

**STATE OF MICHIGAN
MICHIGAN DEPARTMENT OF LABOR AND ECONOMIC GROWTH
EMPLOYMENT RELATIONS COMMISSION**

IN THE MATTER OF:

POLICE OFFICERS LABOR COUNCIL,

HILLSDALE COUNTY COMMAND, UNION

AND

HILLSDALE COUNTY, EMPLOYER

MERC ACT 312 CASE NO. L11 L-2092

ARBITRATOR'S OPINION AND AWARD

APPEARANCES:

Arbitrator

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Police Officers Labor Council

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STATE OF MICHIGAN
MERC ACT 312 CASE NO. L11 L-2092
DETROIT, MI

I. **ISSUES**

The following issues will be determined in the course of this Opinion and Award and all of the issues were determined to be economic:

1. Health insurance
2. Amount of stipend for Employee opting out of health insurance
3. Wages: For the period from the date of the issuance of the Act 312 Award to December 31, 2012.
4. Wages: For the period January 1, 2013 to December 31, 2013.

II. **STATUTORY AUTHORITY; PAGES 2 AND 3 OF THE UNION'S BRIEF WHICH SETS FORTH THE STATUTORY AUTHORITY UNDER ACT 312, ESSENTIALLY SECTION 8 OF THE ACT.**

III. **COMPARABLE COMMUNITIES.**

The parties stipulated to comparable communities as set forth in Section 9(d) of Act 312. Those communities include Branch County, Cass County, Gratiot County and Ionia County. In addition, the parties relied upon the County's contracts with its other internal bargaining units, which include the Deputies' Bargaining Unit, the Governmental Employees Labor Council Supervisors' Bargaining Unit, the Governmental Employees Labor Council Non-Supervisory Bargaining Unit and the Service Employees International Union, Local 517M.

IV. **INTRODUCTION, STATEMENT OF PROCEEDINGS AND BACKGROUND.**

The County of Hillsdale, Hillsdale County Sheriff and the Police Officers Labor Council are parties to a series of collective bargaining agreements, the last of which expired on December 31, 2010. The bargaining unit is comprised of approximately ten command officers employed by the Hillsdale County Sheriff's Department. On or about March 2, 2012, the Police Officers Labor Council (hereinafter referred to as the "Union") filed a Petition for Arbitration with the Michigan Employment Relations Commission pursuant to Act 312 of the Public Acts of 1969, as amended. Subsequently, the County of Hillsdale and the Hillsdale County Sheriff (hereinafter referred to as the "County") filed an Answer to the Petition on or about March 6, 2012.

Pursuant to the Act, Last Best Offers of Settlement were exchanged on July 11, 2012, and a Hearing was conducted on July 25, 2012. The parties subsequently were granted an extension and filed their Briefs in a timely fashion during the month of September, 2012.

The parties stipulated that the new Collective Bargaining Agreement will be in effect from January 1, 2011 through December 31, 2013. Pursuant to statutory amendments which occurred in 2011, there will be no retroactivity for any of the Last Best Offers of Settlement at issue during the hearing.

This is a Supervisory Unit within the Hillsdale County Sheriff's Department, which includes two Captains, two Lieutenants, three Patrol Sergeants, one Jail Sergeant, and two

Detective Sergeants. The parties have stipulated that all members of the Unit fall within the jurisdiction of Act 312 except for the Captain of the Jail Division, Edwin Hodshire. Accordingly, the parties stipulated that with respect to Captain Hodshire, the Arbitrator's Opinion and Award would be considered to be fact-finding, rather than a binding Award. Presumably, the parties will treat the Arbitrator's Opinion and Award, although a fact-finding with respect to Captain Hodshire, as a basis for his wages and benefits in a fashion similar to that which will be enjoyed by the remaining members of the Bargaining Unit.

The Department has four organizational divisions: the Patrol Division, the Jail Division, the Investigations Division and the Operations Division. The Divisions are self explanatory but it should be noted that the Jail Sergeant works one day a week as a Road Patrol Sergeant.

The members of the Command Unit have had increasing responsibility over the past several years. The previous Under Sheriff worked nearly 24 hours a day, seven days a week. By doing so, he assumed a decision making authority on issues on a nearly around-the-clock basis. However, two years ago, the Department hired the current Under Sheriff. The current Under Sheriff works a more traditional schedule, choosing to delegate a portion of the decision-making authority to the Command Unit. Lieutenant Parker testified that Command Officers now make many decisions without involving the Sheriff or Under Sheriff until they come back to work on the following day. In addition, as a result of a retirement, there has been a reduction of one Captain in the Investigations Division. Accordingly, several of the existing Command Officers have had to assume a greater responsibility.

Hillsdale County is located in southern Michigan and employs over 150 employees. In addition to 97 non-union employees, the County is also party to five separate Collective Bargaining Agreements. Twenty-six employees are represented by the Union and the Bargaining Unit consisting of primarily Sheriff's Deputies and Correction Officers.

The Union also represents eight dispatchers covered by a Collective Bargaining Agreement with the County and the Hillsdale County Emergency Telephone Services Board, and a Bargaining Unit of three dispatch supervisors to which the County and the Hillsdale County Emergency Telephone Services Board are parties.

The S.E.I.U. Local 517M represents approximately 31 employees who work for a number of elected officials in the County prosecutors', clerk's, treasurer's, drain commissioner's and register of deeds' offices.

The various Collective Bargaining Agreements covering those Units all expire on December 31, 2013 and each one contains identical health insurance and wage provisions contained in the County's Last Best Offers of Settlement, which are identical to those made in this case.

The County's primary sources of income, pursuant to the testimony of the County Treasurer, are collected from property taxes, state revenue sharing and interest income. The County, like most other governmental units in the State of Michigan in the past five or six years

has not been immune to the recent economic downturn. Property tax revenue, state revenue sharing and interest income have all decreased in the past several years.

Nevertheless, the Union believes that the County's loss of income does not automatically mean it has an inability to pay. The Union asserts that pursuant to the County's Exhibits, it has experienced a substantial decrease in general fund expenditures at the same time that it has experienced a decreased in general fund revenue. It has reduced its expenditures as projected for the calendar year of 2012 by about \$700,000 from its 2008 expenditures. Accordingly, the County apparently felt confident enough in its reserves to temporarily increase expenditures to \$12,000,000 in 2012 in order to install an elevator in the County courthouse.

The Union further asserts that even if the general fund balance has not completely stabilized by the end of 2012, the County's estimates show it will likely stabilize in the near future. The Union notes that the County Treasurer did in fact testify that he believes that the 2012 ending fund balance will be lower than the previous year. However, initially he had projected the fund balance of \$1,220,587 to be the same as it was in 2011. Moreover, the Union notes that the County has not calculated any of the savings from health care concessions into its projected expenditures, including plan changes and command officers paying 20% of their health insurance pursuant to legislation passed in 2011.

The Union believes that the County's proposal of a \$500 one-time lump sum payment, coupled with its 1% offer of a wage increase for 2013 does not indicate that the County is projecting harsh realities for the future.

The Union notes that while the County's finances could be in better shape, they don't show an inability to pay. Moreover, the Union alleges that its wage proposals are only modestly higher than the County's. In addition, the Union notes that its proposed wages are offset by the proposed health care plan submitted by the Union which is less costly than the County's Last Best Offer with regard to health care.

In support of its positions, the County notes that amendments to Act 312 have elevated the importance of the financial ability of the unit of government to pay any proposed increases in wages and/or benefits. The County notes that it is incumbent upon the Panel to consider the total cost or overall impact of its award. Thus, the Panel must be cognizant of make its decision in light of the total package cost of the new contract. It notes that in a prior arbitration award, Arbitrator Ann T. Patton noted that, although the employer may have "lagged behind," other comparable communities on particular issues, the Union's proposed increases were to be rejected because "realities of voluntary collective bargaining" required the Panel to consider (just as the parties would) the other elements and costs in the total package. (Charlevoix County Sheriff's Department 1999 MERC FF/Act 312).

Other arbitrators have opined that even though a City may be capable of paying the cost of a particular provision, when added to the cost of other provisions awarded and/or to be awarded, the combination may be excessive.

The County further alleges that it is the duty of the Panel to keep in mind what the parties would have voluntarily negotiated given the financial circumstances and other realities of collective bargaining. As noted by Arbitrator Richard B. Allen in the "County of Kalamazoo, 1997 MERC FF/Act 312" wherein the arbitrator noted,

"The neutral must be careful not to grant more than the parties would have been able to gain in the actual bargaining process."

Arbitrator Theodore J. St. Antoine noted in the case of the City of Livonia, 1998 MERC FF/Act 312, as follows:

"The Chairperson of this Panel is on record on a number of interest arbitrations that, to best preserve healthy, voluntary collective bargaining, the soundest approach for an outsider in resolving Union and Employer disputes is try to replicate the settlement the parties themselves would have reached had their negotiations been successful."

The County notes that the value of taxable property has dropped by approximately \$121,000,000 from 2009. In addition, further losses were projected for 2013 of an additional \$26,000,000. Further, the County is already taxing the property owners within the County at the "Headlee Cap".

There has been a reduction in the property tax revenues from 2009 to 2012 of approximately \$603,000 and a further decrease of \$125,000 has been projected for 2013.

In addition, the County notes that state-shared revenue was terminated in 2004. In addition, taxpayers were required to pay four years worth of property taxes within a 3-1/2 year period of time and counties were ordered by the state to take the extra year's worth of property taxes and set it aside in what was called a "revenue sharing fund," which the county was able to draw upon until the moneys were exhausted. In 2009, the County used \$866,206 of the revenue-sharing fund, but received no additional revenue-sharing money from the State of Michigan. In 2010, revenue-sharing was restarted by the State and the County utilized \$689,113 out of the revenue-sharing reserve fund while the State forwarded \$654,293. There was an imbalance obviously of approximately \$25,000, but the number was at least \$300,000 higher than the County had anticipated. By 2011, the revenue-sharing reserve fund had been exhausted and the County is strictly dependent on State revenue-shared money in each year since there is no longer a reserve. The County received \$851,772 in 2011. All of that money has been exhausted. The County only expected to receive a total of \$618,612 in the calendar year of 2012 at the time of the hearing.

In response to a question by the arbitrator during the hearing as to why there would be a reduction of approximately 25% in State shared revenue from 2011 to 2012, the Treasurer indicated that all of the counties in the State had been impacted and that the State's financial situation was such that they were not able to keep the revenue sharing payments at the same level as 2011. That reduction in payments impacted every county in the State.

Interest income had also fallen from approximately \$139,000 in 2009 to an estimated \$30,000 in 2013.

The County Treasurer further testified that while general fund expenses had been cut by over \$750,000 in the prior four years, it was still necessary to use almost \$212,000 of fund balance in order to balance the budget in 2011. The current fund balance represents approximately 10% of the County's general fund budget, but according to the County, its auditors are recommending a fund balance of "at least 15%."

The County asserts that the Union offered nothing by way of financial evidence to rebut the realities of the current County economic situation. The County asserts that the Union offered nothing by way of an exhibit or testimony regarding the County's current financial condition despite the fact that the Arbitration Panel is bound by statute to give "the financial ability" of the County to meet the costs of the Union proposals the "most significance". [(MCLA 423.239(2))].

V. ISSUES:

A. Wages. The parties acknowledge that there can be no retroactivity pursuant to legislation passed in 2011. Accordingly, there will be no retroactive effect with regard to the Award rendered by the Arbitrator. The Union's Last Best Offer of Wages accordingly is 2% effective with the date of the Award in 2012 and 2% for 2013.

The County's Last Best Offer of Settlement is \$500 per employee, constituting a one-time, off-schedule payment upon the issue of the Act 312 Award. The County further has offered a 1% across-the-board, on-schedule pay increase effective January 1, 2013, while the Union proposal is for a 2% across-the-board, on-schedule pay increase effective January 1, 2013.

The Union, in support of its position, acknowledges that the County will submit that their wage proposals are more reasonable based upon the County's contracts with other internal bargaining units. The Union believes that such a comparison constitutes not "apples to apples" but rather "apples to oranges." In support of the Union position, it believes that its members have a much higher degree of responsibility than many other County employees. The Command Officers make "life and death" decisions for residents and inmates on a daily basis, carry fire arms and are required to lay their lives on the line. It further notes that while other bargaining units have agreed to the Employer's Blue Cross/Blue Shield health insurance plan, it has proposed a comparable plan which is less expensive thereby constituting a savings to the County that it did not obtain from other bargaining units.

The Union further notes that its Exhibits comparing the base wage histories for Hillsdale County Sergeants, Lieutenants and Captains, with other comparable communities, provides ample support for the Union's proposed wage increases for 2012 and 2013. It alleges that its members are noticeably underpaid and the disparity in wages with comparable positions in comparable communities has been increasing over the years. In 2006, the bargaining unit members only received about \$270 below the average wages with the comparable communities. It now asserts that the disparity for a top-paid Sergeant is \$1,586 below the average of comparable communities. Three of the four comparable communities in 2011 received a 2% raise, while this bargaining unit received no wage increase.

The Union believes that the same is true with respect to Lieutenants. From 2006 when Lieutenants ranked second among the comparable communities, they have dropped to third and remained that way ever since 2009. The disparity in wages has increased from approximately \$1,073 in 2006 to \$3,516 in 2012.

Only one other comparable community has a Captain's rank. However, their Captain receives more than the Captains in Hillsdale. In 2006, Hillsdale Captains received \$3,012 less than Cass captains, but by 2011 that differential had increased to \$7,121.

The Union also notes that comparisons in the fringe benefits of educational incentives, longevity, shift premiums, uniform allowance and cleaning, and gun allowance also show that

the members of this bargaining unit are consistently ranked at or near the bottom, compared to their counterparts in the comparable communities.

The Union further notes that with respect to the Consumer Price Index (the cost of living), the majority of the bargaining unit's wage increases are below the rises in the costs of goods and services. From 2001 to 2011, the differential was 2.49% below the Consumer Price Index while sergeants in comparable communities were only 1.69% below the rise in the Consumer Price Index. The same is true with respect to Lieutenants whose wages dropped 2.53% below the CPI from 2001 to 2011. Thus, the Union concludes that the statistics indicate that the members of its bargaining unit are experiencing a drop in their standard of living even though they may have received previous wage increases.

The Union further notes that it is possible that the members of its bargaining unit will suffer a further diminution in their take home pay based upon the fact that the City of Hillsdale has proposed to impose a 1% tax on the residents of the City and a ½% tax on those who work in the City, but are not residents of the City. Thus, since the Sheriff's Department is located within the City, all members of the Department would be required to pay additional taxes to the City of a minimum of a ½% or 1% in the case of those who are residents of the City as well. Thus, a significant portion of any proposed wage increase, be it the County or the Union proposal, would evaporate as a result of the payment of the City income tax.

The Union further notes that its members who are covered by the County health care plan are now required to pay 20% of their health care costs pursuant to Public Act 152 of 2011. Those members who are covered by the County health care plan have been required to pay a portion of the health care premiums even though the contract has been expired for the past year.

The Union concludes that its membership has been experiencing a material decrease in their standard of living and has historically been paid less than those in comparable communities with a widening of the gap. Thus, the Union concludes that realities render the Union's proposals for wages in 2012 and 2013 as being more reasonable than the Last Best Offers of the County.

The County notes that the parties were informed by the Arbitrator that the Panel had decided to consider wages for the remainder of 2012 and for 2013 as separate issues, however, the County has chosen, in support of its positions to argue the two years as though they were one issue. The County notes that its wage proposals are identical to the wage settlements with all of the County's other bargaining units. It further notes that the proposal of this Union is more than twice the wage increase received by any other employee.

The County notes that even if the Union's argument with respect to the former Under Sheriff working 24/7 versus the current Under Sheriff working a normal schedule places a greater burden upon the remaining members of the bargaining unit, the additional 16 hours of work per day, if the prior Under Sheriff never slept, would now be divided among 10 bargaining unit members. This does not constitute a basis in the County's opinion to more than double the wage increases that were received by all of the other county bargaining unit employees.

While the Union has argued that the Command Officers are responsible for a liability that is substantially greater than any other County employee, make decisions that involve life and death, make decisions that involve health issues for the residents of the County and for inmates assigned to the County jail, and that a comparison of the Command staff to other county employees is neither fair nor equitable, as well as its members having to carry fire arms which, in turn constitutes a huge responsibility to refrain from harming individuals but to still be able to protect the community in support of its position, the County notes that the Union's Chief Steward admitted that the deputies who settled in accordance with the same County offer as is being offered to the Command Officers discharged the same duties and responsibilities and assumed the same risks that are intended for all law enforcement positions and are identical to those offered by the Command in support of its position for a great wage increase than that which was offered by the County to the Command Unit and which has been accepted by every other bargaining unit.

The County further notes that the Command Officers are compensated at a higher rate of pay than other employees in the County who have collective bargaining agreements. This would continue to be true with the adoption of its Last Best Offers of Settlement.

The County further asserts that as to external comparables, the County's wage offers maintain these employees in the middle of the pact when contrasted to the external comparables. The County opines that, "middle of the pact positioning vis-à-vis the comparable communities is entirely consistent with the County's relative position in the areas of population, population density, taxable value, taxable value per capita, per capita income, median household income, and median family income.

B. (1)Wages: 2012-2013 – Decision and Discussion

Before discussing the individual years and the Award with respect to those years, it should be noted that each and every factor contained in Act 312, Section 9, where applicable, has been considered by the Arbitrator with respect to all of the issues in dispute between the parties. Furthermore, as noted by numerous court decisions and many arbitrators, there is no standard set forth in the statute which indicates that any of the factors are to be given greater weight than any of the other factors with the exception of the statutory addition that

"The arbitration panel shall give the financial ability of the unit of government to pay the most significance, if the determination is supported by competent, material and substantial evidence."

Accordingly, I am obligated, based upon the statutory authority to give the most significance to the financial ability of the unit of government, but that does not mean that the other factors set forth in Section 9 no longer are relevant or important. Certainly, the financial impact on the community, the interest and welfare of the public, any new laws such as the Legislative Act of 2011, which grants the Employer the opportunity to require its employees to pay either a hard dollar amount or 20% of the health care costs, stipulations of the parties, comparisons of wages and benefits in comparable communities, and comparison of the wages and benefits of employees within other bargaining units in the County, as well as the other

factors contained in Section 9 are relevant and are to be given consideration. As stated, each of those factors has been given consideration with a greater emphasis on the financial ability of the County in arriving at the decisions hereinafter set forth.

Since there is no retroactivity, the Union's proposal for a 2% across-the-board on-schedule pay increase, effective with the date of this Award would render little if any value to its membership in the current year since there will be less than a month left in the year when this Award is fully executed. Moreover, while the Employees would receive far less than that being offered by the County, the 2% submitted by the Union would be in effect in the subsequent year and would constitute an increase that is approximately double that of that received by other county employees.

There is merit to the County's position for 2012 that all of its other employees received a lump sum amount on a one-time off the schedule basis of \$500 as to whether or not that should be the Last Best Offer of Settlement awarded to the members of this bargaining unit. The County obviously believes it has the financial ability to make that payment. In reality, the total payment based upon the 10 members of this bargaining unit (9, plus the 1 member who is covered by the stipulated fact-finding) would, if fully implemented, only cost the County the sum of approximately \$5,500, which is a relatively minor cost and apparently is considered to be, by the County, within its financial ability to pay.

The ongoing cost as submitted by the Union in its Last Best Offer while only amounting to 1/12 of 2% for the calendar year of 2012 or less, would impact the wage schedule in 2013 and more than make up for the differential in 2012 since it would be worth some \$1,100 per member or more based upon the pay schedules of the various classifications within the bargaining unit. In addition, once baked into the wage schedule, it would constitute an additional cost to the County in future years as well in the absence of a reduction in the pay schedules.

I am cognizant of the fact that on an external comparable basis, the members of this bargaining unit do not compare favorably with the chosen comparable counties. However, on an internal basis, they do in fact compare favorably with members of other bargaining units and are being offered exactly the same pay increase as was received by the members of the other bargaining units within the county.

Accordingly, with respect to the calendar year of 2012, commencing on January 1 and terminating on December 31, the Last Best Offer of the County in the sum of \$500 per Employee on a one-time, off-schedule payment basis is hereby awarded.

(2) Wages: January 1, 2013 to December 31, 2013

As previously noted, the County's Last Best Offer is for a 1% across-the-board, on-schedule pay increase effective January 1, 2013, while the Union is seeking a 2% across-the-board, on-schedule pay increase effective January 1, 2013. It doesn't take an Einstein to understand that the difference between the two parties is 1%, which approximates to an additional \$500 to \$600 per year on average to the County per Employee. The one-time

settlement in 2012 does not carry over so the real difference between the two parties with respect to 2013 amounts to about \$5,500 per year for the entire bargaining unit.

Both sides present reasonable and compelling arguments in support of their positions. The County on the one hand points to all of its other bargaining units which negotiated and settled for a 1% across-the-board increase, while the Union points to the County's comparable position with other counties wherein their membership receives wages which are considerably below those enjoyed in the comparable communities.

The Union argues that its members have greater responsibility, greater liability and are more susceptible to being injured than members of other collective bargaining units. However, in contrast, the County points out that its Deputy Sheriff's unit members are subject to the same liabilities, responsibilities and potential for injury as are the members of the Command Unit.

I do not believe that the County has presented a compelling case with respect to comparable communities and further, that the Union has presented substantial evidence that the members of this Unit do not compare favorably with respect to their wages and benefits insofar as the comparable communities are concerned.

In addition, the Union correctly points out that its members have not received pay increases over the last decade, which equate to increases in the cost of living. Of course, this may be true for other members in other bargaining units of the County as well. However, that does not negate the fact that its members have not kept up with increases and the cost of living.

In addition, I am cognizant of the savings that have been effectuated as a result of the 2011 legislation with respect to the Employees in this bargaining unit (as well as the other bargaining unit) having to pay 20% of the cost of their health insurance which represents a substantial financial impact upon them. This impact may well be exacerbated by the additional financial burden of having to pay 1% or ½ of 1% of their wages in city income taxes.

It does not appear to me that there is any substantial financial impact on the community nor are the interests and welfare of the public negatively affected if this unit were to be awarded a higher wage increase than that which was granted to members of other bargaining units in the County.

Finally, I have taken into consideration the financial ability of the unit of government to pay and given it the most significance based upon what I believe is competent, material and substantial evidence. The County has provided evidence that its fund balance represents about 10% of its annual budget. While its auditors may have recommended a 15% fund balance, the simple fact of the matter is that the County does not appear to be in dire economic straits at this point in time.

The additional cost of the Union proposal certainly does not constitute a major economic cost insofar as this bargaining unit is concerned. Obviously, I understand that other bargaining units in the future may well point out should the Union's Last Best Offer of Settlement be accepted and awarded that they received less in 2013 than did the members of this bargaining

unit. That will be an issue for future collective bargaining between those units and the County and perhaps Act 312 arbitrators in the absence of an agreement with respect to at least one of those collective bargaining units.

Having taken all of the factors of Section 9 of the Act into consideration that are relevant and having given greater weight to the financial ability of the County to pay, it is my determination that the Last Best Offer of the Union more reasonably meets the factors set forth in Section 9 and accordingly, the Union is hereby awarded a 2% across-the-board, on-schedule, pay increase, effective January 1, 2013 through December 31, 2013.

C. Health Insurance

The County's Last Offer of Settlement is to include the members of the bargaining unit in the same health insurance plan which already covers every health insurance eligible non-union employee of the County and every other employee covered by any collective agreement to which the County is a party. The County notes that under its plan, the County purchases Blue Cross, Blue Shield, BC/BS PPO 15, and then through a health reimbursement account (HRA) provides annual deductibles of \$250 for single subscribers, \$500 for two person and family subscribers. The HRA also insures annual co-insurance maximums of \$500 for single subscribers and \$1,000 for two person and family subscribers. The plan contains \$10/\$40/\$80 prescription drug co-pay, a \$40 office visit co-pay (including chiropractic) and co-pays of \$40/\$100 for urgent care/emergency room services. The County further notes that employee contributions toward the cost of health insurance are controlled by the provisions of Public Act 152 of 2011.

In addition, the County proposal seeks to add the following language:

"Eligibility, coverage and benefits under the above insurance plans are subject to the terms and conditions, including any waiting period or other time limits contained in the contract between (sic) the employer and the carrier. The employer will have the right to select the carrier and/or benefit manager, to change carriers or benefit managers; to change policies or plans, or to become self-insured provided that comparable benefits are provided."

In addition, for any Employee retiring after the issuance of the Act 312 Award, the County proposes that its obligation for retiree health insurance terminate when the covered individual becomes eligible for Medicare.

The County notes that the Union's Last Best Offer of Settlement is for

"The COPS Trust Plan C with variable premium corridor with a deductible of \$5,000 single/ \$10,000 family, paid by the Employer; a deductible of \$100 per person/\$200 per family paid by the Employee, and co-insurance annually of \$500 per person/\$1,000 per family paid for by the Employee. \$20.00 office visits co-pay, \$25 emergency room visit co-pay, unless waived per the provisions of the insurance policy and \$10 generic/\$20 brand name drug plan."

The County notes that the Union proposed no changes to the current language either to the County's ability to obtain alternative coverage or the County's obligations to provide retiree health insurance after an individual becomes Medicare eligible.

The County further notes that its insurance consultant, John O' Connor, testified that members of this bargaining unit are currently afforded a choice of three different health insurance plans. The bargaining unit comprised of the deputies and correction officers had those same three choices of health care plans before April 23, 2009 when by a letter of understanding, it agreed to a change in the plans in order to give the County a cost-savings. This bargaining unit refused to enter into a similar letter of understanding. The members of this bargaining unit are the only County employees to not afford the Employer the cost-savings associated with the health insurance agreement in which the County purchases a high deductible plan and then (through a health reimbursement account) reimburses the Employees for certain costs.

The County notes that its health insurance costs were approximately \$1,750,000 per year before it adopted its proposed plan with respect to the other County employees. That figure was reduced by approximately \$350,000 when the new plan was instituted for the other bargaining unit and non-bargaining unit County Employees. Moreover, if granted, with respect to this bargaining unit, the County would enjoy an additional savings of approximately \$130,000.

The adoption of the County plan would then place all of the County Employees (bargaining unit and non-bargaining unit) under one health care plan. As testified to by Mr. O'Connor, this would be advantageous for matters of administering the plan, reducing Employee confusion regarding benefits and marketing the plan where competitive bids are solicited.

The County notes that if the Union proposal were to be adopted, only 10 of the County employees would be carved out of the umbrella plan proposed by the County which covers all of its other Employees. This would require coverage through a different carrier, and the County does not believe that the Union proposal would result in better benefits or a significantly lower cost. While the County acknowledged that if every member of the bargaining unit decided to enroll in the County's proposed plan, the cost would be \$11,000 per year higher than, in itself, should not be a basis for awarding the Union proposal because (1) the costs of reimbursing employees for certain deductibles and co-insurance payments could be significantly higher for a small group of employees such as those in the instant bargaining unit; (2) the County is currently responsible for retiree health care which all parties agree is significantly higher under the proposed Union plan than the proposed County plan, and (3) the County consultant firm handles a number of administrative matters, the cost of which is included in the health insurance rates under the County plan; however, moving to the Union proposed plan would require the County to handle and pay for the delivery of the administrative services associated with that plan. Thus, the County concludes that any savings presented by the Union's proposal would certainly be more than consumed by the County having to hire additional staff or having to contract with outside sources for the delivery of the various administrative services under the Union proposed plan.

The County believes that great emphasis should be placed upon its internal comparables wherein all of its other bargaining unit and non-bargaining unit employees are covered by its

proposed plan and cites in support of its position, the City of Royal Oak, 1998, MERC FF/Act312 (Arbitrator George Rumel, Jr.) and the City of Girardville, 1997 MERC FF/Act 312 (Arbitrator Barry C. Brown). In those cases, as noted by the County, as well as numerous other cases, Arbitrators have placed a significant reliance upon internal comparables for support of their respective decisions.

The County believes that the factors set forth hereinabove also control the proposed County health insurance language which states:

"Eligibility, coverage and benefits under the above insurance plans are subject to the terms and conditions, including any waiting period or other time limits contained in the contract between the employer and the carrier. The employer will have the right to select carrier and/or benefit manager to change carriers; to change policies or plans or to become self-insured; provided that comparable benefits are provided."

The County notes the language hereinabove set forth has been agreed to by every other bargaining unit in the City and is also applicable to non-bargaining unit employees as well. It believes that as compared to the existing language in this unit's collective bargaining agreement and insurance coverage, the proposed language clarifies eligibility, coverage and benefits, and provides the County with significantly more flexibility to move, if it determines it to be fiscally responsible, into a fully-insured arrangement, so long as it continues to provide comparable benefits.

With respect to the proposal of health care that Employees retiring after the issuance of the 312 Award will no longer have health insurance once the individual becomes eligible for Medicare the County notes that the only other group of employees who had this coverage have agreed to the change. That group being the County employees who are deputies in the Sheriff's department.

The County further asserts that its Exhibit with respect to comparable counties indicates that the County's proposal is reasonable and comparable.

In support of its proposal, the Union notes that both parties agree the County has the right to conform to the requirements of Public Act 152 of 2011 and further, the parties have agreed that the Employer may change carriers or become self-insured if necessary. However, the Union has proposed a separate plan as hereinabove set forth, and further, opposes the cessation of retiree health care when employees become Medicare eligible.

The Union notes that its plan works similarly to a traditional health reimbursement account. Employers are required to pay an annual \$100/\$200 deductible before the variable premium corridor is triggered. The County is then required to self fund the first \$5,000/\$10,000 of the variable premium corridor, but instead of placing the money in a separate account, employees receive a debit card billed to the Employer. The amount the Employer pays per month under the variable premium corridor is based upon usage by the Employees. No usage requires no payment. Once the \$5,000/\$10,000 premium corridor is exhausted, the health

insurance carrier assumes responsibility for the coverage. The co-insurance amounts typically only come into play on hospital services. The Union believes that its COPS Trust Plan is superior because it has a cheaper deductible, drug card, office visit co-pay and emergency room visit co-pay for Employees. It also believes administratively, its plan is superior and does not require its members to obtain documents from their physician in order to provide documentation to the County for reimbursement and at times having their reimbursement delayed. Moreover, it notes that some Employees in the Deputy's bargaining unit have been denied service because they could not afford the health care costs up front. This would not be a problem under the Union proposal where Employees merely swipe a debit card provided by COPS Trust.

The Union notes that using the County calculations from Employer Exhibit 27, as well as the costs contained in Union Exhibit 7, the total cost to the Employer of the Union proposal would be \$121,734. However, the Employees are obligated, pursuant to Public Act 152 of 2011 and the selection by the County of the 20% factor, to pay approximately \$24,000 of that amount if all 10 bargaining members enrolled in the plan. On the other hand, the County proposal would cost approximately \$132,000 per year of which Union members would pay approximately \$26,000, leaving the County with an obligation of approximately \$106,000. In short, the County's proposed health plan according to the Union would cost roughly \$8,800 more than the Union's proposal. The Union rebuts the County calculation that its unit might be more costly based upon the small number of employees in the unit as opposed to all of the other County employees being used to calculate the cost of the County plan by indicating that the County had not determined the monthly health insurance usage rate for Command Employees, and the Union asserts that it's possible that Command Officers have traditionally used less health insurance than average employees. (However, that represents pure speculation since there were no exhibits presented by either party indicating the amount of usage by Command Officers as opposed to the other County employees).

The Union further notes that the rate increases of its proposed plan in the past have been far less than those of the Blue Cross Plans which have been in existence in the County. Thus, there is greater financial security utilizing the Union plan. Further, if the Union members in this bargaining unit were to be carved out of the overall County plan, it would not impact the overall County plan in terms of a rate increase since that plan is based on a group of at least 100 employees and there are currently 130 employees on the County plan.

The Union argues that the County's arguments with respect to administrative costs are a non-issue since the plan proposed by the Union already provides some of those administrative services. In the alternative, the County could keep its current consultant for those administrative services which may be required under the Union plan as a consultant.

The Union believes that it is significant that its offer allows the Employer to change carriers, provided it obtains "equivalent coverage" as opposed to the Employer proposal which provides "comparable benefits." The Union opines that this allows the Employer to unilaterally switch to a plan which may be inferior in some respects. The fact that its members have agreed to move to a lesser plan than one which was previously offered should be taken into consideration. In addition, the Union notes that the County Treasurer testified that health insurance carriers are more than willing to write plans that are equivalent to prior coverage.

With respect to the County proposal to eliminate coverage for retirees when they become eligible for Medicare, the Union opines that this should be a non-issue, based upon the fact there is only one employee eligible to retire at this time. Since that employee already opts-out of health insurance, he might very well decline retiree health care from the County in the event that he retires and there will be no additional employees eligible to retire under the successor collective bargaining agreement, so the parties will have plenty of opportunities to discuss the issue of retiree health care coverage in future negotiations.

The Arbitrator had noted that there had been an indication that there was an issue with regard to dental coverage. However, the Union noted in its Brief that the document had been prepared prior to Last Best Offers being submitted, and it did not reference that issue in its Last Best Offer. It further notes that if the Panel were to award the Union's health care proposal, it would certainly be willing to change dental carriers to its proposed plan which result in an even greater savings to the County.

With respect to the last issue, since the Union's Last Best Offer did not reference dental insurance, the Arbitrator cannot and will not award anything with respect to that issue. In the future, should that issue arise, the parties will be in a position to attempt to negotiate a settlement or raise that issue in a future Act 312 proceeding.

I do not believe that the savings, if any, referred to by the Union is significant with respect to the cost of health insurance. At most we would only be discussing the sum of \$8,800 per year for the entire bargaining unit. That would only be true if all the members of the bargaining unit entered into the plan to begin with. It is my understanding that currently one member does not have health care insurance through the County and thus, presumably, the possible savings of \$8,800 would be reduced by 10%.

I also do not believe that it is relevant that only one member of the bargaining unit will be eligible during the term of this Collective Bargaining Agreement to retire with respect to the issue of whether or not health insurance should be eliminated with respect to retirees when they obtain Medicare. I do note that the initial cost of Medicare is borne by the recipient of Social Security with respect to Part B, and if selected, Part D, pursuant to a schedule of costs which is established by the government. In addition, individuals who become eligible for Medicare can obtain supplemental insurance for a relatively minor cost. I further note that other members of bargaining units within the County have already agreed to the elimination of that language in the proposal of the County. Accordingly, the County's Last Best Offer with regard to the elimination of health care for retirees who obtain Medicare eligibility is hereby awarded.

With respect to the issue of eligibility and the language proposed by the County which includes the County's right to change carriers, provided that comparable benefits are provided, I find that the County proposal, based upon both external and internal comparables satisfied the requirements of Act 312 and is hereby awarded.

Finally, with respect to the two plans, I believe that the plan proposed by the County more nearly meets the factors set forth in Section 9 of Act 312. It does not constitute a negative

financial impact upon the community nor does it affect in a negative way the interest and welfare of the public. It is well within the lawful authority of the County, and it is favorably compared to public employment in comparable communities and is identical in a comparison with the employees within the County in other bargaining units as well as non-bargaining unit employees. I do not believe it negatively affects the overall compensation received by employees in this bargaining unit, nor does it have a negative impact upon the financial ability of the County, and I believe is supported by competent, material and substantial evidence. Accordingly, the Last Best Offer of the County with respect to the health insurance plan proposed in its Last Best Offer is hereby awarded.

D. Amount of Stipend for Employee Opting Out of Health Insurance.

Employees who opt-out of the health care provided by the County receive the sum of \$125 if single and \$250 if married and/or has a family per month for opting out of the County offered health insurance plan. The Union has proposed to raise this amount to \$250 for a single and \$500 for double or family per month. The County seeks to maintain the status quo.

In support of its position, the Union notes that it is economically desirable insofar as the County is concerned to have Employees opt-out of the health care plan. The opt-out provisions encourage Employees to seek health care insurance elsewhere, thus saving the County the premium cost for a single or married employee. This in turn creates substantial savings for the County. The Union believes that it is rational to assume that the higher the opt-out payment, the more likely an Employee will decline the Employer-provided health care. This of course assumes that the Employee will be covered in most cases by a spouse's health care plan since it is most unlikely that an employee could find adequate health care coverage either single or for a married employee with or without a family for the amount that is currently paid or for that matter, proposed by the Union for opting out of the plan.

The Union notes that with the enactment of Public Act 152 of 2011, its members, since the expiration of the collective bargaining agreement have been forced to contribute 20% of the cost of their health care insurance. It notes that 9 of 10 officers had enrolled in the more costly PPO-1 Plan and some members faced the prospect of being unable to pay their bills due to the required health care contributions. As a result, several officers then chose less expensive health care plans while others dropped out all together. That, according to the Union, is the value of an opt-out plan since, if health insurance premiums become unbearably expensive for bargaining unit employees in the future, the opt-out provision becomes an important safety net by allowing officers to seek health insurance elsewhere.

The Union believes that that the increased cost would be a negligible expense for the County since currently, five of the bargaining unit members have opted out of the Employer provided health care insurance, but if the County health care plan were to be awarded (which it has) its members who have opted out would likely revert back to the County's health insurance with the possible exception of one Employee. Thus, the Union concludes that adopting its proposal will give Employees greater security while costing the County little if anything.

In support of its position, the County notes that the purpose of the opt-out payment is obvious in that if an Employee "opts-out" of the County health insurance coverage, he or she can be financially rewarded for doing so, and the Employer saves funds by paying the opt-out amount, which is less than the cost of health insurance.

However, the County believes that the opt-out provision only makes sense if it increases the number of Employees "opting-out". It notes that currently, half of the members of the bargaining unit are opting-out of the health insurance, but there is nothing in the record to even remotely suggest that the number of employees opting out would increase if the amount of the opt-out stipend was increased in accordance with the Union's proposal. Moreover, the County notes that the current amount of the opt-out stipend available to the members of this bargaining unit is approximately the same as that afforded to every other County covered Employee. In addition, the County compares favorably on this issue when compared to comparable communities.

Utilizing the factors of Section 9, it would appear that the Employees in comparable communities and the Employees of the County all are currently receiving the amount proposed by the County or a comparable amount. There is nothing to indicate that if the stipend were to be increased, any additional Employees would opt-out of the coverage. While certainly it is preferable insofar as the County is concerned to have as many employees as possible opt-out of the coverage based upon the current stipend, it would not appear that the County would incur any additional savings in terms of any additional members of this bargaining unit opting out of the coverage. Accordingly, at best, the County would be required to double the monthly stipends. Thus, it would cost the County for a single employee \$1,500 more annually and for a married employee or one with a family \$3,000 more annually.

Those amounts simply are not justified based upon a comparison of that benefit with the four comparable counties and certainly are not justified based upon a comparison with the other county employees in bargaining units and not represented, all of whom receive the same amount of the opt-out of health care coverage as is currently available to members of this bargaining unit.

I know of no reason why the Arbitration Panel should award this benefit which, although relatively minor, would negatively affect the financial ability of the County to pay it and more importantly, I cannot find that the proposal of the Union is supported by competent material or substantial evidence based upon the factors hereinabove set forth that are contained in Section 9.

Accordingly, the Award of the Panel is the Last Best Offer of the County, which is to maintain the status quo.

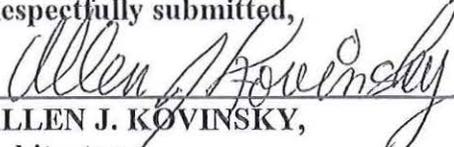
VI. CONCLUSION

The Panel and the Arbitrator have awarded either the Union's or County's Last Best Offers as hereinabove set forth. The parties have been most helpful during the presentation of this case with respect to the introduction of Exhibits and oral testimony as well as their Briefs

which were most helpful in allowing the Arbitrator and Panel to reach the various decisions hereinabove set forth.

Dated this 7th day of December 2012.

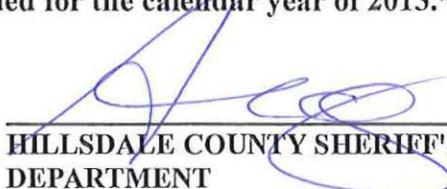
Respectfully submitted,


ALLEN J. KOVINSKY,
Arbitrator

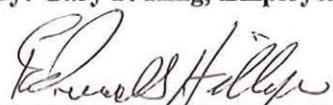
The Union Panel Member dissents with respect to the wages awarded for the year 2012, as well as the Panel's Awards with respect to health care and the health care stipend. The Union Panel Member concurs with respect to the wages awarded for the calendar year of 2013.

The County Panel Member concurs with the wages awarded for 2012 and the County's Last Best Offers with regard to health care and the health care stipend. The County Panel Member dissents with regard to the wages awarded for the calendar year of 2013.

Dated: December 7, 2012


HILLSDALE COUNTY SHERIFF'S
DEPARTMENT
By: Gary P. King, Employer Delegate

Dated December 7, 2012


POLICE OFFICERS LABOR COUNCIL
By: Edward Hillyer, Union Delegate