

State of Wisconsin

In the Matter of the Petition of

Washington County

and

Washington County
Highway Department,

Teamsters "General" Local 200

WERC Case 173 No. 69262
Int/Arb-11415

Dec. No. 33016-A

Appearances:

Ms. Nancy L. Pirkey, Esq., Buelow Vetter Buikema Olson & Vliet, S. C., 20855 Watertown Rd., Suite 200, Waukesha, WI 53186, on behalf of the County.

Ms. Jill M. Hartley, Esq., Previant Goldberg Uelmen Gratz Miller & Brueggeman, S. C., 1555 RiverCenter Drive, Suite 202, Milwaukee, WI 53212-12993, on behalf of the Union.

Arbitration Award:

On October 22, 2009, the captioned petition was filed. On November 18, 2009, and January 26, 2010, Marshall Gratz of WERC conducted investigations that reflected that the parties were deadlocked in their negotiations. Final offers were collected by April 2, 2010, whereupon the investigation was closed.

On April 27, 2010, the parties jointly selected Sharon A. Gallagher and on May 10th, the Wisconsin Employment Relations Commission issued its Order appointing Arbitrator Gallagher to hear and resolve this dispute.

The parties agreed to hold the hearing in this matter on June 24, 2010 in West Bend, Wisconsin. The parties presented and explained their documentary evidence—the County submitted 14 exhibits and a CD and the Union submitted 34 exhibits. These documents were received into the record. The Union also presented one witness who was sworn an oath/affirmation by the Arbitrator. The hearing was completed and adjourned on June 24th.

The parties agreed to postmark their initial briefs directly to each other with a copy to the Arbitrator by July 26, 2010, and they reserved the right to file reply briefs and agreed to submit any replies ten working days after each parties' receipt of the other's initial brief.

The Arbitrator received a letter and enclosure from the County dated July 8, 2010 containing the internal settlement in the Social Services Clerical unit. The Union did not object to the submission of this settlement.

The Arbitrator received the last document herein on August 21, 2010. By letter dated August 23, 2010, after having considered the parties' briefs on the subject whether the Arbitrator should "reform" or "correct" the Union's final offer on health insurance to match the County's final offer on that subject over the County's objection, the Arbitrator wrote to the WERC requesting advice regarding the Union's request for reformation. On October 12, 2010, the Commission took jurisdiction of the matter. By letter dated November 12, 2010, the County advised WERC it would not object to the Union's amendment of its final offer and on this basis on November 15th, the Commission relinquished jurisdiction and sent the case back to the Undersigned for her decision.

Final Offers:

County:

The County proposed that the provisions contained in the 2007-09 collective bargaining agreement between Washington County and Teamsters "General" Local Union No. 200 be continued in a new 2-year agreement, except as modified by the package proposal below:

1. **Tentative Agreements.** The tentative agreement on job posting procedures (Article IX Seniority, Section 9.4 paragraph 4).
2. **Letter of Agreement.** Remove the "sunset date" by deleting paragraphs 1 and 9 from the side letter on CDL disqualification.
3. **Section 8.02 – Wage Rates.** Revise the salary schedules in Section 8.02 as follows:

Implement a wage freeze for the period of July 1, 2009 through June 30, 2010, by eliminating the July 1, 2007 wage rates and by changing the phrase "Effective 7/1/08" to "Effective 7/1/09."

Revise the salary schedules to provide for the following wage increases:

Effective July 1, 2010 1.00% across the board increase
Effective January 1, 2011 1.00% across the board increase

4. **Section 14.02 – Health Insurance.** Revise the first paragraph of Section 14.02 to read as follow:

Effective January 1, ~~2007~~ **2009**, the County shall, for each full-time employee, and if such employee chooses, for the employee's dependent family, contribute up to ~~four hundred five dollars (\$405.00)~~ **Five hundred seventy-two dollars and eighty-seven cents (\$572.87)** per month and effective January 1, ~~2008~~ **2010**, up to ~~four hundred twenty five dollars (\$425.00)~~ **six hundred thirty-one dollars and fifty-one cents (\$631.51)** per month toward the cost of the single health insurance plan and, effective January 1, ~~2007~~ **2009** up to ~~one thousand twelve dollars (\$1,012.00)~~ **one thousand four hundred thirty-one dollars and sixty-one cents (\$1,431.61)** per month and effective January 1, ~~2008~~ **2010**, up to ~~one thousand sixty two dollars (\$1,062.00)~~ **one thousand five hundred eighty-three dollars and nineteen cents (\$1,583.19)** per month towards the cost of the family health insurance plan. **Effective January 1, 2011, the County, for each full-time employee, and if such employee chooses, for the employee's dependent family, contribute up to \$_____ per month toward the cost of single health insurance plan and \$_____ per month towards the cost of the family health insurance plan. The dollar amounts to be inserted will represent a County contribution of eighty-five percent (85%) and an employee contribution of fifteen percent (15%) but expressed in dollar amounts. Should the cost of the single insurance coverage exceed four hundred five dollars (\$405.00) per month in 2007 or four hundred twenty five dollars per month effective January 1, 2008 **2010**, or should the cost of the family health insurance coverage exceed one**

~~thousand twelve dollars (\$1,012.00) per month in 2007 or one thousand twelve dollars (\$1,012.00) per month effective January 1, 2009, the employee and the County shall split on an equal basis that cost in excess of such applicable listed figure. The dollar caps set forth above will be revised effective January 1, 2009 to reflect amounts that maintain an employee contribution of fifteen (15%) and a County contribution of eighty five percent (85%). These contributions shall be expressed in the contract language in the form of a dollar cap. The employee's share shall be paid via a payroll deduction.~~

5. **Section 14.02 – Health Insurance.** Correct the typographical error in Paragraph 8 so it reads as follows:

8. The maximum benefits paid under the health insurance plan shall be \$1,000,000 in any one calendar year and \$2,000,000 for the lifetime of the insured person.

6. **Article XXIII – Safety Apparel and Equipment.** Revise Section 23.02 to read as follows:

~~Section 23.02.~~ The Conty will contribute a maximum of three hundred ~~twenty~~ **twenty** dollars (~~\$300.00~~ **\$320.00**) towards the cost of safety shoes, ~~or~~ prescription safety glasses, **or Class III safety clothing (shirts, pants or jacket)**, or a combination of ~~both~~ **any of these three** items, for each employee during the two year contract period. This payment cannot be carried over into the next contract period. To be eligible for such contribution, the employee must submit a paid receipt for such prescription safety glasses, **or Class III safety clothing or** safety shoes to the Commissioner's office.

7. **Article XXX – Duration.** Revise all dates to reflect a two year agreement, effective July 1, 2009 through June 30, 2011.

Union:

The Union proposes that the provisions contained in the July 1, 2007 – June 30, 2009 collective bargaining agreement between Washington County (Highway Department) and Teamsters “General” Local Union No. 200 continue in a new 2 year agreement except as modified below:

1. Article VIII – CLASSIFICATION AND COMPENSATION

Section 8.02 Rates: Revise to reflect a 3% wage increase for all classifications effective July 1, 2009 through December 31, 2009.

Revise to reflect a wage freeze for all classifications effective January 1, 2010 through December 31, 2010.

Revise to reflect a 2.5% wage increase for all classifications effective January 1, 2011 through June 30, 2011.

2. T.A. 6/11/09 – Article IX – SENIORITY: Revise Section 9.04, Paragraph 4 as follows:
 4. No employee hired as a Mechanic will be allowed to bid for a Laborer/Operator/Person position during the first three (3) years of employment as a Mechanic. After his three (3) year period, all employees in the classification of Mechanic may exercise their right to transfer to a Labor/Operator/Person position if qualified based on experience and training. Should an employee be successful in obtaining a Laborer/Operator/Person position and thereafter return to a Mechanic position, such employee will be required to serve at least three (3) years in that Mechanic position before such employee could again apply for a vacant Laborer/Operator position.
3. ARTICLE XIV – HEALTH INSURANCE: (Same as offered by the County per agreement of the County on November 12, 2010.)
4. ARTICLE XXX – DURATION: Revise as follows:

This Agreement shall become effective July 1, 2009 and shall remain in full force and effect through June 30, 2011.
5. LETTER OF AGREEMENT: Remove the “sunset date” by deleting Paragraphs 1 and 9 from the side letter on CDL disqualification.

Applicable Statutory Provisions:

“7 ‘Factor given greatest weight.’ In making any decision under the arbitration procedures authorized by this paragraph, except for any decision involving a collective bargaining unit consisting of school district employees, the arbitrator or arbitration panel shall consider and shall give the greatest weight to any state law or directive lawfully issued by a state legislative or administrative officer, body or agency which places limitations on expenditures that may be made or revenues that may be collected by a municipal employer. The arbitrator or arbitration panel shall give an accounting of the consideration of this factor in the arbitrator’s or panel’s decision.

7g. ‘Factor given greater weight.’ In making any decision under the arbitration procedures authorized by this paragraph, except for any decision involving a collective bargaining unit consisting of school district employees, the arbitrator or arbitration panel shall consider and shall give greater weight to economic conditions in the jurisdiction of the municipal employer than to any of the factors specified in subd. 7r.

7r. ‘Other factors considered.’ In making any decision under the arbitration procedures authorized by this paragraph, the

arbitrator or arbitration panel shall also give weight to the following factors:

- a. The lawful authority of the municipal employer.
- b. Stipulations of the parties.
- c. The interests and welfare of the public and the financial ability of the unit of government to meet the costs of any proposed settlement.
- d. Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees performing similar services.
- e. Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees generally in public employment in the same community and in comparable communities.
- f. Comparison of the wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees in private employment in the same community and comparable communities.
- g. The average consumer prices for goods and services, commonly known as the cost of living.
- h. The overall compensation presently received by the municipal employees, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- i. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- j. Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.”

Positions of the Parties:¹

Union:

¹ The parties’ original arguments regarding health insurance have not been summarized based on the County’s November 12th agreement to allow the Union to change its health insurance offer to mirror the County’s offer.

The Union urged that its offer is more reasonable and is supported by the statutory factors. In this regard, the Union observed that the “greatest weight” and “greater weight” factors are not at issue here as the County failed to submit any proof detailing an inability to pay, a budgetary shortfall or showing budgetary problems created by legislative revenue limits. Furthermore, the general comments/evidence regarding economic distress in the local economy (U. Exh. 26) is insufficiently specific to trigger the application of Sec. 111.70 4 (cm) 7g, Stats. In addition, the Union noted that the County’s funding of County Fair Park operations in 2010, which the Union asserted constituted discretionary (not required) spending showed that the County’s financial picture is not so dire as the County would have us believe.

Also, the Union contended that Sec. 111.70 4 (cm) 7g, Stats., is not at issue here because the County failed to prove that Washington County’s economy is more depressed than its neighbors/comparables or that the County is suffering from undue or disparate economic burdens. The Union observed that although County Exhibits 14a through 14c showed that the County’s per capita income was third among the comparables, without any evidence showing the history of the County’s status on this point vis-à-vis the comparables, this data did not support application of Sec. 111.70 4 (cm) 7g, Stats. Also, data regarding unemployment rates in the County and among the comparables (County Exhibits 14b and c) showed that although unemployment in the County rose between 2008 and 2009, the County’s unemployment ranking actually improved among the comparables in that time, dropping from third to fourth highest, making the “greater weight” factor inapplicable.

The Union turned to the internal comparables, which the Union asserted supported its final offer. In this regard, the Union contended that the Arbitrator should give significant weight to the clear pattern of the historical internal wage increases among the comparables—3% at the beginning of each of the internals’ most recent contracts (in 2007 as well as 2008 and 2009). Thus, all seven internal units received 3% and 3% January 1, 2008 and January 1, 2009. The Union urged that because every County unit except the Highway unit received 3% ATB on the anniversary date of their contracts, the historical internal pattern requires that the Highway unit receive 3% on the anniversary date of its next agreement, July 1, 2009. This is precisely what the Union has proposed in its final offer and the Union’s offer therefore should be preferred because it is supported by this historical internal pattern and if selected instability and loss of morale would be avoided. Labor peace, equity and on-going successful bargaining would be promoted. As there is no persuasive evidence to justify deviating from this internal pattern, the Union urged the Arbitrator that she must select the Union’s offer on this basis.

The Union argued that the 3% ATB increase received by Highway unit employees on their rates on July 1, 2008 cannot be split as the County has done into 1.5% on July 1st and 1.5% on January 1st of that contract year in order to support the County’s offer here and to distract from the County’s clear break with the historical internal wage pattern. In the Union’s view, the 3% ATB increases received by all other County units on January 1, 2009, contain the historical internal pattern in the County and require a conclusion that the County’s offer to the Highway unit has broken that pattern. On this point, the Union cited cases in which arbitrators have held that absent unique circumstances, internal wage increases should be quite similar if not identical and internal wage settlements/patterns should be weighed heavily in order to maintain consistency and equity among employees, to avoid disruption and the negative impact on employee morale and to quell questions concerning the municipality’s intentions and credibility in future negotiations. For these reasons, the Union urged the Arbitrator to select its final offer.

The Union also argued that its offer must be preferred over the County’s when the ATB increases for 2010 and 2011 in each party’s offer are considered, as the Union’s offer is consistent with the internal comparables. Under the Union’s offer, unit employees would take a wage freeze from January 1, 2010 through December 31, 2010, matching all voluntarily settled County units. In contrast, the County’s final offer herein would give Highway unit employees 1% ATB on July 1, 2010, which none of the other County units will receive and which is inconsistent with the historical internal wage pattern.

Regarding the increases offered by the parties in 2011, the Union asserted that its offer (2.5%) should again be preferred because it mirrors the 2.5% increases which Parks and Samaritan received on January 1, 2010. And the total of 5.5% over two years contained in the Union’s final offer also mirrors Parks and Samaritan. In contrast, the County’s offer would give Highway Department employees only a 2% lift over two years, and this would be an inconsistent result singling out the Highway unit from all other County units for inequitable treatment. Even the recently settled Social Services clerical unit will receive a 5% lift from January 1, 2009, through December 31, 2011. Also, the Union noted that the County has approved a number of reclassifications of non-bargaining unit positions to the tune of more than \$49,000, all in addition to the 3% increases non-unit employees received in 2009.

The Union further contended that the external comparables also support selection of its offer. In this regard, the Union noted that arbitrators generally give internal settlement patterns controlling weight unless adherence to these patterns would result in unreasonable wage disparities with the external comparables. Here, selection of the Union's offer when compared to the County's would not change the County's status vis-à-vis the external comparables. In addition, employees of each of the external comparables received between 2.5% and 3% in 2009 in their pockets for an average increase of 2.8%. None of the externals implemented a wage freeze in 2009. Each of the external comparables will provide an average wage increase of 2.61% in 2010, while the County has only offered a 1% wage increase, making the Union's 2.5% increase in 2011 more reasonable. Finally, the Union observed, the selection of its final offer would preserve the County's ranking at the minimum and maximum rates vis-à-vis the external comparables while selection of the County's final offer would result in L/O/P's at the max losing ground vis-à-vis the external comparables, going from 2 of 6 to 3 of 6. Since none of the external comparables has settled for 2011, if the County's offer is selected County Highway L/O/P's would likely lose additional ground on the benchmarks in 2011. Regarding County Mechanic wages, the Union noted that although Mechanics at the maximum will not lose ranking among the comparables if the County's offer is selected, they would be more likely to maintain their rank in 2011 if the Union's offer is selected.

The Union asserted that the rise in the cost of living (in November and December, 2009) favors the Union's final offer. Finally, as the County failed to provide any justification for or need to increase the safety clothing allowance, the Union's offer (status quo) should be preferred on this point as well.

County:

The County next asserted that the internal settlement pattern strongly favors selection of the County's offer. Four of the County's other bargaining units—Social Workers, Corrections/Communication Officers, Deputy Sheriffs and Command Staff—have settled one-year contracts covering calendar year 2010; Parks and Samaritan units have effective agreements covering 2009 and 2010. The County urged that the Parks and Samaritan units settled in early 2009 before the economy turned and the recession began. The four units that settled one-year contracts covering 2010 each took a wage freeze in recognition of the downturn in local economic conditions which set the County internal pattern. Also, the recent two-year voluntary settlement in the Social Services Clerical unit mirrors the County's final offer here, providing a one-year wage freeze in calendar year 2010 and 1%/1% split increase in 2010 and 2011 and health insurance is consistent with the County's final offer herein.

In contrast, in the County's view, the Union's offer of 3% and 2.5% from July 1, 2001 through June 30, 2011, equals 5.5% over the contract term. Therefore, the Union's offer could not reasonably be viewed as including a wage freeze. The County asked why its 0%, 1%/1% wage offer was good enough for the Social Services Clericals but not good enough for Highway unit employees, and the County urged the Arbitrator not to create a disparity between County units by selecting the Union's offer. Thus, the County strongly urged that since a majority of its units have settled for a wage freeze and for its insurance offer for 2010, this constitutes a pattern which should weigh heavily in favor of the County's offer herein.

The County contended that the case law shows that fostering fairness, labor peace and positive employee morale, gaining future voluntary settlements without the potential of a whipsaw effect on bargaining are reasons why many arbitrators grant heavy or controlling weight to internal settlement patterns. The County urged that absent a showing that application of the internal settlement pattern would result in the unit's slipping significantly vis-à-vis the external comparables, arbitrators will select the offer which contains the internal settlement pattern. Ozaukee County (Sheriff's), Dec. No. 32592-A (Shaw, 11/09). Here, the County asserted, the Highway employees would not lose any ranking under the County's offer so its offer should be preferred.

The County next contended that the actual cost of the Union's final offer on wages shows the Union's offer cannot be justified. In this regard, the County noted that the Union's wage offer would cost \$79,684.80 while the County's offer would cost \$18,761.60, a difference of \$60,923.20. The County admitted it has not made an inability to pay argument herein. However, it argued that "the impact of the recession and local economic conditions" and the fact that five County units have accepted a wage freeze for 2010, show that the Arbitrator must find the Union's offer "completely unreasonable and excessive" (County Briefs, p. 23).

The undisputed external comparables also support selection of the County's offer. In this regard, the County noted that its Highway employees have historically been among the highest paid in the

comparability group. County L/O/P's have been second of six comparables and would remain so under the County's offer and County Mechanics have been second of five comparables and they would remain so if the County's offer is selected. County L/O/P's have been and will continue to be above the average of the comparables. Although County Mechanics have not historically been paid above the average of the comparables they are highly paid and would not lose ranking under the County's offer.

Furthermore, the County argued that various other factors support the selection of its offer. In this regard, the County pointed out that its exhibits show that it has offered employees a fair overall benefit package.² Also, the County asserted, the cost of living factor supports its final offer. The County argued that the cost of living *decreased* by .375% for all urban consumers in 2009, which supports the County's 2010 wage freeze. The County's unemployment rate is the highest of the external comparables.³ West Bend has the fourth highest unemployment rate in Wisconsin (11.5%), the highest of the four comparables' largest cities with reported data and there has been a decline in County sales tax falling from \$9,322,292 in 2008 to \$8,312,379 in 2009. Also, in 2008, the County levied \$36 million to meet expenses, in 2009 it levied \$37 million to meet (projected) 2009 expenses and in 2010 it levied \$39 million to meet projected expenses. This was necessary in part because County revenues fell from \$100 million in 2008 to \$86 million in 2009 to \$79 million in 2010. Lowered interest rates on County funds have also caused pressure—the reduction in earnings could be \$400,000 in 2010. The County urged that this evidence shows it is experiencing an economic crisis. Thus, the continued reductions in expenses and revenues and increases in the levy over the prior two years required savings in salaries of \$800,000 in 2010 which the other bargaining units recognized.

The Wisconsin DWD 2009 profile submitted by the County showed that the economic downturn has been bad, with four quarters of negative GDP's (ER Exh. 14G). Although this evidence also indicated that DWD believed the economic recovery is now underway, the County asserted it has not materialized in Washington County, citing 2009 City Fiscal conditions (ER Exh. 14h).

The County then cited several arbitration decisions which used high unemployment rates in considering local economic conditions and in applying the "greater weight" factor.

Replies:

Union:

The Union urged that the County's argument on the wages of the internal comparables was misleading because the County failed to mention that in 2009 all of its units (except the Highway unit) received 3% ATB. In 2009, the Highway unit will receive 0% ATB. Therefore, the Union asserted, the County's final offer breaks with the internal comparables while the Union's 2009 wage offer is consistent with all other internals' 2009 increases. The fact that the Social Services Clericals settled after the close of the instant hearing actually supports the Union's offer—not the County's—since the Clericals also received 3% ATB in 2009. But the Union urged that the Clericals' settlement should be given no weight in terms of an internal "pattern".

By proceeding to Interest Arbitration herein, the Highway unit is not seeking to be treated better than other units; it is merely seeking to be treated the same as all other County units. In addition, the County did not claim inability to pay—only that the County's and all other external comparables' unemployment rates have been high and that generally the economy has been poor, the County failed to submit evidence to support a conclusion that there is a significant financial crisis in Washington County.

The Union contended that, if selected, the County's offer will cause conflict among units and undermine employee morale as Highway unit employees will be 3% ATB behind all other County units.

² The County leads the external comparables on safety equipment, WRS contributions, and long-term disability insurance. Also, the County ranks second on paid holidays, vacation. The County's funeral leave is competitive but the County's health insurance is last among the comparables in employer contributions (85% compared to comparables paying from 95% to 88%).

³ Unemployment rates among the external comparables were moderate in 2008 (the County's rate at 3.6% was fourth of six). In 2009 unemployment rates rose sharply among the comparables, up to 9.3% (the County's rate went to 8.6%, a 5% rise, making it fourth highest of the comparables). In the first part of 2010, unemployment rates decreased by up to 4.9%. However, the County's rate fell by only 3.6%, to 5.0%, highest among the comparables.

Also, as the Union's offer incorporates the exact wage freeze the five other settled units accepted, none of the units agreed to a bonus or a one-time payment not applied to the rates, so all increases received in 2009 will forever increase the cost of wages in all units, except the Highway unit, which will receive 0% ATB in 2009 if the County's offer is selected.

The Union urged that only one unit, Social Services Clericals, have agreed to the 2011 1%/1% split increases offered by the County. A single unit settlement does not set a pattern. This makes the 2.5% increase offered by the Union for 2011 more reasonable because Parks and Samaritan are receiving 2.5% ATB in 2010 under their effective 2009-10 contracts. The Union asserted that in all the circumstances, the Arbitrator must select the Union's offer in this case as it is consistent with the internal patterns.

County:

The County argued that its offer is supported by the clear internal settlement pattern, a majority of the internal comparables, and it must therefore be selected. The Union's use of two of seven units, Parks and Samaritan, as a "pattern" here is wrong-headed and insupportable. The recent settlement of the Social Services Clerical unit (also represented by the Teamsters), for the same package as final-offered herein, leaves the Highway unit as the "lone holdout for 2010." The Highway unit should not be rewarded for this strategy, as inequities, dissention and low morale among County employees would result.

The County asserted that the Union has misunderstood its wage offer. The County has not argued that the Highway unit received a 1.5%/1.5% wage increase in 2008. Rather, the County's offer and its exhibits here attempt "to align all County settlements on a calendar year basis" for comparison purposes across all of its units, including Highway, which is the only unit that has a July 1 to June 30 contract year. The County contended in its brief that it merely sought to show its calculations comparing "apples to apples." The County asserted that it is the Union that is distorting the facts by characterizing the Social Services Clerical two-year settlement (0% on January 1, 2010 and 1% on January 1, 2011, and 1% on July 1, 2011) as a three-year deal from 2009 through 2011 for a total of 5% across three years. The County asserted that this attempt by the Union to make its offer look "reasonable" should be rejected.

The County argued that the essential question here is whether the Union is willing to take a wage freeze in the first year (2009) of a two-year Highway unit contract like five of seven County units. The answer is a clear "no" given the Union's offer of 3% increase in July of 2009 and a 2.5% increase in January of 2011, for a total of 5.5% over two years. The Union's purported 0% from January 1, 2010 through December 31, 2009 is actually 0% for only six months as its 3% ATB offered increase would run from July 1 to June 30, 2009. In these circumstances, no reasonable and rational person would believe that the Union's offer includes a one-year wage freeze.

The cost impact of the Union's wage offer alone is almost \$61,000 more than the County's offer on wages. The County urged that the cost of the Union's offer is insupportable in "this current economic recession." The County observed that its non-represented employees took a wage freeze in 2010 as did the majority of represented employees so that the Union's evidence regarding reclasses fails to support its excessive, costly final offer.

The County reiterated that the internal settlement pattern should be given controlling weight in this case. The County observed that if its offer is selected, technically, Washington County Highway employees will lose ranking in 2009 vis-à-vis Waukesha County employees at the maximum wage rate, but by only \$0.01, and the County's offer would still leave County wage rates above the average of the comparables in both the Laborer and Mechanic classifications. Thus, a one-cent difference is truly negligible and should be disregarded.

The Union's assertion that the County must offer a quid pro quo for changing the safety allowance provision is absurd as a quid pro quo is not necessary to support an offer that improves a benefit. Finally, the County pointed out that the increases in the County's unemployment rate in 2008 and 2009 and its total tax level (second of six) are extremely high among the comparables. The County has endeavored to rein in its costs in difficult economic times and the majority of County employees have recognized the financial challenges facing the County by accepting a 2010 wage freeze. As the County's offer is more reasonable than the Union's on all levels it should be selected.

Background:

The Washington County Highway Department employs 41 employees who are members of the Union: four Mechanics, two Foremen and 35 Laborer/Operator/Patrolmen (hereafter L/O/P's). Ten unit employees were hired before 1990 (the most senior was hired in 1986); twenty-two employees were hired between 1990 and 2000; and eight employees were hired after 2000. All but two unit employees are paid at the wage schedule maximum (30 months) for their classifications so that the average wage in the unit is top L/O/P pay.⁴ Twenty-six unit employees take family insurance, ten take single insurance and six do not take insurance through the County.

The County has six other bargaining units represented by unions and one meet-and-confer unit comprised of law enforcement supervisors. All seven of these units have traditionally had two-year contracts which run from January 1st to December 31st. Only the Highway unit has traditionally had two-year contracts which run from July 1st to June 30th.

This Arbitrator notes that the parties have placed no tentative agreements into this record. However, the parties' offers are identical on four points: job postings, removal of a sunset date on a letter of agreement, a two-year contract duration, and health insurance. Also, the County's offer contains the correction of a typographical error, which the Union has neither objected to nor addressed in this case. Therefore, the only issues before the Arbitrator are wages and safety equipment.

Comparables:

The external comparables for this bargaining unit are not in dispute in this case. In awards issued in 1990, 1997 and 2008, Arbitrators Zeidler, Krinsky and Petrie (respectively) discussed and used the following comparable county highway departments: Dodge, Fond du Lac, Ozaukee, Sheboygan and Waukesha. This Arbitrator will use these comparables herein.

There are six internal comparables in the County: Parks, Samaritan Nursing Home, Deputy Sheriffs, Social Workers, Corrections and Communications Offices, and Social Service Clericals.⁵

Parks and Samaritan have effective contracts which will expire on December 31, 2010. The wages in both of those contracts are as follows:

1/1/09	3%
1/1/10	2.5%

The Deputy Sheriffs, Social Workers, Corrections and Communications Officers and Sheriff's Command Staff units had January 1, 2008 through December 31, 2009 contracts providing 3% ATB each year on January 1st. These four units have agreed to one-year contracts, all beginning on January 1, 2010, and expiring on December 31, 2010. In all four contracts, the Unions agreed to 0% on wages effective 1/1/10 with "me too" clauses on voluntary settlements with units other than Parks and Samaritan. In order to gain acceptance of the County's wage offer with these four groups the County agreed to pay the 9% increase in 2010 health insurance premiums. This agreement resulted in the County paying 86.26% of premiums and employees in settled units paying the same dollar amount toward premiums they had paid in 2009 (\$252.69/month Family, \$100.88/month Single).⁶ None of the settled units (except Social Services Clericals) has agreed to the 2011 insurance language contained in the County's final offer herein.

Wages:

⁴ In 2009, top L/O/P pay was \$21.13 per hour.

⁵ Command Staff in the Sheriff's Department is a meet-and-confer unit of law enforcement supervisors who serve at the pleasure of the Sheriff and who do not have access to Interest Arbitration. Nonetheless, agreements in the Command Staff unit, are important when considering an internal pattern.

⁶ Samaritan and Parks employees began paying an additional \$9.30/month Single or \$22.78/month Family in 2010.

A. External Comparables:

The County submitted County Exhibit 10, which showed the average wage rates for various job classifications similar and comparable to the L/O/P classification in Washington County, ranked them, showed the average differences in the maximum and minimum wage rates for L/O/P's, compared these to the comparables for the period from 2006 through 2010 and gave a comparison of the affect vis-à-vis the comparables, if the County's offer or the Union's offer were selected. The document and this analysis can be found attached hereto as Exhibit "A". It should be noted that Fond du Lac, Ozaukee, Sheboygan, and Waukesha Counties have a start or minimum rate, two or three steps, and a maximum rate. Only Dodge County does not have a wage grid with steps; and that in calculating the "average +/-" information, the County used the (highest) year-end rates.

County Exhibit 10 also shows data that, since at least 2006, Ozaukee County has been the wage leader among the comparables for the L/O/P classification. From 2006 through 2008, Washington County ranked six of six comparables at the start or minimum step, with minimum rates from \$1.55 to \$1.49 per hour *less* than the average of the five comparables, and minimum rates from \$0.66 to \$0.69 per hour *less* than the wage leader.

If the County's offer is selected herein the difference between the County L/O/P's at the minimum and the average at the minimum of the comparables would grow from -\$1.49 per hour in 2008 to -\$2.25 in 2009 to -\$2.18 in 2010. If the Union's offer is selected herein, the difference between the County L/O/P's at the minimum and the average at the minimum of the comparables would grow to -\$1.73 in 2009 but decrease to -\$1.56 in 2010. Although no change on the benchmarks will occur with the selection of either offer as the County L/O/P's at the minimum are and will remain last of the six comparables, the gap between County L/O/P's at the minimum and the average of the comparables and the gap between the County and Ozaukee County would grow if the County offer is selected.

Regarding the County's rank at the maximum L/O/P rate, from 2006 through 2008, County L/O/P's were from \$0.11 to \$0.06 per hour behind the wage leader, Ozaukee County. If the County's offer is selected herein, the gap between County L/O/P's at the maximum and Ozaukee County L/O/P's at the maximum will widen from the 2008 level to -\$0.66 per hour in 2009, and -\$0.84 per hour in 2010. On the other hand, if the Union's offer is selected herein the gap between Ozaukee L/O/P's and County L/O/P's at the maximum in 2009 would decrease to -\$0.01 (from the 2008 level of -\$0.06) and for 2010, the gap would widen to -\$0.07 between Ozaukee L/O/P's at the maximum and County L/O/P's at the maximum, a return (approximately) the 2008 difference between these County L/O/P's at the maximum.

However, selection of the County's offer would result in no change for County L/O/P's on the benchmark at the maximum. Selection of the Union's wage offer would essentially maintain the pre-2009 gaps between the average and the wage leader and County L/O/P's at the maximum.

Concerning the County's Mechanic classification, Ozaukee County has no similar position. Also, two comparables, Dodge and Sheboygan, have only one wage rate for Mechanics, and no minimums, maximums or steps as do Fond du Lac, Waukesha and Washington Counties. County Exhibit 10A shows comparisons as found on the attached table (Exhibit "B"). In addition, the rank at minimum for the County Mechanics was fifth of five for 2006, 2007 and 2008. This evidence also shows that County Mechanics at the minimum from 2006 through 2008 were paid the least of the comparables, their pay ranging from \$2.02 to \$2.22 per hour *less* than the average of the comparables. Selection of the Union's offer herein would essentially maintain this gap with no change vis-à-vis the benchmarks for County Mechanics (-\$2.27 in 2009 and -\$2.36 in 2010 less than the average of the comparables). Also selection of the County's offer would maintain the historical fifth of five rank at minimum for County Mechanics for both 2009 and 2010.

County Mechanics at the maximum ranked first of five comparables in 2006 (\$1.42 per hour above the average of the comparables), second of five comparables in 2007 (\$1.26 per hour above the average) and second of five comparables in 2008 (\$1.28 per hour above the average). If the Union's offer is selected in this case, County Mechanics at the maximum would maintain their pre-2009 lead (\$1.24 per hour above the average in both 2009 and 2010) with no change on the benchmarks (second of five comparables).

If the County's offer were selected herein, there would be no change in the benchmarks—County Mechanics at the minimum would remain fifth of five—but the difference between County Mechanics at the minimum and the average of the comparables would change from -\$2.22 per hour in 2008 to -\$2.81 per hour in 2009, to -\$3.00 per hour in 2010. Also, if the County's offer is selected, the difference between

County Mechanics at the maximum and the average of the comparables would change from \$1.28 per hour in 2008 to \$0.57 per hour in 2009 and \$0.44 per hour in 2010, above the average of the comparables although the second of five rank would remain unchanged.

Finally, the County submitted County Exhibit 11, attached hereto as Exhibit "C", which summarized the settlement comparisons for the external comparables and the County and Union offers from 2007 through 2010. This evidence shows that in 2007 and 2008, Washington County received more on wages than the average of the comparables and that if the County's offer is selected, in 2009, unit employees would receive 2.80% *less* than the average of the comparables and if the County's offer is selected in 2010, unit employees would receive 1.61% *less* than the average of the comparables.

In contrast, if the Union's 2009 offer of 3% is selected unit employees will receive 0.20% *more*, and if its 2010 offer of 0% is selected, unit employees will receive 2.61% *less* than the average of the settled comparables for 2010. This Arbitrator notes also that the other comparables are unsettled for 2011, making it almost impossible to judge the parties' offers for 2011. Only one comparable, Ozaukee County, gave its employees 2.75% effective 12/15/10, just over 1.375% through 7/1/11. This is the only comparable available for 2011.

Given the above analysis, the Union's wage offer is slightly preferred over the County's offer because the former essentially maintains County unit employees' wage status *vis-à-vis* the external comparables. However, the evidence also showed that selection of the County's offer would *not* significantly change County unit employees' rankings and/or status among the external comparables.

The Union calculated its Final Offer wage increase as follows:

COST OF UNION'S 2009 WAGE PROPOSAL

Position	Current Wage	3% Increase	Proposed Wage 2009	Number of employees	Total 2009 3% wage Increase cost based on 1040 hours
Labor/Operator Patrolperson	\$21.76/hr.	\$.65/hr	\$22.41/hr.	35	\$22,984.00
Mechanic, Foreman	\$22.40/hr.	\$.67/hr	\$23.07/hr.	6	\$4,180.80
TOTAL					\$27,164.80

COST OF UNION'S 2011 WAGE PROPOSAL

Position	Proposed Wage 2009	2.5% Increase	Proposed Wage 2011	Number of Employees	Total 2011 2.5% wage increase cost based on 1040 hours
Labor/Operator Patrolperson	\$22.41/hr.	\$.56/hr.	\$22.97/hr.	35	\$19,801.60
Mechanic, Foreman	\$23.07/hr.	\$.58/hr.	\$23.65/hr.	6	\$3,619.20
TOTAL					\$23,420.80

B. Internal Comparables:

The following represents an analysis and historical overview of the wage increases received in the Highway unit and all other internal comparables. It shows that each unit has traditionally received their ATB increases on the anniversary dates of their respective contracts, as contained on attached Exhibit "D".

Although, if the County's offer herein is selected, Highway Department employees will not receive the same 3% ATB increase all other County units received on the anniversary dates of their 2009 contracts, the other seven County units that have agreed to the same 2010 wage freeze offered by the County herein have thereby established a 2010 internal wage pattern which cannot be ignored. This

Arbitrator agrees with the County that the Union's offer of 3% ATB effective on the 2009 anniversary date must be considered an annual increase. Thus, the Union's offer of a wage freeze effective January 1, 2010 through December 31, 2010, is not really a wage freeze as Highway unit employees would receive 3% ATB for the 2009-10 traditional contract year if the Union's final offer is selected. Thus, the Union's wage freeze does not mirror the internal wage pattern.

For 2011 the County's offer is a 1%/1% split effective January 1, 2011, and July 1, 2011. The County's offer is the same as the Social Services Clericals agreed to after the close of the instant hearing. For 2011, the Union has offered 2.5% ATB effective January 1, 2011, the same increase the Parks and Samaritan units are receiving in 2010 under their effective 2009-10 labor agreements. Given the "me too" agreements in four units, the Social Services Clericals voluntary settlement is more likely to set the pattern for 2010-11 than the expiring Parks and Samaritan contracts. Overall although a difficult call, the Arbitrator finds that the internal comparables favor selection of the County's offer.

Health Insurance:

The facts of this case show that during negotiations, the County sought to simplify the contractual health insurance language which had read as follows⁷ for many years:

Section 14.02 Effective January 1, 2007, the County shall, for each full-time employee, and if such employee chooses, for the employee's dependent family, contribute up to four hundred five dollars (\$405.00) per month and effective January 1, 2008, up to four hundred twenty-five dollars (\$425.00) per month toward the cost of the single health insurance plan and up to one thousand twelve dollars (\$1,012.00) per month and effective January 1, 2008, up to one thousand sixty two dollars (\$1,062.00) per month towards the cost of the family health insurance plan. Should the cost of the single insurance coverage exceed for hundred five dollars (\$405.00) per month in 2007 or four hundred twenty-five dollars per month effective January 1, 2008, or should the cost of the family health insurance coverage exceed one thousand twelve dollars (\$1,012.00) per month in 2007 or one thousand sixty-two dollars per month effective January 1, 2008, the employee and the County shall split on an equal basis that cost in excess of such applicable listed figure. The dollar caps set forth above will be revised effective January 1, 2009 to reflect amounts that maintain an employee contribution of fifteen (15%) and a County contribution of eighty five percent (85%). These contributions shall be expressed in the contract language in the form of a dollar cap. The employee's share shall be paid via a payroll deduction.

The record showed that County health insurance premiums rose by the following percentages in the recent past:

2006 – +7%
2007 – +7%
2008 – +5%
2009 – +11%
2010 – +9%

⁷ The parties traditionally changed the dollar caps when they renegotiated each agreement.

As of the date of this hearing the 2011 premiums were unknown. Because of the language of Article 14 in effect for many years, dollar caps were placed therein to reflect an 85%/15% split of premiums but if rates rose during a contract period, the County and the employees would split the increases 50/50.

In negotiations for the 2009-11 contract, the County proposed to change the language of Article 14 to make it easier to understand and apply. The Union resisted. Union Agent Randy Monroe stated herein that on January 26, 2010, during mediation, the Union agreed in principle to the County's health insurance proposal for 2010 as contained in its final offer herein.

Thus, for 2010, Highway Department employees will pay the same premiums as all five recently settled County units, while Parks and Samaritan will pay different premiums until December 31, 2010:

Sanitation & Parks			
<u>Premiums</u>	<u>Caps</u>	<u>ER contributions</u>	<u>EE contributions</u>
F: \$1,835.81	\$1,285.00	\$1,560.41	\$275.40
S: \$734.39	\$514.00	\$624.21	\$110.18
Highway and "Me Too" Settled Units			
<u>Premiums</u>	<u>Caps</u>	<u>ER contributions</u>	<u>EE contributions</u>
F: \$1,835.81	\$1,330.60	\$1,583.19	\$252.62
S: \$734.39	\$532.60	\$633.51	\$100.88

The employee contributions for 2010 in the Highway Department, the Social Services Clerical unit, and the "me too" units remained the same as employee contributions for 2009.

The external comparables have varying health insurance provisions, making it difficult to compare them with County provisions. Fond du Lac County lists many insurance details such as deductibles (250/500), co-insurance (250/500), out-of-pocket costs (500/1000) and prescription costs which are paid by employees. Ozaukee County also details deductibles (250/500/1000), office and emergency room co-pays (\$20.00 and \$75.00 respectively) to be paid by employees. Dodge, Waukesha, Sheboygan and Washington do not list these employee payment details. All comparables contractually require employees to pay a percentage of health insurance premiums as follows:

	<u>2009</u>		<u>2010</u>	
	Employee	Employer	Employee	Employer
Dodge	(2003) 5%	95%	No Data	105% ⁸
Fond du Lac	(12%) 14%	(88%) 86%	15%	85% ⁹
Sheboygan	10-15%	90-85%	10-15%	90-85%
Ozaukee	12%	89-88%	12%	89-88%

⁸ In 2003, Dodge County switched to Wisconsin Public Employees' Group Health Insurance Plan with a 5%/95% split of premiums for employees and the County, respectively. In 2004, Dodge County began paying 105% of premiums of the least expensive WPEG plan policy.

⁹ In Fond du Lac County, if an employee completes a timely, annual Health Risk Assessment, his/her premium payment reduces to 12% from the higher rates. Two counties, Dodge (family and single) and Sheboygan (single only) give employees dental coverage at no cost to them. Waukesha County pays 90% of dental premiums and their employees pay 10%. The other comparables offer no dental insurance.

Waukesha	10%	90%	10%	90%
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The above table shows that in 2010 Washington County employees will pay approximately 13% toward premiums, which is the average employee contribution of the external comparables for which data exists.

Safety Equipment Allowance:

The County offered to add \$20.00 over two years to the existing \$300.00/two-year allowance for safety shoes and safety glasses, a 0.06% increase in this benefit. The benefit offered to unit employees is non-cumulative and employees must present a receipt to receive reimbursement. The following chart shows where comparables stand on this benefit:

Dodge	– 50% of shoes reimbursed up to \$60.00 with receipt.
Fond du Lac	– Safety glasses paid by ER 1x/2 years – \$75.00 toward safety glasses (Art. 22.06)
Sheboygan	– \$50.00/year reimbursement for safety shoes with receipt
Ozaukee	– \$135.00 for safety shoes and uniforms
Waukesha	– Some clothes and “safety devices” provided

The above shows that Washington County is a leader on this benefit. This Arbitrator suspects that the County was moved to offer this unit an additional \$20.00 on this benefit because the Deputy Sheriffs and the Supervisory law enforcement units got a \$20.00 increase in their clothing allowances as part of their recent one-year and two-year (respectively) agreements with the County. In the grand scheme of things, the minor improvement in this benefit is insignificant and not sufficient to influence the determination of the major wage issues which drive this case.¹⁰

Discussion:

The Union is correct that the record evidence fails to present a case for application of the statutory “greatest weight” factor as no evidence was presented herein that “any state law or directive” exists that would place any limitations on expenditures to be made or revenues to be collected by the County. In addition, the Union correctly observed that the County did not argue an inability to pay in this case.

However, the County has argued that the Arbitrator “shall give greater weight to economic conditions in the jurisdiction of the municipal employer than to any of the factors specified in Subd. 7r.” On this point, the County submitted its Exhibit 14A-H. These data showed that in 2008, Washington County ranked fourth highest in general property taxes and total taxes revenues among the six comparables (ER Exh. 14A); that in the fourth quarter of 2008, the County ranked fourth highest in per capita income (ER Exh. 14A). Also, although the County had a higher population growth than the State from 2000 to 2008 (ER Exh. 14G), the County unemployment rate changed from 2.8% in 2000 (ranking fourth among the comparables) to 3.6% in 2008 to 8.6% in 2009, an increase of 6.2% from 2000 to 2009 and an increase of 5.0% from 2008 to 2009 (ranking first among the comparables) (ER Exh. 14B-C).

The County also noted that as of April, 2010, its largest city, West Bend, had an unemployment rate of 11.5%, the highest among the six comparables’ largest cities and the fourth-highest in the state (ER Exh 14C-D). The unemployment rate in West Bend had been 14.1% in March, 2010. The State DWD report also stated that “it is likely that unemployment rates will remain quite elevated for the remainder of 2009 and into year 2010” (ER Exh 14G, p. 3). The County also observed that it lost over \$1 Million in sales tax revenues from 2008 to 2009 (ER Exh. 14E). The county budget highlights for 2010 showed that the County cut its support of the County Historical Society in 2010 from 45% to 25% of the Society’s budget; that the County had no wage increases in its budget for 2010;¹¹ that it expected a \$400,000 decrease in earnings on its investments; that the County proposed a 1.7% increase in the levy (below the 3% limit for the year) based on a decrease in valuation from 2009 of .13% (ER Exh. 14F). Finally, per capita income in the County increased only 20% from 2002 to 2007, less than per capita personal income in the State (ER Exh. 14G).

The substantial evidence described above is relevant given the severe recession the State and County are still experiencing. This evidence also tends to support the County’s final offer. However, in this Arbitrator’s view, this “greater weight” evidence is insufficient to prove that Subd. 7g should have controlling weight herein. Therefore, the Arbitrator will consider the other statutory factors while giving the Subd. 7g evidence and argument appropriate weight in reaching the Award herein.

Turning now to Subd. 7r, the “other” factors contained in the statute, this Arbitrator notes that the lawful authority of the County and the stipulations of the parties are not in issue here. Also, the set of appropriate external comparables to be used in this case is not in dispute. What has been hotly contested are the proper use and application of the internal comparability data.

In this regard, this Arbitrator notes that both the County and the Union have argued that the internal comparables strongly support their offers and that the internals should be determinative in this case. This Arbitrator agrees with the latter assertion. However, whether the internals actually favor the Union’s offer or the County’s offer requires close analysis of the evidence and the arguments herein.

¹⁰ The Arbitrator agrees with the County that no quid pro quo is necessary for the County’s proposal to improve this benefit in its final offer.

¹¹ The Union has argued that the County’s contribution to employee reclasses (\$49,000) shows its offer should be preferred. The Arbitrator notes that the affected employees are non-represented, making the County’s decisions thereon not particularly useful and impossible to weigh in making the decision in this case. Regarding the Union’s assertion that Highway unit employees would lose in 2011 on the benchmarks, as no external comparables are settled for 2011, this is mere speculation.

Initially, this Arbitrator notes that the evidence showed that the County has granted 3% ATB increases to its employees in the seven internal units on the anniversary dates of the 2007, 2008 and 2009 contracts in each unit. The County also granted Highway employees 3% ATB increases on the anniversary date of each contract term in 2007 and 2008, matching all of its other units. However, for 2009, the County's offer to Highway unit employees is 0% on the July 1, 2009, anniversary date, which does not match the six other units and does not conform to the clear internal historical pattern. In these circumstances, the Union's final offer for 2009 is slightly preferred over the County's offer for that year.

The County has argued that the 2008-09 increase received by Highway unit employees should be split to credit the unit having received 1.5% on July 1, 2009 in order to properly compare the Highway unit to the other seven County units that have January 1st through December 31st contract terms. This Arbitrator disagrees. For whatever reasons, these parties have traditionally agreed to maintain contract anniversary dates for the Highway unit that are different from all of the other County units. The 2007 and 2008 ATB increases in the Highway Department were *not* proposed as split increases and cannot logically and fairly be viewed as such. Therefore, the County's attempt to take credit on its final offer herein for one-half the 2008-09 Highway unit increase—1.5% ATB for the period July 1, 2009, through December 31, 2009—must be rejected. The County's offer for 2009 is a wage freeze.

Having reached the above conclusions, however, does not end this inquiry. It is clear from the record evidence that the five settled units have taken a wage freeze on the anniversary dates of their contracts for January 1, 2010, through December 31, 2010. But it is also clear that the Parks and Samaritan units have received a 2.5% ATB increase on January 1, 2010 under their unexpired 2009-10 contracts and that the Union's offer herein proposes a wage freeze from January 1 through December 31, 2010, and then proposes a 2.5% ATB increase on January 1, 2011. Notably, four of the settled County units have a "me too" clause should any unit (other than Parks and Samaritan) receive more on wages and insurance in 2010 and these four units remain unsettled for 2011.

In this Arbitrator's view, it is very significant that the Social Services Clericals have settled for 0% in 2010 and 1%/1% splits on January 1, 2011 and July 1, 2011. Given the four "me too" agreements and the Social Services Clerical settlement, there is insufficient evidence to support a conclusion that the County will provide a 2.5% ATB increase to unsettled units for 2011. Rather, the fact that the Social Services Clericals voluntarily settled for a 1%/1% ATB split increase in 2011 and the "me too" agreements in four of the units provide a better indication of the direction that other County settlements will take for 2011. This evidence supports the County's offer.

In addition, none of the external comparables is settled for 2011. Only Ozaukee County has settled with its Highway unit for a wage freeze on January 1, 2010, and for a 2.75% wage increase effective December 15, 2010, equaling only a 1.375% increase (in the pocket) for 2010-2011. In this Arbitrator's view, this evidence, although insufficient to demonstrate a true pattern among the external comparables for 2011, does tend to show that the wage leader among the comparables (Ozaukee) has also experienced economic pressures in 2010.

Stepping back a moment, this Arbitrator notes that the parties in this case jointly agreed to submit final offers with a wage freeze for County Highway employees for calendar year 2010. As detailed above, this will result in County Highway employees essentially maintaining their rankings *vis-à-vis* employees in all external comparable units if the County's offer is selected herein. This fact is very important to the outcome of this case.

Although the Arbitrator finds it troubling that Highway unit employees were not offered the same 3% ATB given to all other County units in 2009, the fact that all "me too" units agreed to both a wage freeze in 2010 and to the County's health insurance proposal, and the fact that the Social Services Clericals have agreed to a 2010-11 contract identical to the County's offer herein are facts that must weigh heavily in deciding this case. Were the Arbitrator to select the Union's offer she would potentially disrupt the voluntary settlements reached in all other County units and cause a perception of inconsistency and inequity, creating instability and hard feelings and lowered morale among employees and making it more difficult for the parties to reach voluntary future settlements in the County. In light of the economic conditions proven here and given that the external comparables are not available for 2011, that the Parks and Samaritan units settled for 3% and 2.5% ATB for 2009-10 *before* the economy took an abrupt downturn, and given that County Highway unit employees will not lose rank on the benchmarks if the

County's offer is selected, in all the circumstances here, this Arbitrator finds the County's final offer is the more reasonable offer.¹²

AWARD

The County's final offer is selected and it shall be incorporated into the parties' 2010-11 labor agreement.

Dated and Signed this 29th Day of November, 2010, at Oshkosh, Wisconsin

Sharon A. Gallagher

¹² Regarding the statutory criterion, Subd. 7r, g, Stats., this Arbitrator notes that 2009 changes in the cost of living (Section 111.70(4) (cm) 7 g favor the County's offer of a wage freeze for 2009, as the data showed that the All Urban Consumers CPI was negative for eight months for 2009 so that the average for the year was -0.375%. Concerning private sector comparables, neither party submitted compelling evidence concerning this factor. In addition, this Arbitrator notes that County Exhibit 14H indicated that only two Wisconsin communities, Brookfield and Greenfield, Wisconsin (not comparables herein), participated in this "Research Brief". Concerning the overall compensation factor Subd. 7rh, the County's evidence showed that its employees receive benefits of the same level and types as other similar public sector units receive. Finally, given the lack of evidence on the subject, it is impossible to assess the Union's argument that the County's payment of 16% of County Fair Park operational costs for 2010 shows it is not in dire financial straights.