,206.00 (CO Gomola at \$42,137.00); and sixty-six (66) Corrections Officers at top step salary of \$75,890.00 (CO Bell at \$37,945.00 not on County Roster; CO West at \$50,593.00 not on County roster). The PBA’s 2020 cost-out shows a total base salary of \$8,774,454.00, a difference of \$48,677.00 from the County’s cost-out.

The PBA’s Final Offer is seeking the implementation of a fifteen (15) step salary guide, by combining steps 1 and 2. All Officers still progressing on the salary guide would advance either one (1) or two (2) steps on the salary guide on January 1<sup>st</sup> in 2021, 2022, 2023, and 2024. The PBA also proposes a four percent (4.0%) across-the-board increase for each year of the agreement that would increase the value of each step on the salary guide.

The PBA submits that analysis of the cost of the proposal and application of the statutory criteria reveals that the proposal is practical and cost-effective. The PBA submits its analysis determined the cost of its wage proposal for each year of the proposed four (4) year agreement. The PBA submits that assuming all of the components of the wage proposal in its Final Offer were awarded, the total cost increase of the wage proposal in 2021 is \$48,842.00 to \$8,823,266.00, a 0.56% increase. In 2022, the cost increases by \$379,159.00 to \$9,202,455.00, an increase of 4.30%. In 2023, the cost increases by \$588,803.00 to \$9,791,258.00, a 6.40% increase. In 2024, the cost increases by \$592,430.00 to \$10,383,688.00, a 6.05% increase. The PBA submits that its wage proposal represents a total increase of \$1,609,233.00 over the term of the agreement, or an average of \$402,308.25 per year. All in, the PBA submits its wage proposal averages a 4.32% increase per year of the agreement, and a 17.30% increase in total cost over the proposed four (4) year agreement.

The County argues the PBA’s cost-out is flawed as it did not include the anticipated salary costs over four (4) years for fourteen (14) Corrections Officers that were hired in 2021. The County notes that

including the PBA's proposed salary increases for the additional fourteen (14) Corrections Officers would raise the overall dollar cost of the PBA's Final Offer on salary to \$2,346,245.00 over four (4) years, for a 24.42% increase over the four (4) years, or an annual average increase of 6.11% per year.

The County cost-out was based on its scattergram baseline amount in 2020 of \$8,725,777.00. The differences from the PBA cost-out of \$8,774,454.00 were noted above and are negligible, namely \$48,677.00. Notably, the County utilizes a different baseline amount for purposes of determining the percentage increases of its wage proposal for each year of the proposed agreement. The County utilizes \$8,566,380.00 as the baseline amount, which it asserts represents the "current rate of PBA members projected to be paid through December 31, 2021," the first year of the proposed agreement. Based on this scattergram and cost-out, the County's Final Offer increases the cost in 2021 by \$163,548.00 to \$8,729,928.00, a 1.91% increase. In 2022, the cost increases by \$136,703.00 to \$8,866,630.00, a 1.57% increase. In 2023, the cost increases by \$172,889.00 to \$9,039,530.00, a 1.95% increase. In 2024, the cost increases by \$176,271.00 to \$9,215,801.00, a 1.95% increase. All in, the County submits its salary proposal is 7.38 % over four (4) years or 1.85% per year.

The PBA submits the use of \$8,566,380.00 as the cost-out baseline is improper as it does not properly reflect the monies paid to the PBA in 2020, the last year of the most recently expired collective negotiations agreement. The PBA argues the County's use of \$8,566,380.00 as the baseline artificially inflates the percentage increases of the County's wage proposal to make it appear to be more lucrative than it really is. The PBA notes that the County cost-out of the County wage proposal costs approximately \$649,000.00 over the life of the agreement, representing a 7.5% increase.

The PBA submits that utilizing the 2020 baseline amount of \$8,725,777.00, the County salary proposal shows an increase of only \$4,151.00 in the first year of the agreement, a 0.0004% increase. For 2022, 2023, and 2024, the County's wage proposal would result in an increase of \$490,024.00 over the life of the agreement, a 5.6 % increase or 1.4% per year.

The PBA submits the cost of the County's wage proposal utilizing the PBA scattergram baseline of \$8,774,454.00 and considering "breakage" in the unit since 2020 and through 2021, actually decreases the cost in the amount of \$86,070.00 over the term of the agreement. I note in 2021, in calculating its increases over the four (4) year agreement, the PBA's 2020 baseline of \$8,774,454.00 decreases to \$8,500,574.00 due to "breakage." In 2021, the cost of the County's Final Offer decreases by \$342,940.00 to \$8,431,514.00, a 3.91% decrease. In 2022, the cost decreases by \$72,317.00 to \$8,359,197.00, a .86% decrease. In 2023, the cost increases by \$163,004.00 to \$8,522,201.00, a 1.95% increase. In 2024, the cost increases by \$166,183.00 to \$8,688,384.00, a 1.95% increase. Over the term of four (4) year term of the agreement, the PBA submits the contract costs \$86,070.00 less than in it did in 2020 under the County Final Offer.

Here, neither the County nor PBA has demonstrated its Final Offer on salary should be awarded. That said, a Salary Award more akin to the PBA's Final Offer on Salary is warranted based on my analysis of the evidence and 16g criteria. I agree with the PBA that the County's Final Offer on salary is not in the interest and welfare of the public and will be demoralizing to the unit and detrimental to the Department. Though the County argues its salary proposal is like that agreed to with the CWA, that agreement alone with a civilian bargaining unit is not comparable to a law enforcement unit and does not establish a pattern warranting its award here. See Township of Woodbridge and P.B.A. Local 81, IA-96-119 (1998). The County's Final Offer on salary that does away with step movement is not competitive based on the internal comparisons with the County's other law enforcement units. It is also not supported by the external comparability with other Corrections Officer units throughout the State. The County's Final Offer admittedly is not likely to enhance the continuity and stability of employment of PBA members resulting

in continued high turnover and retention issues. Under the County Final Offer, a Corrections Officer would see salary increases of 8.03% over four (4) years or 2.01% per year. Though the financial impact criteria would support the County's Final Offer, the County's Final Offer does not allow PBA members to keep pace with the cost-of-living. Overall, the County has not met its burden to prove that its Final Offer on salary should be awarded under the evidence and application of the 16g criteria.

That said, the PBA has met its burden to demonstrate that a salary award more like its Final Offer calling for across-the board salary increases and step movements each year of the agreement is supported by the 16g criteria and is warranted. However, the PBA must understand that years of statutory salary restrictions and resulting step and salary freezes cannot be undone in one four (4) year contract. Rather, the salary increases awarded herein of across-the-board salary increases of 2.0% in 2021, 2.25% in 2022, 2.25% in 2023 and 2.25% in 2024 with step movement in each year of the contract are supported by the evidence and the 16g criteria and are hereby awarded.

The Salary Award is in the interest and welfare of the public as it fairly increases compensation for the PBA members for the dangerous and important work they perform with the goal of improving morale and retention while not financially negatively impacting the County, its taxpayers and residents. The Salary Award is consistent with salary increases to other comparable Corrections Officer units in the State. While it may not significantly improve their ranking among their peers, it will allow them to keep pace and competitively improve their compensation. The Salary Award also comports with the County's history of its law enforcement units receiving slightly higher compensation than its civilian units and administrative and unrepresented employees. Though the County does not make an "ability to pay" argument, I note the total cost of the Salary Award will have a negligible financial impact on the County and its taxpayers as the four (4) year cost of the Award is \$788,904.00, an 8.3% increase or 2.075% per year based on the 2020 baseline of \$8,725,777.00. The across-the-board salary increases and annual step movement will help Corrections Officers make "ends meet" and keep up with the cost-of-living. The award of across-the-board salary increases and particularly step movement each year of the agreement will enhance the continuity and stability of employment and allow the unit to keep its members and its standing with other corrections officer units in the State. Overall, the Salary Award represents a balanced, fair and reasonable compensation increase based on the evidence and application of the 16g criteria.

The cost of the Salary Award herein using the County baseline of \$8,725,777.00 for 2020 results in a cost increase in 2021 of \$174,151.00, or \$8,900,292.00. The cost increases by \$200,257.00 to \$9,100,549.00 in 2022. In 2023, the cost increase is \$204,762.00 for a total of \$9,305,311.00. In 2024, the cost increases by \$209,370.00 for a total spend of \$9,514,681.00. The total cost of the Salary Award over the four (4) years is \$788,904.00 an 8.3% increase over four (4) years or 2.075% per year.

The cost of the Salary Award herein using the PBA baseline of \$8,774,454.00 results in a cost increase in 2021 of \$175,489.00 or \$8,949,943.00. In 2022, the cost increases by \$201,374.00 to \$9,151,317.00. In 2023, the cost increases by \$199,904.00 to \$9,357,221.00. In 2024, the cost increases by \$216,538.00 to \$9,567,759.00, or an 8.3% increase over four (4) years or 2.075% per year. The total cost of the Salary Award over four (4) years using this baseline is \$9,567,759.00, an increase of \$793,305.00. According to the PBA, the total cost of the County Final Offer using this baseline decreases to \$8,688,384.00. The total cost of the PBA Final Offer using this baseline is \$10,383,688.00, an increase of \$1,609,233.00. The Salary Award herein provides a balanced, fair, and reasonable increase to the PBA members with minimal financial impact on the County.

The cost of the Salary Award herein using the County baseline of \$8,566,380.00, which represents "the current rate of PBA members projected to be paid through December 31, 2021," results in a four (4) year aggregate cost of \$774,493.00. In 2021, the cost of the Salary Award increases by \$171,327.00 to

\$8,737,707.00. In 2022, the cost increases by \$196,599.00 to \$8,934,306.00. In 2023, the cost increases by \$201,022.00 to \$9,135,328.00. In 2024, the cost increases by \$205,545.00 to \$9,340,873.00. The total cost increase of the Salary Award is \$774,493.00, an 8.3% increase over four (4) years or 2.075% per year. The County's Final Offer using this baseline increases the cost over the four (4) years by \$649,421.00 to \$9,215,801.00. The difference in cost over the four years is \$125,072.00, or \$31,268.00 per year. The Salary Award herein that provides for annual increases and step movement is a fair and reasonable increase in compensation compared to the increase of the County's Final Offer.

The PBA has demonstrated that step 1 and step 2 of the salary guide should be combined and renumbered as step 1. It is undisputed that hiring, staffing and retention are significant issues for the Corrections Department. The increase in compensation and/or starting salary, together with step movement, will help foster the County's ability to attract, hire and retain more County Correctional Police Officers. Also, as noted by the PBA, the resulting one (1) step reduction of the salary guide does not alter the time it takes members to reach the top of the salary guide. Under the Salary Award, the starting salary for Corrections Officers will increase from \$39,000.00 in 2020 to \$41,820.00 in 2021, \$42,761.00 in 2022, \$43,723.00 in 2023 to \$44,707.00 in 2024, a 12.8% increase over four (4) years or 3.2% per year. Under the Salary Award, Corrections Officers hired in 2021 will make \$41,820.00; \$44,216.00 in 2022; \$46,600.00 in 2023; and \$49,068.00 in 2024, a 14.78% increase or 3.69% per year. Corrections Officers at top step under this Salary Award will make \$77,408.00 in 2021; \$79,149.00 in 2022; \$80,930.00 in 2023 and \$82,751.00 in 2024, an 8.3% increase or 2.075% per year.

While the addition of fourteen (14) new corrections officers in 2021 increases salary costs by \$387,040.00 in 2021 as submitted by the County, I note the net increased costs in 2021 by combining these steps totals \$23,480.00. I also note the County hired twenty-one (21) Correction Officers in 2021 with fourteen (14) still employed. Notably, the County's scattergram baseline in 2021 (2020) of \$8,566,380.00, which represents "the current rate the employee is being paid as projected thru 12-31-2021" including the new hires, resignations, and retirements during 2021 shows a decrease of \$159,397.00 in the aggregate salary spend for the unit from its 2020 total \$8,725,777.00. I note that the cost-out baseline used by the PBA with a 2020 salary total of \$8,774,454.00 decreases to approximately \$8,270,245.00 in 2021 when "breakage" is considered.

While considerations of employers cost reductions or increases in costing out an award is no longer prohibited in light of the expiration of the 2% cap, PERC has found that arbitrators may use their discretion in deciding whether it is appropriate to factor in such reductions or increases when rendering a salary award. I/M/O Hopewell Twp. and Hopewell PBA Local 342, IA-2019-016 (August 2019). It is undisputed that hiring, employee retention and turnover are significant issues facing the Corrections Center. Both Parties' cost-outs recognize "breakage" in 2020 and 2021. I have taken that into consideration as well as the County's hiring of fourteen (14) Corrections Officers, and the turnover in the Department. That said, while "breakage" is relevant to the overall cost of the contract to the County it does not directly relate to the respective wage rate being paid any particular employee for the work they perform.

Based on the application of the 16g criteria and the evidence, I find and award across the board salary increases of 2.0% effective and retroactive to January 1, 2021; across the board salary increases of 2.25% effective and retroactive to January 1, 2022; across the board salary increases of 2.25% effective January 1, 2023 and across the board salary increases of 2.25% effective January 1, 2024. I also award step movement on the salary guide each year of the agreement, which has significant impact for those in guide.

The PBA has not met its burden to prove Corrections Officers on Steps 4, 8 and 12 should advance two steps on January 1, 2021. Though this proposal would improve the compensation package for some of the Officers, its fiscal impact is not in the interest and welfare of the public. The PBA's proposal would

make it more competitive with other higher paid Corrections Officer units in the State, however the PBA cannot undue years of salary step freezes by “catching up” with the generous combination of steps it has proposed. While the PBA’s proposal was based on the agreement between the Prosecutor and the Investigators and Detectives, that agreement alone with one of the County’s law enforcement units does not establish a pattern to warrant the award of this aspect of the PBA’s salary proposal. Moreover, the Prosecutor is a Constitutional Officer that is statutorily required to operate under a 2% budget which it has. The discretion to distribute funds, including the allocation of salaries within the 2% budget CAP, remains solely within the Prosecutor’s discretion.

The PBA’s double step proposal is not supported by the financial impact criteria and is greater than the cost-of-living. The PBA’s proposal has a Corrections Officer on step 3 earning \$42,396.00 in 2020 move to step 4 at \$46,800.00 in 2021, step 6 of \$52,133.00 in 2022, step 7 of \$56,856.00 in 2023 and step 8 of \$61,802.00 in 2024; a 31.4% increase over four (4) years or 7.8% per year. A Corrections Officer on step 5 making \$45,000.00 in 2020 moves to step 6 making \$50,128.00 in 2021, step 7 making \$54,670.00 in 2022, step 8 making \$59,426.00 in 2023, and step 10 making \$67,839.00, a 33.67% increase over four (4) years or 8.4% per year. A Corrections Officer on step 11 earning \$57,989.00 in 2020 moves to step 12 at \$65,734.00 in 2021, step 14 of \$75,095.00 in 2022, step 15 of \$85,366.00 in 2023 and step 15 of \$88,781.00 in 2024; a 34.7% increase over four (4) years, or 8.7% per year. While such increases would improve the compensation significantly for many of its Officers, the financial impact of the double-step increases is not supported by criteria and is not awarded.

Under the 2020 Salary Guide, the amount of each step varies from \$865.00 (Step 6 to 7) to \$6,460.00 (Step 15 to 16), with the average step being \$2,326.00. Under this Salary Award, Corrections Officers on Step 3 earning \$43,698.00 in 2020, with across-the board increases and step movement, will make \$44,572.00 in 2021; \$46,933.00 in 2022; \$50,479.00 in 2023, and \$52,558.00 in 2024, a 16.9% increase over four (4) years, or 4.22% per year. Corrections Officers on Step 7 earning \$50,545.00 in 2020 with across-the board increases and step movement, will make \$51,556.00 in 2021; \$55,098.00 in 2022; \$59,089.00 in 2023, and \$63,232.00 in 2024, a 18.5% increase over four (4) years, or 4.62% per year. Corrections Officers on Step 11 earning \$60,598.00 in 2020 with across-the board increases and step movement, will make \$61,810.00 in 2021; \$65,921.00 in 2022; \$71,806.00 in 2023, and \$75,707.00 in 2024, a 20% increase over four (4) years, or 5.0% per year. The salary increases awarded herein with step movement provides PBA members in guide with salary increases on par with the Investigators and Detectives without the double step movement.

All in, the Salary Award costs \$788,904.00 over the four (4) year term, an increase of 8.3% or 2.075% per year. The Salary Award is \$125,072.00 greater than the County Final Offer and \$820,329.00 less than the cost of the PBA Final Offer. Though some of the in guide step movements provide significant increases, the overall cost of the contract is not. The County has not argued its “ability to pay.” As Dr. Caprio reported, the County has demonstrated the ability to regenerate surplus, continues to have excess budget appropriations that are annually cancelled sending the excess revenue into reserve, and maintains budget flexibility due to increasing revenue sources. The County’s revenue sources are stable, recent property tax increases have been modest, and the County’s fund balance has been reconstituted and has increased over the past five (5) years.

The PBA has not met its burden to prove the continuation of step movement shall survive the expiration of this contract and the Corrections Officers should continue to advance on the salary guide until a new agreement has been ratified and executed should be awarded. Rather, as discussed below, that determination should be made in negotiations for a successor agreement at the time. Since this Salary Award increases the Corrections Officers salary and provides for step movement each year, the automatic continuance of step movement should be negotiated at the expiration of this agreement. The County does

not have the right to change salaries without negotiations and likewise the PBA should not see its salaries increase without negotiations.

Based on the forgoing analysis I award the following:

**ARTICLE II, Salary**

Delete Sections A. through F. in their entirety and replace with the following:

A. The base annual salaries for employees covered under this Agreement shall be set forth in Appendix A below and shall be modified on each effective date and retroactive to each effective date as applicable:

1. Effective and retroactive to January 1, 2021, each step on the salary guide shall be increased by 2.0% .
2. Effective and retroactive to January 1, 2022, each step on the salary guide shall be increased by 2.25%.
3. Effective January 1, 2023, each step on the salary guide shall be increased by 2.25%.
4. Effective January 1, 2024, each step on the salary guide shall be increased by 2.25%.

Appendix A

	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>
	<b>Salary</b>	<b>Salary</b>	<b>Salary</b>	<b>Salary</b>	<b>Salary</b>
		<b>2% ATB</b>	<b>2.25% ATB</b>	<b>2.25% ATB</b>	<b>2.25% ATB</b>
<b>1</b>	\$41,000	\$41,820	\$42,761	\$43,723	\$44,707
<b>2</b>	\$42,396	\$43,244	\$44,216	\$45,211	\$46,228
<b>3</b>	\$43,698	\$44,572	\$45,575	\$46,600	\$47,649
<b>4</b>	\$45,000	\$45,900	\$46,933	\$47,989	\$49,068
<b>5</b>	\$47,335	\$48,282	\$49,368	\$50,479	\$51,615
<b>6</b>	\$48,200	\$49,164	\$50,270	\$51,401	\$52,558
<b>7</b>	\$50,545	\$51,566	\$52,716	\$53,902	\$55,115
<b>8</b>	\$52,829	\$53,886	\$55,098	\$56,338	\$57,605
<b>9</b>	\$55,409	\$56,517	\$57,789	\$59,089	\$60,419
<b>10</b>	\$57,989	\$59,149	\$60,480	\$61,840	\$63,232
<b>11</b>	\$60,598	\$61,810	\$63,200	\$64,622	\$66,077
<b>12</b>	\$63,206	\$64,470	\$65,921	\$67,404	\$68,920

<b>13</b>	\$67,335	\$68,681	\$70,226	\$71,806	\$73,422
<b>14</b>	\$69,430	\$70,819	\$72,412	\$74,041	\$75,707
<b>15</b>	\$75,890	\$77,408	\$79,149	\$80,930	\$82,751

This contract contains an automatic annual step increment system for Correctional Police Officers which provides each Correctional Police Officer on the guide an advancement of one (1) step on the salary guide on January 1 of each year.

### **Article III, Uniform Allowance**

The PBA's Final Offer seeks payment of an annual uniform allowance in the amount of one thousand two hundred dollars (\$1,200.00), an increase of four hundred fifty dollars (\$450.00) over the current uniform allowance of seven hundred fifty dollars (\$750.00). Under Article III, "Uniform Allowance," the County issues uniforms, gear and accessories, and Corrections Officers use the annual lump sum payment to replace and maintain these items.

The PBA argues its Final Offer should be awarded based upon the comparability data. They suggest an award of an increase in the uniform allowance would make the compensation package afforded to PBA members more competitive, thus allowing the County to better attract and/or retain highly qualified Correctional Police Officers. They argue the uniform allowance has not been increased in years and the increase being sought is "in line" with the uniform allowance data and identical to the allowance given to Bergen and Middlesex Counties. They maintain these facts demonstrate that the PBA's request is reasonable, and they should receive a benefit comparable to many other County Correctional Police Officers throughout the State.

In its Final Offer, the County has proposed a voucher and/or stipend reimbursement program as it relates to uniforms. The County also maintains the present contractual amount of \$750.00 per calendar year is fair and appropriate noting that the Burlington County Sheriff and FOP 166 representing Sheriff Officers recently agreed to and stipulated to the \$750.00 per calendar year uniform allowance.

Based on an analysis of the 16(g) criteria, the County has not met its burden to demonstrate a voucher/reimbursement program should be awarded in lieu of a uniform allowance. The County submitted little evidence of how a voucher/reimbursement program would be implemented and operated for me to consider its award.

Likewise, the PBA has not met its burden to warrant the award of the proposed increase. While the uniform allowance increase would enhance the compensation package and morale of the members, the proposal otherwise does not advance the interests or welfare of the public. The PBA has submitted external comparability including the State and six (6) County Correctional Police Officer units supporting an increase. The County's internal comparability with one of its other law enforcement units, FOP Local 166, stipulated to the uniform allowance of \$750.00 that suggests an award continuing the uniform allowance of \$750.00 is appropriate. The cost-of-living data and increased cost of uniforms and gear supports an increase, however, the financial impact criteria does not. The continuity and stability of labor relations in the County is important and requires a balance between improving the compensation and morale of the unit to alleviate excessive turnover against maintaining the relative standing and level of benefits for County employees. In the end, the PBA has not met its burden to overcome the need to maintain internal comparability, which warrants continuing the uniform allowance of \$750.00 based on the FOP stipulation.

County of Union, IA-2001-46 (2002)(importance of maintaining a pattern of settlement among bargaining units of the same employer). Accordingly, I am compelled to deny this proposal based on the stipulation, and same is denied.

#### **ARTICLE X, Holidays**

The PBA made a Final Offer regarding Article X, Holidays including the addition of another holiday and a proposal contingent on the work schedule proposal. The PBA's Final Offer that Juneteenth shall be added to the list of celebrated holidays was not opposed by the County and is hereby Awarded.

The PBA's Final Offer on Holidays is also seeking holiday pay on an hour for hour basis in accordance with their work schedule. They submit that Corrections Officers currently work a twelve (12) hour shift and are only paid eight (8) hours for every holiday they work. The PBA's proposal would provide holiday compensation to Corrections Officers on an hour for hour basis. The PBA notes that if the eight (8) hour work day sought by the PBA is awarded, its alternative proposal is that the officers continue to receive eight (8) hours of holiday pay as that would match the modified work schedule.

The County submits the PBA's proposal on Holiday pay conversion has been an issue since Arbitrator Osborn awarded the Modified Pitman twelve (12) hour work schedule in 2013. They maintain that the issues raised by the PBA Final Offer on Holiday conversion were submitted to binding Arbitration and heard by Arbitrator Osborn with her finding that with the implementation of the twelve (12) hour shifts, all contractual leave time, including holiday time, was to be calculated and converted to hours utilizing 112 hours, based on eight-hour days. The County submits this binding Opinion and Award was upheld and awarded by Arbitrator Licata and must be recognized and enforced here

I note Arbitrator Licata also addressed this issue in the Licata Award. In his award, Arbitrator Licata found that Arbitrator Osborn fully addressed the subject of paid leave conversion in connection with the switch from the eight (8) hour days to the twelve (12) hour Modified Pitman schedule in 2013. Arbitrator Licata adopted her findings as to the appropriateness of an hourly conversion, e.g., 10 vacation days = 80 hours of vacation time to be used over twelve (12) hour workdays, and denied the union's proposal.

Here, I am faced with the same issue awarded by Arbitrator Osborn and subsequently addressed by Arbitrator Licata. The PBA did not prove that these awards should be decided differently. Like Arbitrator Licata, I adopt Arbitrator Osborn's findings as to the appropriateness of the hourly conversion, e.g., 10 vacation days = 80 hours of vacation time to be used over twelve (12) hour work days. The PBA has not met its burden to prove its proposal should be awarded over the findings of Arbitrators Osborn and Licata. As such, I find the PBA has not met its burden to prove the award of this Final Offer proposal is warranted and same is denied.

#### **Article XXXVII, Term**

The County and PBA each proposed Final Offers of a four (4) year term commencing January 1, 2021 through December 31, 2021, and the same is awarded.

In addition, the PBA seeks to include language ensuring that PBA members progressing on the salary guide will continue to receive increments and/or steps post-contract expiration until a successor agreement is reached. The PBA makes this proposal given the decision by the New Jersey Supreme Court in County of Atlantic, 230 N.J. 237 (2017). The PBA also seeks the award of this proposal because the

County has not provided PBA members still progressing on the salary guides with step increments in the past. They argue this has continued with the expiration of the most recent collective negotiations agreement between the parties. They maintain that this is problematic since, under the terms of the recently expired agreement, PBA members did not advance on the salary guide in 2020 and, thus, have not advanced or received any pay increases since 2019, a period in excess of two (2) years.

The County objects to the language changes proposed by the PBA to guarantee that any step increases will automatically continue beyond the expiration of the 2020-2024 contract. The County suggests the existing contractual language represents a reasonable compromise by which either party can choose to give one hundred and twenty (120) days' notice that it is choosing not to renew and begin negotiations for a successor agreement.

Here, the PBA has not met its burden to prove the continuation of step movement should survive the expiration of this contract and Corrections Officers should continue to advance on the salary guide until a new agreement has been ratified and executed should be awarded. Rather, as noted above, I find that determination should be made at the time the parties engage in negotiations for a successor agreement. Under the existing contractual language, either party can choose to give one hundred and twenty (120) days' notice that it is choosing not to renew the agreement and begin negotiations for a successor agreement. Upon the contract's expiration, in the event the parties are unable to negotiate a successor agreement and are at impasse, either party can file for interest arbitration. Under the Act, the interest arbitration award must be issued within ninety (90) days of the appointment of the interest arbitrator. N.J.S.A. 34:13A-16 (f)(5). Thus, if need be, any delay in step movement after expiration of the agreement due to a contractual impasse can be quickly addressed by the PBA through the filing of an interest arbitration petition.

Also, since this Award increases the Corrections Officers salary and provides for step movement each year, the automatic continuance of such step movements should be negotiated at the expiration of this agreement. The County does not have the right to change salaries without negotiations and likewise the PBA should not see its salaries increase without negotiations.

The PBA has not met its burden to prove the continuation of step movement should survive the expiration of this contract, and its Final Offer seeking same is hereby denied.

#### **ARTICLE IV, Health Benefits**

The PBA notes that Chapter 78 required all public employees and certain public retirees to contribute toward the cost of health care benefits coverage based upon a percentage of the cost of coverage in relation to the wages earned by the employee. The PBA argues that any award requiring PBA members to maintain their current level of contributions to the cost of their healthcare would be continuing a wage cut regarding any economic award. They further argue that unless the contribution level is brought back to Tier 3, any salary increase that a member receives will be offset by the fact that their increasing salary will require them to contribute more to the cost of healthcare under Chapter 78. The PBA submits that since healthcare contributions are a negotiable subject, the healthcare proposal put forth by the PBA that seeks to reduce the level of healthcare contributions by its members on January 1, 2022, the second year of the proposed collective negotiations agreement should be awarded.

The PBA argues its proposal is in the interests and welfare of the public since the net economic effect of healthcare contributions at Chapter 78 levels is a wage cut. The PBA argues the comparability data supports its proposal for the reduction in healthcare contributions. They note that with the expiration of Chapter 78, law enforcement collective negotiations units throughout the State have negotiated and subsequently reduced the amount its members are contributing toward the cost of healthcare. Specifically,

they cite to six (6) municipal PBA's that negotiated reductions in contributions to healthcare and eight (8) other negotiations units that have achieved other concessions in the reduction of healthcare contributions, albeit in different forms. The PBA submits that the cost of its proposal does not seek to reduce its members' healthcare contributions until the second year of the proposed agreement, taking the financial impact and the affordability of the proposal into account. The PBA's analysis of the increase in cost to the County for this unit in the event its healthcare proposal is awarded would result in an increased annual cost of approximately \$51,864.00 for the County.

The County submits it followed the requirements of Chapter 78, and since the expiration of statutorily mandated Tier 4 contributions has negotiated contracts with all its unions that have continued health care premium employee contributions at the Tier 4 level. The County submits the County's Administrative and non-represented employees also contribute at the Tier 4 level. The County maintains that New Jersey law dictates that employee healthcare contributions must be consistent with levels set forth at N.J.S.A. 52:14-17.28c. They note that PERC rules and regulations speak to "a pattern of salary and benefit changes," among an employer's bargaining units. N.J.A.C. 19:16-5.14(c). They submit PERC has recognized the importance of maintaining a pattern of settlement among bargaining units of the same employer. County of Union, IA-2001-46, 28 NJPER 459, 461 (2002). To that end, the County submits it has endeavored to foster a harmonious relationship with all labor units by promoting continuity in the benefits offered to all its employees.

The County submitted a cost-out of its analysis of the impact of the PBA's Health Benefits Final Offer. In the County analysis, it determined the cost of switching from Tier 4 to Tier 3 for every County employee, not just PBA members. The County analysis showed the current employee contributions of \$4,247,558.00 would decrease to \$3,185,668.00, an overall decrease in employee contributions of \$1,061,889.00 Countywide.

The County notes that the PBA Final Offer also includes proposed language dealing with the County's managerial prerogative to change Health Insurance Providers. The County submits that there already is a provision in the existing Agreement that provides for notice and the ability to have input on the implementation of such a change. The County argues the PBA proposal represents an impermissible intrusion on the County's managerial prerogative to pursue substitute health benefits plans if they are substantially equal, and as such the proposal should be denied.

Despite its passionate plea, the PBA has not met its burden to support the award of its Final Offer on Article IV, Health Benefits, and the same is denied. While the proposal will result an increase in compensation and improve morale, it is otherwise not in the interest and welfare of the public. The language of Chapter 78 mandates Tier 4 contributions as the *status quo* and leaves the issue to collective negotiations. See Ridgefield Park Bd. of Ed., 244, N.J. 1, 20 (2020). The external comparability submitted by the PBA are jurisdictions that voluntarily agreed to reduced healthcare contributions in the give and take of collective negotiations and reaching an agreement. Internally, the County has negotiated contracts with all its unions that have continued health care premium employee contributions at the Tier 4 level, and its Administrative and non-represented employees also contribute at the Tier 4 level. There is no evidence of any of the County law enforcement bargaining units, civilian bargaining units, non-represented or administrative employees contributing other than the Chapter 78 mandated contributions. The County has shown a pattern of settlement regarding healthcare contributions that should not be disturbed by me. PERC has recognized the importance of maintaining a pattern of settlement among bargaining units of the same employer. County of Union, IA-2001-46 (2002), and New Jersey law dictates that employee healthcare contributions must be consistent with levels set forth at N.J.S.A. 52:14-17.28c. The financial impact criteria weigh against the award of the proposal since the cost is significant and would eventually be Countywide. Likewise, the PBA has not met its burden to prove its additional language on health insurance providers should be awarded.

The existing Agreement presently provides for notice and the ability to have input on the implementation of such a change. As such, the PBA's health benefits proposal is denied.

However, I note that the County and CWA agreed in the collective negotiations agreement for the 2020-2022 term that "Chapter 78 health care contributions shall not be calculated or deducted from retroactive pay." PERC has recognized the importance of maintaining a pattern of settlement among bargaining units of the same employer. County of Union, IA-2001-46 (2002). In light of the County agreement with the CWA, and the County's pattern and uniformity of health benefits, I find that any increases in the Chapter 78 health care contributions shall not be calculated or deducted from the salary increases awarded in 2021 and 2022.

## **ARTICLE XVII, WORK SCHEDULE**

The PBA Final Offer proposes a modification to the current work schedule for its members. The PBA is proposing a work schedule of three (3), eight (8) hour fixed shifts. The PBA currently works a twelve (12) hour shifts on a rotating schedule, known as a Pitman schedule. The schedule rotates whereby an officer has two (2) days on, two (2) days off, three (3) days on, and then two (2) days off. The PBA notes that the schedule allows for officers to have every other weekend off, however, when it is rotated from days to nights it is exhausting and taxing upon the officers. The PBA notes that a minority of other correctional departments throughout the State adhere to a Pitman schedule. The PBA argues that most corrections departments work schedules are on eight (8) hour shift rotations. The PBA work Schedule proposal would provide for three (3), eight (8) hour shifts (namely 7:00 to 3:00; 3:00 to 11:00; and 11:00 to 7:00) that would be covered by officers for a period of five (5) straight days followed by two (2) days off from work.

This PBA submits the change in work schedule would benefit the Correction Officers, the County, and the Corrections Department. The PBA submits the Corrections Department is currently experiencing a significant staffing shortage under the current system of operations. They note that if the facility/jail is short officers at the end of a twelve (12) hour shift, it can only hold those officers for overtime for four (4) hours as they [the officers] are only permitted to work sixteen (16) hours in a single work day. The PBA submits that there is a void for the remaining eight (8) hours of that subsequent shift, thereby leaving the facility/jail critically understaffed. The PBA submits that at that time that posts are collapsed and inmate movement is severely restricted which creates dangerous working conditions within the correctional facility. The PBA argues that switching to an eight (8) hour shift will allow officers working the 7:00 to 3:00 shift to be held over, if need be, for the following 3:00 to 11:00 shift and allow for coverage for the entire shift as opposed to just for a fraction of the time. a transition from the twelve (12) hour shift to an eight (8) hour rotation could potentially alleviate some of the negative consequences associated with staffing shortages. To that end, such a change would not only benefit the individual officers, the County, and the Department, it would likewise be beneficial to the inmates housed at the facility/jail. For these reasons, the PBA submits its proposal must be awarded.

The PBA argues that should the twelve (12) hour Pitman schedule remain intact, the PBA proposes being compensated for the full twelve (12) hours that are being spent at the correctional facility. They argue that currently Correction Officers are compensated for eleven and one-half (11.5) hours of the twelve (12) hour shift, leaving thirty (30) minutes unpaid. They note that Corrections Officers are provided two (2), thirty (30) minute breaks per shift, one paid and one unpaid. The PBA argues that there is absolutely no difference in the restrictions that are placed upon an Officer during the two (2) breaks, and Officers are not permitted to leave the premises. The PBA submits that while they are permitted to eat during both breaks, they have to monitor their radios in the event of an emergency. They submit that if there is an emergency code called at the jail, those Officers on break are required to respond. The PBA's Work Schedule proposal also seeks increased eligibility for overtime, compensatory time and "Pitman Adjustment Time." The PBA

also seeks overtime for any time worked in excess of an employee's normal workday and/or for any work on a scheduled day off.

The County opposes the PBA's proposal to change the existing Modified Pitman twelve (12) hour work schedule and revert back to eight (8) hour shifts, or to significantly modify the current twelve (12) hour schedules by increasing eligibility for compensatory time and providing additional compensation in the form of purported "Pitman Adjustment Time". The County notes that the Modified Pitman twelve (12) hour work schedule was implemented by the Interest Arbitration Award issued by Arbitrator Osborn in 2013 and re-instituted by the Interest Arbitration Award issued by Arbitrator Licata in 2017. The County argues it has demonstrated by a preponderance of the evidence that the implementation of twelve (12) hour shifts has saved the taxpayers millions of dollars in overtime payments and has met the County's objectives of improved operational efficiencies and supervision.

The County submits the PBA's opposition to the County's current twelve (12) hour work schedule is void of any data, information, or testimony that contradicts the fact that the implementation of twelve (12) hour shifts has resulted in significantly decreased overtime and improved efficiencies. The County submits it demonstrated that the County has saved millions of dollars annually from the reduction in overtime due to the change to twelve (12) hour shifts. It cites to the total overtime costs relating to eight (8) hour shifts for 2013 of \$1,486,581.00, and if extrapolated from 2014 to 2021 for 8 years, with no change to the twelve (12) hour shifts, the estimated cost of overtime could be estimated to be \$11,892,648 (2013 Overtime costs of \$1,486,581.00 times 8 years, equals \$11,892,648.00). The County submits that due to the implementation of the twelve (12) hour shifts, over the eight (8) year period from 2014 to 2021, the County has expended \$4,266,469.00 for overtime, saving approximately \$7,626,179.00.

The County maintains the PBA has offered vague reasons for its Final Offer to change to eight (8) hour shifts. The County argues this Union proposal will significantly disrupt operations and increase overtime costs exponentially. The County submits that the PBA ignores the fact that the Department is down 30 Correction Officer positions at the present time (175 officers authorized, 145 presently employed), and the effect of going to eight (8) hour shifts would be on increased overtime costs. Taking into account that the Jail has to have coverage 24 hours per day, which is presently covered by two (2) twelve-hour shifts, and assuming the need for three (3) eight (8) hour shifts with the present number of employees, the changes being proposed by the Union will result in four (4) hours of overtime to cover the differential of 4 hours (12-hour shift versus eight (8) hour shift) for every employee on every shift. The County estimates going to an eight (8) hour schedule with the present number of corrections officers will result in increased overtime costs of \$414,304.54 in 2021 and would have resulted in additional overtime costs for 2018 of \$266,829.04, \$206,782.75 in 2019 and \$158,747.01 in 2020. The County submits the impacts of the PBA's proposed increased eligibility for more overtime, compensatory time and "Pitman Adjustment Time" will have also significant operational and fiscal impacts on the County that must be taken into account when considering the total economic impacts of any Award made in this matter.

The Modified Pitman twelve (12) hour work schedule was implemented by the Interest Arbitration Award issued by Arbitrator Osborn in 2013. In 2017, the PBA sought to revert to the eight (8) hour work schedule in the Interest Arbitration before Arbitrator Licata. Arbitrator Licata undertook a detailed examination of the work schedule proposals and upheld the Modified Pitman twelve (12) hour work schedule in 2017. Based on the record and application of the 16g criteria here, I find the PBA has not met its burden to prove the eight (8) hour work schedule should be awarded. The overtime savings and operational efficiencies of the twelve (12) hour work schedule is in interests and welfare of the public. There was little evidence that the morale and retention issues within the Department were directly related to the twelve (12) hour work schedule rather than the overall compensation, salary restrictions and step freezes Corrections Officers have experienced over the years. The external comparability evidence here, as noted by Arbitrator Licata in his analysis and award, does not "tilt the scale" supporting the change to the

eight (8) hour work schedule or retention of the Pitman schedule. The significant overtime and operational efficiencies realized by the twelve (12) hour work schedule supports its continuation under the financial impact criteria. Thus, the PBA's Final Offer for an eight (8) hour work schedule is denied, and the current twelve (12) hour work schedule shall continue.

The PBA did not meet its burden to support the award of its request to be paid for the entire twelve (12) hours at the Jail instead of eleven and one-half (11.5) hours. Though there was anecdotal evidence of Officers not being able to utilize their unpaid "meal break," there was insufficient evidence to warrant altering the *status quo*. I note the Agreement presently provides that: "[S]hould an employee not be permitted to leave his post or completely relieved of duty for his thirty 30-minute meal break, he shall be compensated for the full thirty minute meal break in accordance with Article XII, Overtime." There was no evidence of any grievances under this provision. In the event the County violates this provision, the PBA can grieve and arbitrate such a violation. Likewise, I also do not find the PBA met its burden to prove the award of its request for "Pitman Adjustment Time" or overtime for any time worked in excess of an employee's normal workday are warranted. There was no internal or external comparability data from which to analyze this proposal. There was also no evidence of the approximate impact or cost of this proposal. I note the PBA has recourse under the Fair Labor Standards Act if its members are not legally and properly paid overtime. Thus, the PBA's proposal to be paid the entire twelve (12) hours for the shift is denied as well as its proposal for PAT time and overtime for any time worked in the normal workday.

#### **Article XXXIV, Jury Duty**

The PBA Final Offer proposal regarding Jury Duty seeks to add a provision providing that when an employee who has been called to serve jury duty has been dismissed by Jury Management for the day, the employee shall not be required to return to work and may leave for the remainder of the day. They submit this proposal attempts to simplify the procedure and the Officer's obligations when he or she is summoned to jury service. Such a provision would allow the Officer to focus on fulfilling his or her civic duty by reporting for jury service, rather than being preoccupied with whether or not he or she will be dismissed and what obligations he or she has in the event dismissal occurs prior to the conclusion of his or her regular work day.

The PBA submits this proposal mirrors what was already agreed to by the County with its Sheriff's Officers, FOP Lodge 166. The PBA submits that it is reasonable that the County Correctional Police Officers be treated similarly. as well. The County did not take a position on this issue though I note it could arguably result in staffing and administrative issues.

The PBA has met its burden to show its Final Offer on Jury Duty should be awarded. Fulfilling the civic responsibility of Jury Duty service is in the interests and welfare of the public. FOP 166, the most comparable internal bargaining unit as found by Arbitrator Licata, receives this benefit and the Correction Officers here should as well. PERC has recognized the importance of maintaining a pattern of settlement among bargaining units of the same employer. County of Union, IA-2001-46 (2002). The financial impact criteria are not an issue, and the award of the benefit will enhance the benefit package helping retention, and the continuity and stability of employment. As such, the PBA's Jury Duty proposal is awarded.

#### **Article XXIV, Rights And Privileges Of The Association**

Article XXIV of the parties' collective negotiations agreement, provides for paid time off for the purpose of attending to union business or association activity, provided that the County is given one (1) week notice for such leave time. The PBA seeks to increase paid leave time for union business from fifteen (15) days to seventeen (17) days.

The PBA submits the union leave time provided to the PBA gets disbursed amongst the various members of the PBA. The time allotted is used for any and all members that are active in assisting with various community activities and allows the PBA to provide time off for various members to attend these important events. The PBA suggests the proposal only seeks a modest, and negligible, increase in union leave time, specifically, from fifteen (15) days to seventeen (17) days.

The PBA did not meet its burden to prove the need to increase union business from fifteen (15) to seventeen (17) days. While having Officers attend such community events is in the public interest and welfare, the financial impact of additional time off is not. There was no evidence of external comparable Union leave time or internal comparable Union leave time supporting the proposal. The financial impact criteria of two additional days off in the midst of a staffing shortage calls for the denial of the proposal. While the benefit of the proposal for those Officers entitled to such leave enhances the continuity and stability of employment, for those Officers having to work overtime due to staffing shortages that might result from the additional time off it might not. As such, the PBA has not met its burden to prove additional Union leave time is warranted, and the same is denied.

#### **NEW ARTICLE, Hazardous Duty Pay**

In its Final Offer the PBA proposes a new Article- “Hazardous Duty Pay.” The PBA proposes the payment of “hazardous duty pay” for members assigned to perform “hazardous” or work involving extreme physical discomfort or distress, particularly if protective devices will not entirely mitigate the danger/hardship, or work that could result in serious injury/illness or death. The PBA argues the County’s duty to pay such hazard pay is specifically triggered when a State or County emergency is declared, for exposure to a physical hardship, or for exposure to a hazardous condition. The proposal provides for hazard pay compensation of twenty percent (20%) premium over the employee’s regular hourly wage. It would be payable only for those shifts actually worked and for any hazard duty/work performed when a member is working overtime.

The PBA argues the interest and welfare criterion has direct applicability for its “hazard pay” proposal. The PBA submits its members are forced to work in terrible conditions following the onset of the COVID-19 pandemic. They argue the pandemic has created novel and unique circumstances for the members of the PBA due to their status as “essential employees.” They note that unlike other County employees, PBA members have been required to report for duty throughout the pandemic, despite the risks posed by COVID-19. In fact, once the pandemic struck, County Correctional Police Officers have been the only County employees that have been required to continually report for duty day-in and day-out. As such, PBA members were immediately confronted with a substantially increased risk of exposure, from the start of the pandemic to date.

The PBA notes that the COVID-19 virus has ravaged law enforcement officers in the State unlike any other group of first responders. The PBA submits that of all the different positions of employment within law enforcement, Correctional Police Officers have suffered from COVID-19 more than any other. They note certain counties within our State have recognized the sacrifices that its law enforcement officers have been making and have increased their compensation through the award of hazardous duty pay during this outbreak. They cite to seven (7) states and numerous municipalities within those states have raised the pay of first responders in some way or another to compensate for the hazardous duties associated with their employment during this crisis. The PBA notes that Morris County passed County Resolution 2020-296 (RES-2020-296) that authorizes the Morris County Administrator to offer hazard pay to certain bargaining units made up of essential employees and first responders during the COVID-19 pandemic, including the County’s Correctional Police Officers. RES-2020-296 provides for three (3) months of hazard pay

commencing on March 9, 2020 and concluding on June 9, 2020. The Resolution recognized the County's awareness that these men and women have courageously placed their own health at risk by personally addressing and responding to the direct emergency and critical needs of the public.

It is against this backdrop that the PBA submits its hazardous duty pay proposal. The proposal, if awarded, would provide for the compensation of a Corrections Officer with twenty percent (20%) premium over the officer's regular hourly wage when he or she engaged, or engages, in the performance of a hazardous duty. The proposal was submitted on the basis that the men and women who make up the P.B.A. have been effectively working without a "safety net" to adjust to significant occupational challenges posed by the COVID-19 pandemic. The hazard pay proposal accounts for this reality and seek to secure appropriate compensation in light of the tireless work that the Officers have been performing. It is important to note that, the additional pay could be financed through the Federal CARES Act funding the County received in connection with the pandemic. For all of these reasons, the PBA believes this to be a reasonable proposal that must be granted in this matter.

The County notes the PBA's "Hazard Pay Final Offer provides for payment of a "20% premium over the employee's regular hourly rate ... retroactive to the date of March 9, 2020." The County argues the scope of the application of "Hazard Pay" in the PBA Final Offer proposal under paragraph C is vague and overbroad. The County argues that any determination relating to hazard pay is beyond the scope of the instant Interest Arbitration. They argue the statutory criteria set forth in N.J.S.A. 34:13A-16g does not provide for any consideration of hazard pay as an issue. The County argues that hazard pay is not mentioned or referenced in any part of the underlying collective negotiation agreements or MOAs, nor has any other law enforcement or other unit in the County been awarded hazard pay. Therefore, they argue the consideration of the Hazardous Duty Pay is contrary to both public policy and the best interests of the taxpayers. Moreover, they submit the PBA has offered no testimony that any other law enforcement unit under the jurisdiction of Burlington County has received hazard pay, nor has any other civilian unit. Further, they note CFO Havlick testified as to the cost of the union's proposed "Hazard Pay" from March 9, 2020, through the end of this year. as totaling the absurd amount of \$3,106,227.07. As such, the County submits the Arbitrator must refuse to award the union's "Hazard Pay" Final Offer.

While I recognize and thank the PBA for its service particularly during the on-going COVID pandemic, I also recognize that the job duties of a Correctional Police Officer are by their very nature-hazardous. As such, I find the PBA has not met its burden that the award of its Hazardous Duty Pay proposal should be awarded. The proposal is vague and overbroad. The interests and welfare of the public cuts both ways. The PBA members have certainly faced unique and difficult challenges with the COVID-19 pandemic, yet they acknowledge they are employed in dangerous positions and face difficult health and safety challenges before. The PBA noted its members routinely face occupational health concerns like tuberculosis, MRSA, and hepatitis. There was little evidence of external comparability, and no evidence of any County collective negotiations unit or employees receiving Hazardous Duty Pay to support awarding the proposal. As an aside, I note that similar "Hazard Pay" proposals were not awarded by other interest arbitrators. *See* Passaic County Sheriff's Office and PBA Local 197 (Corrections), IA-2021-005 (December 2020), affirmed P.E.R.C. No. 2021-54 (June 2021); Passaic County Sheriff's Office and PBA Local 197 (Superiors), IA-2021-002 (December 2020); Passaic County Sheriff's Office and PBA Local 286, IA-2021-004 (April 2021). The financial impact criteria suggest the Final Offer on Hazardous Duty Pay would be extremely costly, even though perhaps somewhat offset by limited Federal CARES Act funding. On balance, the PBA has not met the heavy burden to prove its new Hazardous Pay proposal should be awarded.

**NEW ARTICLE, Time Off from Work—Special Event or Weather Related Events**

In its Final Offer, the PBA seeks to add a new article pertaining to time off from work for “special events” or for a “weather related emergency.” More specifically, this new article would provide that when the Governor or County Commissioners call for the observation of a “special event” or declare a “weather-related emergency,” thereby resulting in unscheduled paid time off for other County employees, PBA members, who are required to work during the period of the authorized time off, shall be compensated for such hours worked as outlined in Article XII (Overtime) and Article XVII (Work Schedule).

The PBA argues Correctional Police Officers are not afforded the benefit of avoiding travel in weather-related emergencies. Given their status as essential employees and their unique status as County Correctional Police Officers, they do not get the option of remaining home when it is unsafe to commute to work. In such situations where the Governor or the County Commissioners decide to declare an emergency and other County employees are permitted to remain home “with pay,” such a declaration does not extend to the members of the PBA. They submit that other law enforcement officers employed by the County, such as the Sheriff’s Officers or the Detectives employed with the County Prosecutor, are permitted to stay home with pay if a weather-related emergency is declared. They note the same policy cannot practically be extended to Correctional Police Officers as the jail must be constantly staffed with a requisite number of officers. In light of this reality, this proposal therefore seeks to compensate such Correction Officers for the risk involved with reporting for duty under such circumstances as well as be compensated at a higher level for working when others receive their normal salaries while they remain at home. This proposal, if granted, would also provide a direct benefit to the County. Specifically, it provides an incentive to employees to take whatever steps necessary to safely make it into work in the face of a weather-related emergency. This provision would also serve as a morale booster for the members of the Union because it demonstrates appreciation for the risk they take in attempting to actually make it into work in the event of a natural disaster or a devastating weather event. Accordingly, this proposal must be awarded.

The County argues the PBA ignores they are and always have been “essential employees”. They maintain that an integral part of the corrections job description is reporting to work when other non-essential employees may be permitted to stay home. They submit the PBA ignores the potential economic costs associated with this request. As such, The County respectfully submits the Arbitrator must deny the PBA’s Final Offer, Time Off from Work-Special Event or Weather-Related Events.

The PBA has not met the heavy burden to warrant an award of its weather-related/special event article. The County Correctional Police Officers are “essential employees” and accept and perform their work knowing so. There was no evidence that “weather related/special events” impact the staffing at the Jail necessitating this proposal. There was also no evidence of the estimated cost of a “weather related/special events” proposal. The enhanced compensation and morale from such a proposal is in the interests and welfare of the public but the cost associated with it is not. There was no external comparability data to support the award of the proposal, and no internal data was relevant since no other County employee is required to work in these circumstances like Corrections Officers. The financial impact criteria and costs associated with this proposal weigh against its award, while the continuity and stability of employment is enhanced by such a benefit. In the end, the PBA has not met the heavy burden to proven that the new “weather related/special events” proposal should be awarded, and it is not.

## **DETAILED SUMMARY OF THE AWARD**

Based upon the application of 16g criteria and the record before me, I respectfully enter the terms of this Award.

**1. Article XXXVII, Term of Agreement.** This Agreement shall be effective as of January 1, 2021 and shall remain in full force and effect through December 31, 2024.

**2. Salaries. ARTICLE II, Salary**

Delete Sections A. through F. in their entirety and replace with the following:

A. The base annual salaries for employees covered under this Agreement shall be set forth in Appendix A below and shall be modified on each effective date and retroactive to each effective date as applicable:

1. Effective and retroactive to January 1, 2021, each step on the salary guide shall be increased by 2.0%.

2. Effective and retroactive to January 1, 2022, each step on the salary guide shall be increased by 2.25%.

3. Effective January 1, 2023, each step on the salary guide shall be increased by 2.25%.

4. Effective January 1, 2024, each step on the salary guide shall be increased by 2.25%.

### Appendix A

	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>
	<b>Salary</b>	<b>Salary</b>	<b>Salary</b>	<b>Salary</b>	<b>Salary</b>
		<b>2% ATB</b>	<b>2.25% ATB</b>	<b>2.25% ATB</b>	<b>2.25% ATB</b>
<b>1</b>	\$41,000	\$41,820	\$42,761	\$43,723	\$44,707
<b>2</b>	\$42,396	\$43,244	\$44,216	\$45,211	\$46,228
<b>3</b>	\$43,698	\$44,572	\$45,575	\$46,600	\$47,649
<b>4</b>	\$45,000	\$45,900	\$46,933	\$47,989	\$49,068
<b>5</b>	\$47,335	\$48,282	\$49,368	\$50,479	\$51,615
<b>6</b>	\$48,200	\$49,164	\$50,270	\$51,401	\$52,558
<b>7</b>	\$50,545	\$51,566	\$52,716	\$53,902	\$55,115
<b>8</b>	\$52,829	\$53,886	\$55,098	\$56,338	\$57,605
<b>9</b>	\$55,409	\$56,517	\$57,789	\$59,089	\$60,419

<b>10</b>	\$57,989	\$59,149	\$60,480	\$61,840	\$63,232
<b>11</b>	\$60,598	\$61,810	\$63,200	\$64,622	\$66,077
<b>12</b>	\$63,206	\$64,470	\$65,921	\$67,404	\$68,920
<b>13</b>	\$67,335	\$68,681	\$70,226	\$71,806	\$73,422
<b>14</b>	\$69,430	\$70,819	\$72,412	\$74,041	\$75,707
<b>15</b>	\$75,890	\$77,408	\$79,149	\$80,930	\$82,751

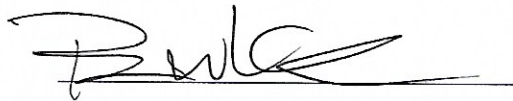
This contract contains an automatic annual step increment system for Correctional Police Officers which provides each Correctional Police Officer on the guide an advancement of one (1) step on the salary guide on January 1 of each year.

- 3. Holidays.** The Parties stipulated that Juneteenth shall be added to the list of celebrated holidays.
- 4. Article IV: Health Benefits:** The Parties stipulated to change age from 19 to 26 regarding children of dependents. Chapter 78 health care contribution increases shall not be deducted from retroactive salary increases for 2021 and 2022.
- 5. Article V, Sick Leave, paragraph (K):** The Parties stipulated to employees maintaining a cellular telephone number on file with the County for ease of contact and sick verification.
- 6. Article XXXIV, Jury Duty.** Amend Section A as follows:  

“A. If an employee is called to serve on a jury, the service time will not be deducted from any leave, and he will receive full pay, if his jury check is turned over to the Employer. Once an employee is notified of his call to serve he shall immediately notify the jail Administrator. Once an employee has been dismissed by Jury Management for the day, said employee shall not be required to return to work and may leave for the remainder of the day.”
- 7. Bereavement.** The Parties stipulated to a new article providing for Bereavement Leave as follows:  

“Employees shall be entitled to utilize paid bereavement leave of upto three (3) working days for the death of an immediate family member, which shall not exceed fifteen (15) total bereavement days in a calendar year. “Immediate family” shall be defined per the sick leave article of this Agreement. The definition of “immediate family” may be expanded by the County Administrator with approval of Human Resources. If bereavement leave is exhausted, an employee may utilize sick, holiday, compensatory time off, personal and vacation time in that order for bereavement.”
- 8.** All other proposals by the County and the PBA not awarded herein are denied and dismissed.

9. All provisions of the existing agreement shall be carried forward except for those which have been modified by the terms of this Award.
10. Pursuant to N.J.S.A. 34:13A-16(f), I certify that I have taken the statutory limitation imposed on the local tax levy cap into account in making the award. The Award also explains how the statutory criteria factored into my final determination.
11. The cost of the Salary Award herein using the County baseline of \$8,725,777.00 for 2020 results in a cost increase in 2021 of \$174,151.00, to \$8,900,292.00. The cost increases by \$200,257.00 to \$9,100,549.00 in 2022. In 2023, the cost increase is \$204,762.00 for a total of \$9,305,311.00. In 2024, the cost increases by \$209,370.00 for a total spend of \$9,514,681.00. The total cost of the Salary Award over the four (4) years is \$788,904.00 an 8.3% increase over four (4) years or 2.075% per year.



Brian W. Kronick, Esq.  
Interest Arbitrator

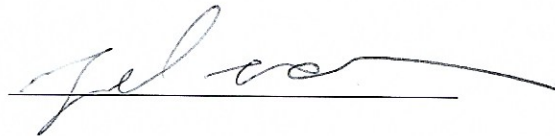
Dated: January 19, 2022

State of New York      }

ss:

County of New York    }

On this 19<sup>th</sup> day of January 2022, before me personally came and appeared Brian W. Kronick 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.



MIGUEL MADERA  
NOTARY PUBLIC-STATE OF NEW YORK  
No 01MA6381057  
Qualified in New York County  
My Commission Expires 09-24-2022