

I. **INTRODUCTION**

The Jackson County Sheriff's Employees' Association (Association) and Jackson County, Oregon (Employer or County) are parties to a Collective Bargaining Agreement (CBA) covering the period July 1, 2008 through June 30, 2011. The CBA expired on June 30, 2011. The parties entered into negotiations for a successor agreement. The parties engaged in negotiations that resolved many of the areas in dispute. However, seven contract articles were unresolved and the parties moved the dispute to interest arbitration under ORS 243.746.

The Association represents a bargaining unit of all employees in the Sheriff's Office, excluding supervisors, confidential, and extra-help or irregular part-time (on call) employees. The bargaining unit is composed of approximately 139.5 employees of the Jackson County Sheriff's Office. The bargaining unit members represented by the Association are employed both as both Peace Officers, in the Criminal Deputy, Corrections Deputy and Transportation Deputy classifications, and support personnel in the Records Clerk, Community Service Officer, Property Evidence Clerk, Criminal Data Technician, Court Security Officer, Search and Rescue Assistant, and Corrections Specialist classifications. The total Fiscal Year 2012-2013 budget for the Sheriff's Office is \$27,086,000 of which \$19,335,097 or 71.3% of the total budget is spent on personnel costs.

Jackson County is located in southern Oregon adjacent to the northern California border. The 2011 population of Jackson County is estimated to be 203,950. Jackson County is the sixth largest county in Oregon. The County seat is located in Medford, Oregon. A three member Board of Commissioners governs the County. The

County Administrator is appointed by the Commissioners to oversee the daily operations of Jackson County. The County Administrator is Danny Jordan.

When the parties are unable to reach agreement on the total contract, unresolved mandatory subjects are submitted to an interest arbitrator in the form of Last Best Offer packages. Under the statutory mandate, the obligation of this Interest Arbitrator is to select the Last Best Offer package of one of the competing proposals. This Arbitrator has carefully reviewed and evaluated all of the evidence and argument submitted by the parties pursuant to the statutory criteria. Since the record in this case is so comprehensive, it would be impractical for the Arbitrator in the Discussion and Award to restate and refer to every piece of evidence, testimony, and argument presented. However, in formulating the Award, the Interest Arbitrator did give careful consideration to all of the evidence and argument placed into the record by the parties.

I will make findings and discuss each of the issues separately. ORS 243.746(4) establishes seven factors for the Interest Arbitrator to consider in determining which of the Last Best Offers is to be implemented for the successor CBA. Pursuant to ORS 243.746(4)(a), the first priority under the statutory scheme is to consider "the interest and welfare of the public." Arbitral authority is well established that the determination of which of the Last Best Offers is in the "interest and welfare" of the public must be made on consideration of the six statutory factors set forth in ORS 243.746(4)(b)-(g). The legislature did not define the interest and welfare of the public so arbitral authority has developed meaning and content to the term. I will follow the approach that uses a consideration of the six statutory factors to decide which Last Best Offer is in the interest and welfare of the public. Therefore, I will discuss and make

findings on the seven contractual provisions that are still in dispute followed by an Award of the Last Best Offer package.

Because of a substantial delay in submitting the post-hearing briefs to the Arbitrator that conflicted with the Arbitrator's schedule, the parties waived the 30-day time limit an interest arbitrator has to publish an award.

II. STATUTORY FACTORS

ORS 243.746.(4)

(4) Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, unresolved mandatory subjects submitted to the arbitrator in the parties last best offer packages shall be decided by the arbitrator. Arbitrators shall base their findings and opinions on these criteria giving first priority to paragraph (a) of this subsection and secondary priority to paragraphs (b) to (h) of this subsection as follows:

(a) The interest and welfare of the public.

(b) The reasonable financial ability of the unit of government to meet the costs of the proposed contract giving due consideration and weight to the other services, provided by, and other priorities of, the unit of government as determined by the governing body. A reasonable operating reserve against future contingencies, which does not include funds in contemplation of settlement of the labor dispute, shall not be considered as available toward a settlement.

(c) The ability of the unit of government to attract and retain qualified personnel at the wage and benefit levels provided.

(d) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other paid excused time, pensions, insurance, benefits, and all other direct or indirect monetary benefits received.

(e) Comparison of the overall compensation of other employees performing similar services with the same or other employees in comparable communities. As used in this paragraph, comparable is limited to communities of the same or nearest population range within Oregon. Notwithstanding the provisions of this paragraph, the following additional definitions of comparable apply in the situations described as follows:

(A) For any city with a population of more than 325,000, comparable includes comparison to out-of-state cities of the same or similar size.

(B) For counties with a population of more than 400,000, comparable includes comparison to out-of-state counties of the same or similar size; **and**

(C) For the State of Oregon, comparable includes comparison to other states.

(f) The CPI-All Cities Index, commonly known as the cost of living.

(g) The stipulations of the parties.

(h) Such other factors, consistent with paragraphs (a) to (g) of this subsection as are traditionally taken into consideration in the determination of wages, hours, and other terms and conditions of employment. However, the arbitrator shall not use such other factors, if in the judgment of the arbitrator, the factors in paragraphs (a) to (g) of this subsection provide sufficient evidence for an award.

B. The Association

The Association's LBO read as follows:

All TA's to date.

Current contract language except:

Article 8 – Fringe Benefits Covered by Insurance Contracts

8.1(a)

Effective October 1, 2011 the County shall contribute \$1,441 per employee per full time employee.

Effective October 1, 2012 the County shall contribute \$1,585 per employee per full time employee.

Effective October 1, 2013 the County shall contribute \$1,744 per employee per full time employee.

Article 16 – Compensation

16.1 Effective July 1, 2011, July 1, 2012 and July 1, 2013 the salary range for all bargaining unit members will be increased by an amount equal to the percentage change in the annual (CPI-W) all cities index, with a minimum of 0% and a maximum of 4%.

Article 18 – Term of Agreement

18.1 Except as specifically indicated herein, this contract shall be in effect ~~upon final execution~~ from July 1, 2011 through June 30, 2014 2014.

Pursuant to ORS 243.746(4), an interest arbitrator is obligated to select one of the parties' LBO packages. The Interest Arbitrator's findings shall be based on the criteria set forth in ORS 243.746. Under the statute, this Arbitrator has no authority to modify or adjust the LBO packages presented by of the parties. This is true no matter how outrageous, excessive, unworkable, or unfair one or more of the proposals a party might include in its LBO package.

IV. COMPARABILITY

The parties disagreed on the comparables to be utilized in measuring the wages and benefits to be awarded. The Employer offered the following counties as comparables:

<u>County</u>	<u>Population</u>
Deschutes County	158,875
Linn County	117,340
Douglas County	107,795

Jackson County	203,950

The Association countered with a list of comparable jurisdictions that would add Marion County.

I find the County's list of comparables to be the most appropriate comparators for three primary reasons. First, the three counties proposed by the Employer are the three that have been historically and traditionally used by the parties as a guide to establish wages and benefits for members of this bargaining unit. The interest arbitrators who resolved disputes between the parties in 2000 and 2006 used the three counties presented by the Employer as the preferred comparators.

Second, the population of Marion County is 318,150 compared to the Jackson County population of 203,950. The Marion County population is 56% higher than the Jackson County population. Further, Marion County is located in the northern part of the state where it competes for employees in Lane County, Clackamas County, Washington County and Multnomah County, due to the proximity of those counties with Marion County.

Third, I reject the Association's argument that Marion County is an appropriate comparator because Jackson County is the largest of the three counties previously used to make wage and benefit comparisons.

Therefore, I adopt the County's proposed public entities of Deschutes County, Linn County, and Douglas County as the appropriate comparators to serve as a guide in establishing the wages and benefits of the members of this bargaining unit.

V. DISCUSSION AND ANALYSIS

ISSUE 1. ARTICLE 5 -- CONTINUOUS SERVICE

The County proposed to change the contract language of Section 5.3 -- Continuous Service, to specifically add holiday and compensatory time to the types of authorized leave an employee can be on that does not impact the calculation of continuous service of an employee. The Association would continue the current contract language. The County proposal does nothing more than incorporates current practice into the Collective Bargaining Agreement. This proposal cannot be considered a critical proposal to the outcome of the arbitration.

ISSUE 2. ARTICLE 6 -- SICK LEAVE

The County proposes to change the contract language of Section 6.3 -- Absences Covered by Workers' Compensation, to increase the number of hours of sick leave paid to an employee who is receiving time loss compensation payment as the result of an injury or illness covered by Workers' Compensation. According to the County, this proposal will increase the amount of sick leave compensation paid to employees who are also receiving time loss compensation to 1.5 hours for employees

assigned to less than 10 hours per day, 1.75 hours for employees assigned to 10 hours or more per day, and .75 hours for employees assigned as regular part-time.

The Association asks the Interest Arbitrator to reject this cost shifting proposal. Employees receive Workers' Compensation benefits when injured protecting the community they serve. The Association avers that the County's proposal on this issue is not supported by comparability. Deschutes County provides full salary to its injured employees with no charge-back to their sick leave. Douglas County provides full salary to its injured employees with no charge-back to their sick leave. Linn County provides full salary to its injured employees with no charge-back to their sick leave. Jackson County already charges its employees sick leave when injured. The Association submits there is no justification to charge any additional time back to the members.

The Employer's goal to pass along the cost of the benefit to the injured employee is not in the interest and welfare of the public. I agree with the Association that there is little or no justification for shifting additional costs to members of this bargaining unit who are injured on the job and receiving Workers' Compensation. The County's proposal is not supported by comparability. I hold the County's proposal is not in the interest and welfare of the public.

ISSUE 3. ARTICLE 8 -- FRINGE BENEFITS

A. Background

The County currently pays \$1,470.85 per month per employee toward the health and dental insurance premiums for bargaining unit members. Pursuant to Article

8.1(b), when the premium costs exceed the amount of the dollar cap, the parties split the excess cost 50/50 between the County and the employee.

B. The County

The County proposed to pay the maximum premium cost effective October 1 or effective the first pay period following ratification of the contract by both parties. The County's proposal provided the following amounts:

October 1, 2011 - \$1,395.03
October 1, 2012 - \$1,400.00
October 1, 2013 - \$1,400.00

The County would also delete the 50/50 split when the premium costs exceed the designated contract amount. Under the County's proposal, the entire cost of premium in excess of the contract amount would be payable by the employee.

The County first argued that the Association's proposal, as written, would require the County to make one annual payment on October 1, 2011, 2012 and 2013, of \$1,441.00, \$1,585.00 and \$1,744.00 respectively, per employee toward the fringe benefit covered by the insurance contract. According to the County, the Association's proposal, as submitted, differed significantly from the Association's arguments and witness testimony at the arbitration hearing. At the arbitration hearing, the Association maintained that the proposed language was meant to provide monthly payments to employees rather than one annual payment. The County avers that the Arbitrator must award the Last Best Offer as submitted and that he has no power to change the LBO of the parties in a manner that corrects even a scrivener's error.

The County calculated that if the Association's proposals were adopted, each bargaining unit member would be forced to repay the County the sum of \$7,649.68

for unearned benefits just for the period October 1, 2011 through September 30, 2012. Each employee would also have to repay a similar amount for the unearned benefits for the period of October 1, 2012 through the execution of the new agreement, as the County has been paying \$1,470.85 per month for this period. This repayment would require retroactive application of the agreement between the parties that would result in a reduction of pay for the employees to below market rate and would certainly negatively impact recruitment and retention efforts of the County.

Even for the sake of argument, that the implementation of the Association's LBO requiring a monthly contribution by the County would survive legal challenge, an analysis of the statutory factors clearly establishes that such an implementation is not in the interest and welfare of the public. The County asserts that it does not have the reasonable financial ability to pay the ongoing costs associated with the implementation of the Association's proposal. The total new cost to the County for health and dental insurance would be \$704,869 over the term of the three-year agreement. Co. Ex. 6. The County does not have the reasonable financial ability to pay the ongoing cost associated with the implementation of the Association's insurance proposal and the wage proposal. The implementation of the LBO of the Association would have a negative impact on the interest and welfare of the public as significant numbers of public safety officers and support staff would be laid off. Therefore, the County submits that its proposal is in the interest and welfare of the public.

C. The Association

The Association proposed to increase the premium payment by 10% per year as follows:

October 1, 2011 - \$1,441
October 1, 2012 - \$1,585
October 1, 2013 - \$1,744

The Association views its proposal as an offer to maintain historic benefits and to provide benefits necessary to support and motivate a professional Sheriff's Office. The testimony of Loren Anderson, Insurance Representative, established that the 10% increase would maintain the current premium cost sharing. The Association would continue the current contract language that provides for a 50/50 split for any premiums above the cap.

The Association next argues that the County's estimate of the cost of the Association's offer on health and dental insurance was over-stated. When analyzing County Exhibit 6, the County has made a couple of mathematical errors that has over inflated the cost. The cost of insurance in the first year of the contract should only be 9 months instead of 12 months since the increase goes into effect on October 1, 2011, not July 1, 2011. The cost of insurance in the first year of the contract should be \$122,423.40 or a difference of \$40,807.80. This amount was carried over by the County for all three years of its costing, so there should be a reduction of \$122,423.40 based on the single error alone. In the second year of costing, there would be three months at the prior rate and nine months at the new rate, or a total cost of \$239,010.75, or a difference of \$25,259.85. This error was carried into the third year of cost as well for a two-year error of \$50,519.70. Finally, in the third year of the contract, there would

be three months of the old rate and nine months of the new rate, or a cost difference of \$44,100.22. Thus, the Arbitrator should calculate the total cost of insurance under the Association's offer for three years at \$594,702.23.

Adoption of the LBO proposal of the County would result in a dramatic cost shifting of insurance premium increases to Association members. When combined with the Association's two-year wage freeze proposal, members of this bargaining unit will lose its relative position in the comparable job market. The award of the County's proposal would result in a significantly watered down insurance package that would have employees paying at least \$350 per month to maintain acceptable health coverage in the third year of the contract.

The County has flat lined its insurance premium contributions at \$1,400 per employee per month and eliminated the contract language that provides for a 50/50 split for any premiums above the cap. The Arbitrator should reject this proposal as an additional attempt to undermine the insurance benefit provision.

The County has not provided any justification for shifting the cost of insurance to the employees. The County made no claim of inability to pay during the negotiations that preceded the arbitration hearing. The essence of the County's inability to pay argument can be boiled down to an unwillingness of the County to pay enhanced wages and benefits and not a true inability to pay. The County's proposal on health and dental insurance is not backed by comparability. None of the comparables has a hard cap on employer contributions for a three-year period of time. The County has provided no justification for the take away of the 50/50 split other than total and complete cost shifting to the Association members. Adoption of the County's proposal will provide the

lowest insurance benefit, and provide for the continuous degradation in Jackson County's rankings with its three comparables. The Association submits the complete cost shifting is not in the interest and welfare of the public.

The Association argued that the County's LBO on health insurance also makes its application retroactive to October 1, 2011. Despite the County's representation during its opening statement that it would not seek repayment from employees, the Association maintains the plain language of the proposal would require employees to pay the County back \$49.27 per month for the first year of the agreement and \$50.27 per month for October 1, 2012 until implementation of the Arbitrator's Award. The Arbitrator should reject the County's proposal that would allow management to seek repayment from employees beginning on October 1, 2011 as not being in the interest and welfare of the public.

The Association concludes by stating that its proposed health and dental insurance proposal strives to maintain historic benefits. The County's presentation was not an inability to pay, but an unwillingness to pay. The Association's insurance proposal is consistent with the CPI and projected increases in the costs of maintaining the insurance benefit. The County offered no evidence to support its drastic cuts in the health and dental insurance contribution. Therefore, the Association submits its proposal is consistent with the interest and welfare of the public.

D. DISCUSSION

The starting point for review of the insurance issue is to address the Association's claim that under the County's proposal management could seek reimbursement for alleged overpayment of the insurance benefit retroactive to October

1, 2011. I agree with the Association's interpretation that adoption of the County's proposal on insurance could allow management to seek reimbursement from employees for the alleged overpayment of insurance premiums retroactive to October 1, 2011.

At the arbitration hearing the County representative assured the Arbitrator and Association that if the County's insurance proposal were adopted, the County had no intent to seek reimbursement from bargaining unit members for alleged overpayment of premiums back to October 1, 2011. In formulating my Award, I accepted the County's representation that if the management proposal were adopted, there would be no attempt by the County to seek reimbursement retroactive to October 1, 2011. Without such assurance from the County, I would have considered the proposal that could potentially allow the County to recover thousands of dollars from each employee retroactive to October 1, 2011, a poison pill to justify rejection of the County's LBO. I hold the combination of the County's offer to shift a major portion of the cost of insurance to employees and a two-year wage freeze on top of the ability to recover alleged overpayment of premiums back to October 1, 2011 to not be in the interest and welfare of the public.

Further, there is no evidence before the Arbitrator that the Association's proposal on insurance, as written, misled or confused the County. The County costed the Association's proposal as one that would require a monthly insurance contribution and then argued the cost of the Association's proposal was excessive. The County cannot have it both ways. In other words, the County is playing a game of "gotcha" that does not comport with the goal of the statute to create stable and mature labor relations.

I conclude the Association's proposal does not contain a fatal error that would require the Arbitrator to reject the LBO package proposed by the Association.

The County proposed to freeze the insurance contribution at \$1400 per month and eliminate the 50/50 sharing of the cost of insurance over the cap. I conclude the County's proposed hard cap on all future health insurance premiums when coupled with the two-year salary freeze is not in the interest and welfare of the public. The County has failed to show a compelling need for the significant cost shifting of the insurance premiums from the County to the members of this bargaining unit. The impact of the County's proposal will drive down the total compensation package for members to the bottom of the comparator list. In dollar terms, the Association predicted by the third year of the contract employees will likely be paying \$349 per month for insurance coverage.

The County's proposal is not supported by the three entities that serve as comparators. None of the three comparables has a hard cap on employer contributions for a three-year period of time, nor do those entities place the entire cost of insurance increases over the cap solely on the employees. Implementation of the County's proposal will drive the members of this bargaining unit's insurance benefit to the bottom of the comparables.

I will discuss the ability to pay factor in conjunction with the wage issue. The interest and welfare of the public is to maintain an insurance benefit closer to the status quo and favors the Association's insurance proposal. The \$594,702 cost to fund the Association's insurance proposal over the three-year term of the successor contract is a legitimate concern for the County that must be balanced against the reasonable

ability of the County to pay. If the Association insurance proposal stood alone, it would be awarded.

ISSUE 4. ARTICLE 14 -- SETTLEMENT OF DISPUTES

The County proposed to amend Article 14.1 -- Grievance, to specify that the appropriate Captain shall hear an appeal and decides the matter at Step 3. The Employer also proposed to amend Step 4 so that the Sheriff "or his designee upon the Sheriff's absence," could respond to the grievance at Step 4. The Association would retain current contract language in the successor agreement. I find the Employer's proposals would add clarity to the grievance procedure as to the person obligated to respond to Association grievances. Given the close timelines set forth in the grievance procedure, I hold it is appropriate that the Sheriff be able to designate another person to respond to grievances in his absence. This proposal has no significant impact on the determination of which final offer is in the interest and welfare of the public.

ISSUE 5. ARTICLE 17 -- UNIFORMS

The County proposed to modify Article 15.11 -- Uniforms, by adding the Community Service Officer (CSO) classification in the uniform and footwear provisions of the Uniform article. The current practice of the parties is that the CSOs are provided with uniforms and footwear. The Association would continue the status quo. I accept the Employer's proposal to add the CSOs to the contract to make it clear the Employer is obligated to furnish uniforms, footwear, and cleaning. By adding this language to the contract, CSOs will have a guaranteed contract right to the benefit. This proposal has

no significant impact on the determination of which final offer is in the best interest and welfare of the public.

ISSUE 6. ARTICLE 16 -- COMPENSATION

A. Background

The prior agreement expired June 30, 2011. The wages of the members of this bargaining unit have remained frozen for approximately 20 months while the negotiation process continues on for a successor agreement. Association members are currently paid at the top of the three comparators. The Association calculated for the three comparators plus Marion County that members of this bargaining unit were paid on average 6.1% above the market average. Depending on the position and placement on the salary schedule, Association members were paid in the range from 8.5% to 12.5% above the market average of the comparators. The County proposed a wage freeze for the period July 1, 2011 through June 30, 2013. Effective July 2013, the County proposes the salary schedule be increased by an amount equal to the percentage change in the CPI-W All Cities Index, with a minimum of a 0% change and a maximum of 2%. The County would continue the existing pay schedule and delete Section 16.10 -- Detective Pay, the reference to JACNET as the assignment no longer exists. The same would be true with Field Training Officer, and for Cooks since the Sheriff no longer employs Cooks. These two proposals are not relevant to the determination of what LBO should be accepted with regard to compensation.

The Association offered a compensation schedule that provided, effective July 1, 2011, July 1, 2012, and July 1, 2013, the salary ranges for all bargaining unit members will be increased by an amount equal to the percentage change in the annual CPI-W All Cities Index with a minimum of 0% and a maximum of 4%. Since the CPI for 2011 and 2012 are known, the wage adjustment would be 2.1% in 2011 and 3.6% in 2012.

B. Association

The Association characterized its proposal as maintenance of the status quo whereby members would be paid at a level to continue the wage position relative to the comparables in terms of market, comparability, and cost of living. According to the Association, it is not in the interest and welfare of the public to freeze Association wages, declaring an inability to pay, while providing all other County employees wage increases comparable to those known increases contained in the Association's proposal. The County has shown no legitimate need to freeze the wages and benefits of Association members. The economic condition of Jackson County is strong. The County has shown a fiscal willingness to absorb the cost of management wage and benefit increases, and increases for all other County employees. Since the County has the ability to pay for wage increases for all other County employees, the County's argument regarding inability to pay should be rejected.

The County provided wage increases to its managers totaling 5.2% over the same time frame -- July 1, 2011, 2.38%; July 1, 2012, 2.82%. The County also provided wage adjustments to other unions of 3.2% on July 1, 2012. The Association argues its offer comports to the statutory criteria since the wage proposal maintains

historic benefits and provides the benefits necessary to support and motivate a professional Sheriff's Office. On the other hand, the County has drafted a proposal that consists completely of economic takeaways and cost shifting without a realistic basis for doing so. The County has made a dubious argument concerning its ability to pay, while maintaining financial reserves of over \$80 million. The County's proposal of a two-year wage freeze and hard cap premium payment on all future health insurance premium increases is not in the interest or the welfare of the public. The Association submits the County has not provided justification for effectively reducing wages of Association members by freezing wages and shifting the cost of insurance to the bargaining unit members.

Regarding inability to pay, the County first raised this argument during the arbitration hearing. The County calculated the three-year cost of the Association's proposal at approximately \$3 million. The gloom and doom predicted by the County would not occur if the County utilized \$3 million of its \$83 million in reserves to meet its contractual obligations to the Association. The County's position on inability to pay is undercut by the fact that the County willingly provided wage increases and benefits totaling over \$1 million to Sheriff's Office management while claiming financial ruin if it extended similar benefit enhancements to Association members.

In looking at the County's budget documents, the County has set aside, in this budget alone, an additional \$19 million in its rainy day reserve. Co. Ex. 22, p. 9. The budget has performed well throughout the years providing the County with a stable financial basis.

The County incorrectly overstated the cost of the insurance proposal made by the Association. In addition, the County incorrectly used the cost of living at the maximum for the Association's last year of the contract or 4%. This provides a snapshot of a worst-case scenario, but more likely since the CPI is trending a little over 2%, the raise would be in that area. Regardless of the cost of the Association's offer, the Association concludes the County has the ability to fund the Association's proposal. The Association's offer would not create unreasonable financial obligations for the County.

It is not in the interest and welfare of the public to award a proposal that would harm the County's ability to recruit qualified law enforcement personnel. The County already admitted it was having a difficult time recruiting female Corrections Deputies. The County's own evidence shows that it is not attracting the numbers of candidates for vacant positions when it is receiving 50% less applications than in prior years. County witnesses testified management is currently holding 10 Deputy positions vacant.

Jackson County is the sixth largest county in Oregon. Arbitral authority is well established that Jackson County's size relative to its statutory comparables should be greater than the average of its comparators. The County has continued to experience growth in population, as well as its tax base. The County's economy has resulted in an accumulation of a large rainy day reserve.

The County's methodology in performing its analysis of compensation for the comparators at the entry level and then at 12 years of service does not follow the traditional career path of law enforcement employees who receive longevity at 5 years,

10 years, etc. The Association's methodology for analyzing wage comparability has been mutually accepted by arbitrators for 20 years. Assoc. Ex. 26. The County also failed to factor in the increased out of pocket employee expenses for insurance that would result from its insurance proposal to shift a substantial portion of the premium cost to the employees.

The County's methodology is flawed because its projections are based on the best case Association offer and no increases for comparable jurisdictions covering the same contract period. Even utilizing the County's methodology, if the Arbitrator would award the County's offer, the County would move from its current position at the average of its comparators to a position 6% behind the average of the comparators. Co. Ex. 16, p. 3. The County's proposal would result in an employee compensation package that would rank last among the comparators, assuming its comparables received no wage or benefit increases. There is no justification to drive the wages of this group of employees from the top ranked wage position to the bottom of the compensation provided in the three comparators.

The Association's proposal is driven strictly by cost of living. Annual changes in the CPI support adjustments of 2.1% in 2011 and 3.6% in 2012. The cost of living factor does not support the County's proposal for a wage freeze. Providing compensation that keeps pace with inflation is in the interest and welfare of the public.

In sum, the Association's LBO provides for maintenance of the Collective Bargaining Agreement through cost of living wage increases and insurance premiums reflecting current costs for health and dental. The Association's offer is in the interest and welfare of the public.

C. The County

The County maintains that its LBO is in the interest and welfare of the public. The County takes the position that the interest and welfare of the public is served by examining which of the two final offers better serves the public by review of each of the final offers in light of the statutory factors set forth in ORS 243.746(4).

The cost of implementing the County's LBO is an additional \$495,402.06 over the term of the proposed three-year agreement as compared to the cost of the final year of the expired contract between the parties. The County presented evidence that the cost of implementing the Association's LBO would require an additional \$3,228,700 over the proposed three-year term. The County made the reasonable assumption that the Association would receive the maximum cost of living adjustment because the County would be required to pay up to 4% as proposed by the Association. The Association presented no evidence on the cost of implementing either the County's LBO or its own LBO and did not dispute the cost as calculated by the County.

The County argued in its post-hearing brief as follows:

For FY 12-13, the County General Fund received a total of \$38,774,053 in ongoing revenue. (Exhibit JC-22, page 8). Thus, with a total General Fund budget of \$44,936,831, the County expended \$6,162,778 more in funding ongoing operations for FY 12-13 than it received in revenue to pay for the cost of funding those operations. The difference in the total amount expended from the General Fund and the amount of ongoing revenue received by the General Fund came from the prior fiscal year's unappropriated ending fund balance ("Rainy Day Fund"). (Exhibit JC-22, page 8, Testimony of Danny Jordan). This Rainy Day Fund is the only reserve the County has for when General Fund expenditures in a given year exceed the revenue the General Fund receives in that year. (Testimony of Danny Jordan). Due to this difference in the amount spent and the amount received, at the end of FY 12-13 the

Rainy Day Fund is budgeted to be \$19,758.167. (Exhibit JC-22, page 9). Thus, if the County continues, at the current rate, to expend more from the General Fund than it receives in ongoing revenue to the General Fund, the Rainy Day Fund will be exhausted by FY 15-16. (Testimony of Danny Jordan). Furthermore, once the Rainy Day Fund is exhausted, the County will be required to make approximately \$6,200,000 in spending cuts, as the reserve in the Rainy Day Fund will no longer exist to supplement the revenue the County receives. (Testimony of Danny Jordan).
Brief, p.20; emphasis added.

Jordan testified that if the County continues at its current rate to expend more from the General Fund than it receives in ongoing revenue to the General Fund, the Rainy Day Fund would be exhausted by FY 2015-2016. The cost of operating the County is increasing by approximately 7% per year. This increase is due to a multitude of factors including inflation, mandatory payments required of the County such as increased contribution to PERS, and additional costs to fund wage adjustments for current employees under the other collective bargaining agreements and wage policies. At the same time, the County is also experiencing a decline in the amount of ongoing revenue it receives every year into the General Fund. When the real market value of property drops below assessed value, a decline in the real estate market leads to a decline in property tax revenue to the General Fund.

The increase in costs and year-to-year decline in operating revenue is not a new phenomenon. The County has laid off significant numbers of employees from departments whose operations are paid for by the County General Fund. The County has laid off approximately 106 employees who used to work for the County libraries, 25% of employees who used to work in the Assessor's Office, approximately 60% of the employees who used to work in the County Development Service Department, and

approximately 50% of the employees who used to work in the Clerk's Office. (Testimony of Danny Jordan). Although the cost of operating the Sheriff's Office constitutes the majority of expenditures from the County General Fund, not one employee has been laid off from the Sheriff's Office.

The County currently does not have the ability to absorb any additional costs of implementing either party's LBO without some impact on the Sheriff's Office. The County is faced with two options. First, the County could reduce the level of service in the Sheriff's Office to offset additional costs, or make dramatically larger reductions in the level of service in the future when the Rainy Day Fund is exhausted. If the LBO of Jackson County were implemented, the level of service provided by the Sheriff's Office would not change dramatically. The additional cost of funding the County's LBO is \$495,402.06. The County is already making changes to reduce its expenses such as eliminating the position of Undersheriff and, as of January 31, 2013, eliminating a Lieutenant's position.

In sharp contrast, the LBO of the Association would require dramatic reductions in the level of personnel and level of service provided by the Sheriff's Office to the public. According to the County, the additional cost of implementing the LBO of the Association will require the layoff of between 21 and 30 employees represented by the Association, and an additional 5 employees in the Sheriff's Office not represented by the Association. These layoffs will reduce the morale of the remaining employees and negatively impact the interest and welfare of the public the Sheriff's Office serves. The estimated cost of adopting the LBO of the Association is \$3,228,700, an amount

that would accelerate the date when the County will be required to make the cuts necessitated by exhaustion of the reserve in the Rainy Day Fund.

The County's offer on insurance will shift a large share of the cost of the premiums to members of this bargaining unit that will cause the current level of spending to decline and reduce the need for layoff of employees and service levels currently provided by the Sheriff's Office. Therefore, the County's benefit proposal, when considering the reasonable ability of the County to pay in light of other spending priorities of the County and the reasonable reserve is the proposal which is in the interest and welfare of the public.

The Association's own evidence shows that employees in this bargaining unit are compensated 6.1% above the market average of the compensation paid to the employees of the comparable public entities. Assoc. Ex. 26. Implementation of the LBO of the County would undeniably have an impact of reducing the 6.1% premium over market compensation that employees currently receive. All of the employees would be paid within 1% of market compensation except for Record Clerks--who would be paid within 4.5% of market wages. Co. Ex. 16, p. 4. The County concedes that its LBO does reduce the "premium" the employees represented by the Association are paid over market value. The effect of the County's LBO would be that the majority of employees would still be paid at or above market compensation. Adoption of the Association's LBO would have the effect of compensating Deputies at nearly 15% above market compensation and Corrections Deputies over 13% above market compensation. There is no justification for such a dramatic difference between

employees' compensation as proposed by the Association and the market rate for that compensation.

Based on comparability, the County's wage and benefit proposal is in the interest and welfare of the public. The County is not experiencing any difficulties in recruiting the positions represented by the Association at the current level of wages and benefits.

While the County does propose to freeze the wage schedule for the first two years of the contract, the County offered to increase the salary schedule for 2013-2014 by 0%-2% based on the CPI-W. The Arbitrator should "neutrally" consider the effect of the CPI in evaluating which of the parties' Last Best Offers is in the interest and welfare of the public.

The Arbitrator should not consider any factors listed under the criteria of "Other Factors" because there is sufficient evidence on the factors set forth in ORS 243.746(4)(a)-(g) on which to make an Award. Internal equity is not one of the statutory factors for consideration in determining which LBO of the parties should be implemented. It should only be considered when the evidence on the statutory factors is insufficient to base an Award. Even if the Arbitrator does look at internal equity, the wages of the employees represented by the Association have grown at a significantly higher rate than other employees of the County, not represented by the Association. As such, the fact that employees not represented by the Association have seen smaller cost of living adjustments in years during which employees represented by the Association received larger wage increases, does not weigh in favor of making an Award of the Association's LBO.

The County requests that the Arbitrator reject the LBO of the Association as not in the interest and welfare of the public. The Arbitrator should conclude that implementation of the LBO of the County is in the interest and welfare of the public.

D. DISCUSSION

Both parties' proposals on the compensation issue are contrary to the interest and welfare of the public. In totality, each of the LBOs over-reaches and seeks to obtain excessive and unreasonable changes to the status quo. There is no doubt the Association and County are dedicated to providing a high quality of police services to the citizens of Jackson County. Because neither party's total LBO package is in the interest and welfare of the public, your Arbitrator must resort to the secondary statutory factors in deciding this case.

The wage issue is the driving force behind this interest arbitration with the insurance issue coming in a close second.

1. Interest and Welfare of the Public

ORS 243.746(4) obligates this Interest Arbitrator give "first priority" to the interest and welfare of the public in determining which parties' LBO should be awarded. The statute does not define interest and welfare of the public. The application of the statutory factors depends on the evidence presented to the Arbitrator no matter how incomplete or inaccurate the data might be. Under the statute, this Arbitrator has no authority to modify or amend the LBOs submitted by the parties. The dilemma faced by your Arbitrator in the instant case is that he is compelled to award language that is not in the interest and welfare of the public, as measured by the statutory criteria. For example, the County's insurance proposal will cause a massive shift in the cost of

insurance premiums from the County to bargaining unit members. This significant reduction in the status quo for insurance benefits will have a negative impact on employee morale. However, the Arbitrator must balance the County's proposal against the Association's insurance proposal that would cost the County \$594,702 of additional money to fund the insurance premium over three years of the Collective Bargaining Agreement. It is not in the interest and welfare of the public to add an additional \$594,702 cost to the County for payment of health insurance benefits on top of the Association's wage proposal. When examined in the context of the statutory factors, I find the interest and welfare of the public is better served by awarding the County's LBO package.

2. Reasonable Ability to Pay

ORS 243.746(4)(b) reads:

The reasonable financial ability of the unit of government to meet the costs of the proposed contract giving due consideration and weight to the other services, provided by, and other priorities of, the unit of government as determined by the governing body. A reasonable operating reserve against future contingencies, which does not include funds in contemplation of settlement of the labor dispute, shall not be considered as available toward a settlement.

Emphases added.

The County offered an inability to pay argument for the first time at the arbitration hearing. The Association witnesses testified the County made no claim of inability to pay during the negotiation process. While presenting this argument for the first time at the arbitration hearing diminishes the County's position, I hold the evidence on this criteria supports the County's LBO.

The County's costing is at \$495,402.06 to implement for the three years of the successor contract. The County costed the Association proposal to implement their LBO at an additional \$3,228,700 over the term of the proposed three-year agreement. Except for the County's costing of the health and dental insurance proposal, the Association did not challenge the County figures. The Association presented no evidence on the cost to implement either the County's LBO or its own LBO. The County calculated the cost difference between the two proposals at \$2,733,298.75.

The testimony of Danny Jordan was largely unrebutted about the state of the County's finances. Jordan is claiming the County is faced with a situation where costs are increasing and revenues are declining. Jordan made a persuasive case that the County would be required to make significant reductions in the level of law enforcement services and the necessity to lay off members of this bargaining unit in order to fund the Association's proposal. According to Jordan, at the current rate of spending, the Rainy Day Fund would be exhausted by Fiscal Year 2015-2016.

Moreover, the evidence presented by the County shows that it has laid off significant numbers of employees from departments whose operations are paid for by the County's General Fund. The County laid off approximately 106 employees who formerly worked for County libraries, approximately 25% of the employees who formerly worked in the Assessor's Office, approximately 60% of the employees who previously worked in the County's Development Services Department, and approximately 50% of employees who worked in the County Clerk's Office. During that same period, not one employee has been laid off in the Sheriff's Office. Currently, there are 10 vacant bargaining unit positions in the Sheriff's Office that have not been filled. The County

has also reduced the number of management positions in the Sheriff's Office by eliminating the position of Undersheriff and eliminated a Lieutenant position as of January 31, 2013.

The reduction in management staff will be offset by the additional cost represented by implementation of the County's LBO. The Association's proposal for 2011 would yield a 2.1% increase and an additional 3.6% increase effective July 1, 2012 or a total of 5.7% over the first two years of the contract. The Association's proposal for July 1, 2013 has the potential for yielding another 4% depending on increases in the cost of living as measured by the CPI-W. I hold that a potential increase of 9.7% over the three years of the contract is unreasonable in light of the current financial condition of the County.

The Sheriff's Office is the only department in the County that has not suffered layoffs. Adoption of the Association's LBO, with an estimated additional cost of \$3,228,700, can reasonably be expected to have a negative impact on the operation of the Sheriff's Office. The County offered convincing evidence that adoption of the Association's LBO would require dramatic reductions in the level of personnel and the level of service provided by the Sheriff's Office to the public. According to the County, adoption of the Association's proposal would require the layoff of between 21 and 30 employees from this bargaining unit, and an additional 5 employees in the Sheriff's Office not represented by JCSEA. Implementation of significant layoffs can be expected to negatively impact the morale of the remaining employees and jeopardize the very welfare of the public served by the Sheriff's Office. While it is true the County could fund the LBO of the Association, it would require the County to jeopardize

priorities of other units of government, as determined by the County Commissioners. I hold the County's argument that it must maintain the Rainy Day Fund to provide protection against declining revenues is reasonable.

Based on all of these considerations, I hold the County's proposals on wages and insurance are the most reasonable in light of the stated criteria of "reasonable financial ability of" the County to meet the cost of the proposed contract.

3. Comparability

The evidence is uncontradicted that members of this bargaining unit are paid at the top of the rankings when compared to Deschutes, Linn, and Douglas Counties. The Association exhibit showed that members of this bargaining unit are compensated at 6.1% above the average of the Association's comparators including, Marion County. Assoc. Ex. 26; Co. Ex. 16. The 6.1% is reasonable in light of the fact that Jackson County is the largest in population of the three comparators. There is nothing inherently wrong about being the wage leader among the comparators.

Adoption of the County's proposal will drive the wage ranking of members of this bargaining unit to the bottom of the comparators. Pursuant to the Association's wage proposal, the wage gap between the market average and members of this unit would reach approximately 15% depending upon the job and classification. The County's ranking of the comparators is somewhat exaggerated by the fact that the County assumed none of the comparators would receive wage increases over the corresponding period of their contracts. The County also calculated the cost of the contract based on the assumption the Association's proposal would yield the maximum 4% for the third year based on the CPI-W. The CPI-W for 2013 will probably not reach

4% but be somewhere between the 2% minimum and 4% maximum CPI-W wage increase under the Association's proposal. However, the County cannot be faulted for using the 4% wage adjustment for 2013 because the 4% figure is the maximum that it would be required to pay under the Association's LBO.

The County's proposal of a two-year freeze and a cost of living increase of a minimum of 0% to a maximum of 2% of the CPI-W for 2013 would drive the pay ranking of this group of employees from the top paid among the comparators to the bottom of the comparators. I hold the County's proposal is not justified by the comparability factor. However, the balance between the two LBOs favors the County proposal because members of this bargaining unit will still be compensated within the range of reasonableness of the comparator jurisdictions even though the bargaining unit members will be the lowest paid among the four counties.

4. Recruitment and Retention

The evidence offered by the County demonstrated the Sheriff's Office had no problem recruiting and retaining employees under the prior wage and benefit package.

5. The CPI-W All Cities Index

Both parties submitted proposals utilizing the CPI-W All Cities Index to set the level of wages under their respective offers. The increases in the CPI-W for adjustments in FY 2011 and FY 2012 are known. For FY 2011, the CPI increased 2.1% and for FY 2012, the CPI increased 3.6% or a total of 5.7%. Co. Ex. 18. The LBO of the Association would provide a wage adjustment over the first two years of the contract equal to the cost of living as measured by the CPI-W All Cities Index of 5.7%. The

County's LBO would freeze the wage levels for the first two years of the contract and provide for a potential increase in 2013-2014 from 0% to 2% of the CPI-W.

There is nothing in the statute that requires employees to be awarded increases equal to the cost of living as measured by the CPI-W. The County argues that this group of employees has, over the years, received wage increases that have exceeded those provided to members of the SEIU bargaining unit and the County's management employees. Co. Ex. 29. The County's proposal falls short when measured against the recent increases in the CPI. The Association's proposal tied to increases in the CPI that have the potential of generating a 9.7% increase over the three-year term of the contract is not reasonable in light of the financial condition of the County and the wages negotiated for the comparators.

6. Other Factors

The County asserted the Arbitrator should not consider "Other Factors" because there is sufficient evidence on the factors set forth in ORS 243.746(4)(a)-(g) to make an Award. I disagree. The Association offered evidence concerning internal equity. The evidence was uncontradicted the County provided wage adjustments of 5.2% to its managers over the same three year period of time. Employees represented by Federation of Probation and Parole Officers and the Service Employees International Union received a cost of living adjustment, effective July 2, 2012, of 3.2%. Assoc. Ex. 35. The Association argued it is not in the interest and welfare of the public to freeze the Association's wages, citing inability to pay, while providing other County employees wage increases comparable to those known increases contained in the Association's proposal.

Given this undisputed evidence on the wage adjustment provided to other County employees, I conclude that it is necessary to review the "Other Factors" standard in order to provide an Award that is consistent with the statute. Review of this factor is also required given the inability to pay argument of the County in response to the Association LBO.

There is little doubt that internal equity favors the Association under the "Other Factors" criteria. A counterbalance to the Association argument is the undisputed fact the Association members, have since the late 1980s, benefited from wage increases greater than those received by SEIU represented employees and management employees. Co. Ex. 29.

Based on the totality of all the factors, I conclude--given the historical larger wage increases to the members of this bargaining unit--the "Other Factors" criteria favors the County's LBO during this round of bargaining.

ISSUE 7. ARTICLE 18 -- TERM OF AGREEMENT

Both parties are proposing a three-year agreement. The Employer is proposing a three-year agreement effective from the date of final execution through June 30, 2014. Pursuant to the County's proposal, there would be no retroactivity.

The County also proposed to eliminate from Article 18.2 -- Negotiation, the sentence that reads: "During the period of negotiations, this Agreement will remain in full force and effect." In industry terms, the County seeks to delete the "Evergreen" clause from the CBA.

The Association proposed to continue Article 18 unchanged except for the term being described as July 1, 2011 through June 30, 2014. According to the

Association, the County should not benefit from the protracted negotiations by making the term of the successor contract effective on execution rather than retroactive to July 1, 2011. The Association also asks the Arbitrator to reject the County's proposal to delete the "Evergreen" clause from Article 18.2. In the view of the Association, if negotiations go beyond the expiration of the agreement, all future health insurance cost increases could be shifted to members of the bargaining unit while negotiations continue.

Comparability does not support the County's proposal. Linn County, Deschutes County, and Douglas County all have an "Evergreen" clause. In the judgment of this Arbitrator, the County's proposal is punitive in nature because it seeks to shift the cost of extended negotiations to the employees. When the two proposals of the Employer are combined, I find the Employer's proposals are unreasonably harsh and unfair. I hold it is not in the interest and welfare of the public to eliminate retroactivity from the contract and to delete the Evergreen clause from Article 18. Further, I find that it is in the interest and welfare of the public to maintain stable labor relations during the period of negotiations. I conclude the Association's offer best serves the interest and welfare of the public.

VI. CONCLUSIONS

As other interest arbitrators have observed in their awards, Oregon's total package Last Best Offer approach places interest arbitrators in a position of having to select a package that contains individual elements that are unacceptable under the statutory analysis. As previously noted, both parties to this dispute have offered language that I would not select if my Award were to be made on an issue-by-issue basis. If I were not, limited by the Oregon statute that requires the selection of the Last Best Offer package, neither package would be awarded in its entirety.

Pursuant to ORS 243.746(4) it is the obligation of the Interest Arbitrator to select either the County's proposal in its entirety, or the Association's proposal in its entirety. Applying the statutory factors to the evidence and argument of the parties, I find the County's Last Best Offer is the best fit under the applicable statutory factors.

AWARD

Having reviewed all of the evidence and argument, in light of the statutory factors, I find the County's Last Best Offer package must be selected under ORS 243.746(4). I award the County's Last Best Offer and order that it be adopted and included in the successor Collective Bargaining Agreement.

It is so ordered.

Respectfully submitted,

A handwritten signature in cursive script that reads "Gary L. Axon".

Gary L. Axon
Interest Arbitrator

Dated: March 8, 2013

Corrections deputies and corrections records clerks may exercise seniority vacation preferences as defined in Article 3, Section 7(c), provided no employee will be permitted to exercise this preference more than once each fiscal year. If an employee is forced by the County to cancel a scheduled vacation, that employee may exercise bumping rights provided that the employee provides at least thirty (30) days written notice to the senior employee's supervisor before he/she can exercise his/her right to bump. Corrections deputies and corrections records clerks may select personal leave time and remaining vacation time on a first-come, first-served basis. Such scheduled leave time will not be subject to bumping.

5.2(e) Vacation Credit if Prevented From Taking Vacation. If an employee is prevented, by the department's personnel requirements, from taking vacation during the normal vacation period, he shall not lose vacation credit.

5.2(f) Employee Responsibility to Monitor Impending Loss of Vacation Time. The employee shall be responsible for determining any impending loss of accrued vacation time. Management will provide on a monthly basis a statement of each employee's accrued vacation time.

5.2(g) Vacation Approval. Requests for vacation time off shall be either approved or denied within seven (7) days. The request shall be deemed granted and the employee shall be deemed authorized to take the requested time off if the request is not approved or denied within the seven (7) day period. All reasonable accommodation and effort shall be made to ensure scheduled vacations are canceled only because of actual emergencies. If a scheduled vacation is canceled by the department, the Sheriff shall reimburse employee for all of the employee's non-recoverable or non-refundable vacation expenses. Expenses will not be reimbursed if cancellation is caused by an employee being bumped by another employee.

5.2(h) Seniority bid vacations will not be cancelled based upon minimum staffing for a specific gender. The County will post overtime to permit seniority bid vacation.

5.3 Continuous Service.

Continuous service shall be service unbroken by separation from the County service, other than by military, Peace Corps, holiday, compensatory time, vacation, or sick leave. Time spent on other types of authorized leave shall not count as time of continuous service, except that employees returning from such leave or employees who were laid off shall be entitled to credit for service prior to the leave or layoff.

5.4 Termination or Death.

Upon termination for any reason, or death of an employee, payment for accumulated vacation credit shall be made to the employee or to his heirs at the employee's current rate of pay.

5.5 Vacation Accrual During Leaves Without Pay.

Vacation shall not accrue during leave of absence without pay.

ARTICLE 6 - SICK LEAVE

6.1 Accrual.

Sick leave shall be earned by each full-time employee at the rate of 3.7 hours each pay period of service. Sick leave may be accrued without limit. Sick leave shall not accrue during periods of leave without pay, and shall be prorated for part-time employment.

6.2 Utilization.

Sick leave is provided by the County in the nature of insurance against loss of income. An employee may utilize accrued sick leave when he is absent from work by reason of his illness, injury, necessity for medical or dental care, contagious disease under circumstances by which the health of the employees with whom associated or members of the public necessarily dealt with would be endangered by the attendance of the employee.

Employees may also utilize their sick leave time upon illness or injury of a member of the employee's immediate family which requires the attention of the employee consistent with County FMLA and OFLA policy and procedure and Sheriff SOP.

6.3 Absences Covered by Workers' Compensation.

Employees who are absent as the result of an injury/illness covered by Workers' Compensation may use sick leave to supplement Workers' compensation payments for any day or part of a day the employee receives time loss payments, provided that time loss and sick leave shall not exceed one hundred percent (100%) of an employee's regular net (after tax) take-home pay. Assessments to sick leave shall be made as follows:

Employees assigned to less than 10 hours per day	1.5 Hours
Employees assigned to 10 hours or more per day	1.275 Hours
<u>Employees assigned to regular part-time</u>	<u>0.75 Hours</u>

After sick leave has been exhausted, employees may use any other paid leave to supplement workers' compensation. Use of sick leave will provide regular benefits based on the employee's regular work schedule. Any employee who is injured on duty and requires immediate medical attention on the day of injury shall be permitted to do so without loss of pay or benefits up to the end of the shift or if later until released or admitted to the hospital or other care facility. Available sick leave will be applied for all other workers' compensation related medical care which occurs on duty. Employees will not be paid for time for any medical appointments which occur off duty. Employees will make every effort to schedule medical appointments on off-duty hours.

6.4 Notification of Sick.

6.4(a) Notifying Requirements. An employee who is ill and unable to report for work shall, if reasonably possible, notify the supervisor on duty not less than ninety (90) minutes prior to the employee's reporting time. (The employee is not required to notify an off-duty supervisor.) In

the case of continuing illness, the employee shall continue to notify the supervisor on duty of his inability to report for work.

6.4(b) Physician's Statement. A physician's statement indicating the nature of the illness, that the illness required, or will continue to require, the employee to be absent from duty, and the estimated duration of the absence, and/or a physician's release indicating the employee's fitness to return to work, may be required by the Sheriff for absences when the supervisor has reasonable grounds to suspect sick leave abuse. In such cases, the County will reimburse the employee for any out-of-pocket costs resulting from obtaining the physician's statement.

6.4(c) Fitness for Duty Examinations. Without regard to the circumstances described in paragraph (b) above, should the Sheriff have reasonable cause to question an employee's physical or mental fitness for the job, he may require the employee to obtain an examination. In that event, such an examination shall be limited to those areas which affect the employee's fitness to perform his job assignment. The County shall pay for the full cost of such an exam. In the event the employee chooses to obtain a second examination and report, it shall be at the expense of the employee.

In the event that it is determined as a result of medical examination that an employee is not physically or mentally fit for duty, the Sheriff will, if reasonably possible without undue hardship to the County, temporarily assign the employee to other duties without regard to seniority and in accordance with County policy and law. Any such assignment shall be of a temporary nature and is conditioned on a continued medical prognosis for recovery and a return to regular duties. This provision shall not constitute waiver of any right the Association may have to contest a finding concerning fitness for duty under the provisions of Article 14.

6.4(d) Sick Leave Abuse. Abuse of sick leave may be cause for disciplinary action up to and including discharge pursuant to Article 12.

6.5 Compassionate Leave.

In the event of a death in the immediate family, the employee may take such time as deemed reasonably necessary by the Sheriff to make funeral arrangements and to attend the funeral. Such leave shall be with pay and not be charged against the employee's accumulated sick leave. The amount of leave granted by the Sheriff for compassionate reasons is entirely with the Sheriff's discretion and may not be made the subject of a grievance proceeding.

6.6 Immediate Family.

Immediate family is defined as mother, father, spouse, sister, brother, children, father-in-law, mother-in-law, brother-in-law, sister-in-law, stepchildren residing in the immediate household, grandchildren, and grandparents. The Sheriff may grant compassionate leave under exceptional circumstances for relationships other than those set forth herein.

6.7 Sick Leave and Re-employment Following Lay-Off.

An employee who is reemployed following a layoff shall have unused sick leave credits accrued during previous employment restored.

ARTICLE 8 - FRINGE BENEFITS COVERED BY INSURANCE CONTRACTS

8.1 Benefits Provided.

8.1(a) Health and Dental Insurance. The County shall make the following amounts available for the life of the Agreement except as outlined in Section (b):

~~2008-2009~~2011-2012 Effective ~~October 1, 2008~~ the first full pay period following full ratification of the contract by both parties, retroactive to October 1, 2011, the County shall contribute ~~one thousand three hundred ninety five dollars and three cents (\$1,395.03)~~ \$1,150.00/ per month (~~six hundred forty -three and 86/100 dollars (\$530.77643.86)~~ per pay period) per full time employee.

~~2009-2010~~2012-2013 Effective October 1, ~~2009~~2012 or on the first full pay period following full ratification of the contract by both parties, whichever is later, the County shall contribute ~~one thousand four hundred dollars (\$1,400)~~ \$1,250 /per month (~~six hundred forty-six and 15/100 dollars (\$576.92646.15)~~ per pay period) per full time employee.

~~2010-2011~~2013-2014 Effective October 1, ~~2010~~2013 or on the first full pay period following full ratification of the contract by both parties, whichever is later, the County shall contribute ~~one thousand four hundred dollars (\$1,400)~~ (\$1,350) per month (~~six hundred forty-six and 15/100 dollars (\$623.08646.15)~~ per pay period) per full time employee.

The County's contribution for any part time regular employee benefits shall be prorated based on the employee's hours paid during the pay period, and regular employees must be paid for forty (40) hours during a pay period to receive this benefit.

8.1(b) Premiums in Excess of Available Amounts. Should premiums exceed the amounts made available by the County for health and dental insurance during the applicable fiscal year, the employee and the County shall each be responsible for ~~fifty percent (50%)~~ one hundred percent (100%) of the excess premiums. The County is hereby authorized to deduct the employee contribution from the earnings of the employee for the express purpose of premium payments. Where the condition of the health and dental insurance contract calls for premium payment before the covered month has ended, should an employee ~~resign, retire, or otherwise elect not to remain on the payroll for the entire calendar month,~~ the employee is automatically liable to the County for any such amount(s) advanced and the County is hereby authorized to deduct such amount(s) from the earnings of the employee. ~~If the County initiates the termination or separation of the employee, including the case of resignation in lieu of termination, the County shall bear the expense of the County contributions of health and dental insurance for the balance of the calendar month and shall not deduct such amounts from the earnings of the employee.~~

8.1(c) Life and Disability Insurance. The County will continue to provide life and disability insurance at the benefit level provided as of June 30, 1999 for the life of this Agreement.

8.1(d) Section 125 Plan. The County shall establish and maintain a Section 125 Plan in connection with employee premium contributions. ~~Effective on the 1st day of the following~~

~~month thirty (30) days after ratification of this contract,~~ Employees may designate pre-tax dollars to pay for either dependent care and/or out-of-pocket medical expenses.

8.2 Selection of Benefit Program.

During the life of this Agreement, the County agrees to provide training to Association members on the selection of insurance, administration of programs, benefit information and all other information necessary so that the Association will be able to evaluate alternative plans should it be necessary.

8.3 Association Selected Benefit Programs.

The Association shall provide the County a true copy of the benefit plan and contract and any billing information necessary for the County to implement the plan. The contract is between the Association and the insurance benefit provider. The Association will provide new rates and provisions to the County no later than thirty (30) days prior to implementation if received by the Association or within two (2) days of receipt by the Association (if within thirty (30) days due to insurance company not providing the information earlier). In the event of changes in applicable law, the Association will furnish proof of compliance to the County.

ARTICLE 14 - SETTLEMENT OF DISPUTES

14.1 Grievance.

A grievance shall mean a claim by the Association that there has been a violation of a specific portion of the contract. Probationary employees may not grieve a determination by the County that the employee's employment is terminated. Warnings and verbal and written reprimands are not discipline which is subject to grievance.

A grievance must state the date and facts given rise to the grievance, the specific sections of the contract violated, and the remedy sought.

In the case of discharge, the grievance shall be filed at Step 3 (appropriate Division Captain)(~~Captain/Undersheriff~~), and shall fully explain the reasons the Association contends that a remedy is warranted and the action is not for just cause.

The Association shall communicate fully the basis of any grievance when it is communicated in writing at the Steps provided for, which the Association knows or reasonably should know at the time the grievance is filed.

A copy of all grievances shall be furnished to Human Resources by the Association as a courtesy of timing which shall not render a grievance untimely.

Upon the filing of a grievance, it is recognized by the parties that, notwithstanding anything to the contrary which may be provided in the following steps of the grievance procedure, the Association shall have exclusive responsibility for such grievance as the exclusive representative of employees in the bargaining unit. Nothing in this Agreement shall be construed to limit the right of the Association to dismiss a grievance, or to decline to proceed to the next step, including arbitration, which it considers in good faith to be lacking in merit.

14.2 Grievance Procedure.

Step 1. Immediate Supervisor. The grievant shall discuss meaningfully the grievance first with his immediate supervisor with the objective of informally resolving the grievance. This discussion shall occur within fifteen (15) days after the grievant becomes aware of the grievance or reasonably should have been aware of the grievance. Within ten (10) days after initial discussion with the immediate supervisor, if the grievance has not been resolved informally, the Association shall file the grievance in writing with his immediate supervisor. The supervisor shall hear the appeal and render a written decision within ten (10) days after receiving the written grievance.

For the purposes of this procedure, "immediate supervisor" is an employee who is not a member of the bargaining unit and who has direct administrative or supervisory responsibilities over the grievant, or in the case of multiple grievants then the Association shall file it as a class grievance with either of the employee's immediate supervisors and the remedy shall apply to all similarly situated grievants.

Step 2. Intermediate Supervisor. Within ten (10) days, if the Association is not satisfied with the disposition of the grievance at Step one (1), it shall file the written grievance with the intermediate supervisor. The intermediate supervisor shall hear the appeal and render his written decision within ten (10) days after receiving the grievance.

Step 3. Appropriate Division Captain/Under Sheriff. Within ten (10) days, if the Association is not satisfied with the disposition of the grievance at Step two (2), it shall file the written grievance with the Captain/Under Sheriff appropriate Division Captain. The Captain/Under Sheriff appropriate Division Captain shall hear the appeal and render his written decision within ten (10) days after receiving the grievance.

Step 4. Sheriff or his designee upon the Sheriff's absence. Within ten (10) days, if the Association is not satisfied with the disposition of the grievance at Step three (3), it shall file his appeal with the Sheriff or his designee upon the Sheriff's absence. The Sheriff or his designee upon the Sheriff's absence shall hear the appeal and render a decision within ten (10) days after receiving it.

Step 5. Arbitration.

14.1(a) Intent to Arbitrate. If the Association is not satisfied with the disposition of the grievance at level four (4), it shall, within ten (10) days, file notice of intent with the County Administrator to appeal the grievance to arbitration.

14.1(b) Selection of Arbitrator. Within ten (10) days after such notice of intent, the County and the Association and/or grievant shall meet to discuss the grievance and select an arbitrator if the grievance cannot be resolved. If an arbitrator cannot be mutually designated, the Association shall request a list of thirteen (13) Oregon and Washington arbitrators from the State Conciliation Service. The Association will strike the first name from the list, and the parties shall strike alternately thereafter. The remaining name shall be the arbitrator. The parties may, by mutual agreement, request a new panel. The parties agree that they will advance pending grievances; ordinarily grievances will be scheduled for hearing on a timely basis and pursued with due diligence unless the parties otherwise agree. Unless the County or the Association moves to extend the time, a grievance shall become moot after twelve (12) months following the filing of the notice of intent to arbitrate.

14.1(c) Arbitrator's Authority. The findings of the arbitrator shall be limited to specific terms of this Agreement, and the arbitrator shall have no authority to amend, modify, alter, or add to or subtract from this Agreement.

14.1(d) Arbitration Award. The decision and award of the arbitrator within the scope of his authority under 14.1(c) above shall be final and binding on the parties.

14.2 Time Limits.

All parties subject to these procedures shall be bound by the time limits contained herein. Days as used in this procedure shall be calendar days. If either party fails to follow such limits, the following shall result:

15.11 Uniforms.

15.11(a) Uniforms Furnished for Deputies, Community Service Officers and Security Officers. The County will provide four (4) complete sets for all classifications required to wear a uniform. In the case of community service officers and corrections, three (3) uniform sets will be Class-B functional uniforms which will be machine washable and permanent press. One (1) additional uniform set will be a Class-A dress uniform which will require dry cleaning. Twenty percent (20%) of departmental protective vests will be replaced each year beginning with the oldest first.

15.11(b) Uniform and Clothing Maintenance for Deputies, Community Service Officers and Security Officers. For the purpose of maintaining uniforms, thirty dollars (\$30) shall be paid to uniformed deputies as cleaning reimbursement per pay period and forty dollars (\$40) per pay period for ~~investigators~~ Criminal Deputies assigned as a Detective as a clothing allowance. The uniform and clothing allowance shall be taxed according to the rules of state and federal governments. However, such pay is not considered pay upon which fringe benefits and salary adjustments are calculated except PERS.

15.11(c) Footwear. Criminal Deputies, Correction Deputies, Security Officers and Community Service Officer's are entitled to a maximum of two hundred fifty dollars (\$250) once every two (2) fiscal years to be applied toward the purchase or maintenance (defined as resole, heel replacement, or leather stitching) of acceptable footwear. If the Sheriff specifies a specific type of footwear to be worn by non-certified, nonuniformed personnel, then the County will pay a maximum of twenty-five (\$25) dollars annually to be applied toward the purchase.

15.11(d) Uniforms and Footwear for Clerical Employees. Records Clerks will be required to purchase certain uniform-related items, as follows:

- (1) The County shall purchase four (4) shirts for each Records Clerk. The County will replace these shirts as needed and reasonable as determined by the Sheriff or designee.
- (2) Each Records Clerk shall be responsible for the purchase of trousers and shoes which conform to the uniform requirements, which are subject to change in the Sheriff's discretion. The County shall provide one hundred dollars (\$100) annual reimbursement for the purchase of these items. Reimbursement shall be made once during the fiscal year upon production of the receipts by the Records Clerk. Uniform requirements as of the date of this Agreement, subject to change in the Sheriff's discretion, are:
 - (A) Pants. Pants shall be black, navy blue, or khaki and "Dockers" style slacks (twill type fabric).
 - (B) Shoes. All shoes shall be closed toe of any color or black tennis shoes. Sandals shall not be purchased for or worn at work.
 - (C) Alterations. Alterations shall not be provided or reimbursed by the County.

ARTICLE 16 – COMPENSATION

16.1 Maintenance of Compensation Plan.

Effective on the first full pay period in July 2011 or on the first full pay period following full ratification of the contract by both parties, whichever is later, the salary schedule for all bargaining unit members will be adjusted by zero percent (0%).

Effective on the first full pay period in July 2012 or on the first full pay period following full ratification of the contract by both parties, whichever is later, the salary schedule for all bargaining unit members will be adjusted by zero percent (0%).

Effective the first full pay period in July 2013 or on the first full pay period following full ratification of the contract by both parties, whichever is later, the salary schedule for all bargaining unit members will be increased by an amount equal to the percentage change in the annual (CPI-W) All U.S. Cities index, with a minimum of zero percent (0%) and a maximum of two percent (2%).

~~Effective the first full pay period in July 2008, the salary ranges for all positions shall be increased by four and five tenths percent (4.5%).~~

~~Effective the first full pay period in July 2009 and July 2010, the salary ranges for all bargaining unit members will be increased by an amount equal to the percentage change in the annual (CPI-W) All U.S. Cities index, with a minimum of three percent (3%) and a maximum of five percent (5%).~~

~~In addition, the salary range for non-sworn employees shall be increased by an additional one-half percent (.5%) effective the first full pay period in July 2009 and July 2010.~~

~~In addition, the salary range for Corrections Deputies shall be increased by an additional one-half percent (.5%) effective the first full pay period in July 2010.~~

~~Salary adjustments will maintain five percent (5%) between steps. Effective the first pay period after contract ratification, the County will no longer provide meals for corrections deputies and records clerks.~~

16.2 Administration of the Compensation Plan.

16.2(a) Rates of Pay. Each employee shall be paid at one of the rates in the salary range for the class in which he is employed.

16.2(b) Entrance Salary. Normally, an employee will be appointed at the entrance rate of the class. If an appointing power believes it is necessary to make an appointment or reinstatement above the entrance rate, authorization must be obtained from the board. In determining such requests, the board shall give consideration to the qualifications of the candidate, availability of applicants, and the resulting salary relationship with other similar positions.

compensation at the rate of five percent (5%) of their annual salary. This change will not affect employees who were employed on or before July 1, 1994.

16.8(d) Base rate salary with either a BA Degree or its equivalent, and intermediate certificate, or an advanced certificate and an Associate's Degree or its equivalent. Employees who have completed their probationary period and who possess either (1) an intermediate certificate issued by DPSST and accredited college units equal to four (4) years of college level work, or (2) an advanced certificate issued by DPSST and accredited college units equal to two (2) years of college level work shall, upon application, receive additional compensation at the rate of seven and one-half percent (7½%) of their annual salary.

16.8(e) Base rate with both a BA Degree or its Equivalent and advanced certificate. Employees who have completed their probationary period and who possess both an advanced certificate issued by DPSST, and accredited college units equal to four (4) years college work, shall, upon application, receive additional compensation at the rate of ten percent (10%) of their annual salary.

Section 16.8(f) Bilingual Pay. Officers who are designated as bilingual by the Sheriff shall be paid a premium pay based on base salary as follows:

Certified as Proficient	2.0%
Certified as Fluent	3.5%

Section 16.8(g) Employees holding an EMT certification may be assigned as needed by the Sheriff and shall be paid premium pay based on base salary as follows:

EMT – Basic	1.0%
EMT – Intermediate	2.0%
EMT – Paramedic	3.0%

16.9 Dog Handler.

Any employee serving as a dog handler for the County shall receive a premium pay of five percent (5%) of their base salary while serving in that capacity to cover time spent in the care, feeding, and grooming of the K-9. This amount is predicated on a differential wage rate for canine care equal to minimum wage except when taking canine to veterinary care.

16.10 Detective Pay.

Effective July 1, 2008, Deputies assigned as detective in the investigative division and JACNET will be paid an additional incentive of five (5%) percent while serving in that capacity for the duration of the assignment. A deputy temporarily assigned to the investigative division for ninety (90) days or less will not be eligible for detective pay.

16.11 Payment of Certification and Incentive Pay.

Certification and college incentive pay shall be payable for full biweekly periods, commencing the first pay period after notification of attainment of the status entitling the employee to such pay.

16.12 Foul Weather Gear.

The Sheriff agrees to provide adequate rain gear.

16.13 Reserves/Volunteers.

Reserves/volunteers may be used to perform department related tasks and auxiliary functions as determined by the Sheriff. Reserves/volunteers will not be utilized to replace bargaining unit employees in the performance of their primary job responsibilities. In no event shall reserves/volunteers be compensated except as provided for in Article 16.12.

16.14 Extra Duty.

The Sheriff and the Association are dedicated to improving productivity and promoting additional job opportunities not in conflict with regular employment and management of the department. Extra duty is defined as paid work of an additional nature such as security, parades, and special patrol at community events. Extra duty will be first offered to bargaining unit employees at their straight time rate of pay. If the Sheriff needs additional personnel, non-bargaining unit personnel may be utilized at an appropriate rate of pay.

16.15 Differential Pay for Records Clerks.

Inasmuch as some Records Division personnel are required to work hours other than 8:00 a.m. to 5:00 p.m., Monday through Friday, for the same salary as those who enjoy the privilege of working those hours, the Sheriff agrees to pay a hardship bonus as follows:

16.15(a) Swing and Split Shifts. Records Clerk assigned to work swing shift and/or split shift shall be paid a bonus of forty-five dollars (\$45) per month.

16.15(b) Graveyard Shift. Records Clerks assigned to work entire graveyard shift shall be paid a bonus of fifty dollars (\$50) per month.

16.16 Field Training Officers.

Employees who are assigned to a field training officer position for newly hired employees shall be paid an additional five percent (5%) while serving in that capacity. The field training officer must be certified by the field training evaluation program. ~~A cook who is designated as trainer will receive 5% for the period designated for training.~~

16.17 Extra Compensation.

At the discretion of the Sheriff, employees may receive extra compensation for achievements of outstanding merit. Extra compensation shall be awarded in amounts not to exceed two and one-

