



CITY OF NEW BEDFORD

JONATHAN F. MITCHELL, MAYOR

April 6, 2022

City Council President Ian Abreu
and Honorable Members of the City Council
133 William Street
New Bedford, MA 02740

Dear Council President Abreu and Honorable Members of the City Council:

On January 15, 2019, the New Bedford Police Union petitioned the Commonwealth's Joint Labor Management Committee (JLMC) to intercede in negotiations on a collective bargaining agreement between the Police Union and the City of New Bedford. The parties subsequently resolved one issue, Duration, by agreeing to a three-year contract beginning on July 1, 2018 and ending on June 30, 2021. The JLMC appointed an arbitration panel to determine the rest of the terms of an agreement between the parties.

The panel issued the attached arbitration award, JLM-19-7091, on March 9, 2022. The award provides for a 6% total wage increase (with increases in wages of 2% on July 1, 2018, 2% on July 1, 2019, and 2% on July 1, 2020, with such adjustments fully retroactive to their effective dates).

Effective July 1, 2019, the panel increased Education Incentive levels by \$500 for an Associate's degree, \$750 for a Bachelor's degree, and \$1000 for a Master's degree. The panel also awarded a paid detail rate increase to \$54/hour and allowed the City to civilianize the Public Information Officer (PIO) and Management Information Service (MIS) positions at the Police Department.

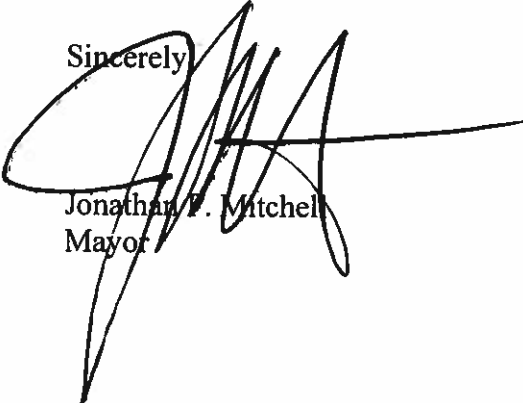
The City has completed an analysis of the costs and fiscal impact associated with the award. The retroactive fiscal impact of the award is \$3,651,689.

Chapter 1078 of the Acts of 1973 sets forth the procedure for the review of an arbitration award by the City Council. It requires that the Mayor submit to the City Council, within thirty days after the date on which the award was issued, a request for appropriation necessary to fund the award and a recommendation that the City Council approve the request.

Under the law, if the Council approves the appropriation, the award goes into effect immediately. Should the City Council vote to disapprove, the City and the Police Union would return to the table for further negotiation.

Pursuant to the provisions of Chapter 1078 of the Acts of 1973, as amended, and Chapter 150E of the Massachusetts General Laws, I am therefore submitting and recommending for your approval an **ORDER** that the sum of Three Million Six Hundred Fifty-One Thousand Six Hundred Eighty-Nine Dollars (\$3,651,689), now standing to the credit of the General Fund Stabilization Fund be, and the same is, hereby transferred and appropriated as follows: Fiscal Year 2018, 2019, 2020, 2021, and 2022 Retroactive Salaries, Wages, Police Department. Retroactive Pay amounts to be certified and approved by the Department Head.

Sincerely,

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Jonathan F. Mitchell
Mayor



CITY OF NEW BEDFORD

CITY COUNCIL

April 12, 2022

ORDERED that the sum of Three Million Six Hundred Fifty-One Thousand Six Hundred Eighty-Nine Dollars (\$3,651,689), now standing to the credit of the General Fund Stabilization Fund be, and the same is, hereby transferred and appropriated as follows: Fiscal Year 2018, 2019, 2020, 2021, and 2022 Retroactive Salaries, Wages, Police Department.

Retroactive Pay amounts to be certified and approved by the Department Head.

COMMONWEALTH OF MASSACHUSETTS
JOINT LABOR-MANAGEMENT COMMITTEE
Michael C. Ryan, Esq., Neutral Chair
Michael Perreira, Labor Representative
Dean Mazzarella, Management Representative

In the Matter of Arbitration
Between

CITY OF NEW BEDFORD

-and-

NEW BEDFORD POLICE UNION

JLM-19-7091
Interest Arbitration
2018-2021 CBA

I. BACKGROUND

On January 15, 2019, the New Bedford Police Union filed a Petition for Exercise of Jurisdiction with the JLMC after reaching impasse at negotiations. The JLMC certified ten issues for arbitration. The parties subsequently resolved one issue, Duration, by agreeing to a three-year contract, July 1, 2018 - June 30, 2021.

Under St. 1973, c. 1078, subsection 3(a), the panel must consider the following factors, among others:

- Ability to pay
- Interests and welfare of the public
- Hazards of the job and necessary skills, training and qualifications
- Wages, hours and conditions of employment of similar employees in comparable communities

- The average CPI
- Current compensation, including wages and benefits
- Changes in any of the foregoing during the pendency of the dispute.

New Bedford is the seventh largest city in Massachusetts, covering approximately 24 square miles. It has a population of approximately 95,000, one-fifth of whom are immigrants. Per capita income is \$18,149, less than half the Massachusetts average of \$46,000. All of the City's 13,000 students qualify for free breakfast, lunch, and supper. The City's primary industrial base is the fishing industry, as it has been for centuries.

The New Bedford Police Department ("Department") employs approximately 230 officers, 177 of whom are patrol officers, operating out of three stations.¹

Initially, the parties disagree on both the identity of the comparable communities and the City's ability to pay.

COMPARABLE COMMUNITIES

*(Agreed-upon comparables in **boldface**)*

City: **Brockton, Fall River, Fitchburg, Haverhill, Holyoke, Lawrence,** Lowell, Pittsfield, Springfield and Worcester.

Union: **Brockton, Fall River, Lawrence,** Lynn, Quincy and Taunton.

Union: Among the factors that JLMC panels consider in order to determine comparability are population, Department

¹ According to the Union, the Department is budgeted for 250 officers.

size, geographic location and size, per capita income, single-family tax bill and commercial tax base. The Union's comparables meet all these factors. The financial analysis that the Massachusetts Department of Revenue ("DOR") prepared for this proceeding identified them as comparable cities.

The City's justification that its proposed comparables are "Gateway communities" under G.L. c.23A matches none of the factors set forth in JLMC awards.² Most of the City's choices have significantly larger populations and Departments, incomparable single-family tax bills and bond ratings, and vastly different cherry sheets and other financial data.

City: Like New Bedford, the City's comparables are "Gateway cities," identified in G.L. c. 23A, §3A as midsized cities that were once home to large industries, which began to face economic challenges when manufacturing jobs slowly disappeared. Lynn, Taunton, and Quincy are not comparable to this group. DOE's financial analysis does not include Taunton. Lynn and Quincy have higher per capita incomes (\$21,029 and \$33,852, respectively) and higher equalized valuations per capita (\$83,414 in Lynn and \$169,029 in Quincy, compared to New Bedford's \$63,781). The Union failed to provide CBAs for any of

²The statute defines a "Gateway community" as a municipality with a population between 35,000 and 250,000, with median income and post-high-school education below the Massachusetts average.

its comparables,³ nor was its wage data always reliable. For example, the Union included base wages in Lawrence in FY22, which is outside the contract period.

ABILITY TO PAY

Union: New Bedford is financially healthy, with a substantial fishing port and related businesses and industries. There is also a growing offshore wind turbine industry. In 2022, Vineyard Wind will begin a \$2.3 billion project to construct 62 turbines, enough to power 400,000 homes. This is the first of several offshore wind farms that will be assembled and serviced from New Bedford.

Despite COVID-19, the City's ability to pay remains strong. In its December 2020 Issuer Comment, Moody's affirmed the City's A1/Stable rating, citing: a considerable and growing tax base; mid-range debt and pension liability; improved reserves; an increase of 3.2% in the General Fund, 3.8% in the tax levy, and 2.6% in state aid; and stable property-tax revenue. Moody's noted that the City "has no material or immediate credit risks due to COVID-19."

Similarly, Standard & Poor's affirmed the City's AA/Stable rating in its 2020 Global credit report, citing an "economy [which] continues to gain advantage from access to a

³ The City generally seeks to discredit all the Union's comparability arguments based on this omission.

broad and diverse metropolitan statistical area" and "strong liquidity," "an available fund balance in [FY19] of 6.0% of operating expenditures," and "[c]ontinued economic development in maritime industries and maritime related tourism." Standard & Poor's also noted that despite COVID-19, the City's results for FY2020 "are expected to remain positive."

In its own Comprehensive Annual Financial Report ("CAFR"), the City described FY20 General Fund results as follows:

...[T]otal fund balance increased \$2.9 million to \$31.5 million, which represents 8.1% of expenditures and OFU. Of greater relevance, \$25.9 million of that balance is comprised of spendable fund balance committed, assigned, or unassigned, including \$11.3 million in stabilization funds. That's a \$4.0 million improvement over the prior year, or 6.7% of expenditures and OFU.

During a six-year period, the City consistently reported new-growth properties, a trend which continued during the pandemic, with new-growth properties bringing a substantial number of new jobs and millions of dollars in tax revenue.

Even assuming that the City has correctly calculated the cost of the Union's proposals as \$11,318,123 over three years, the City has \$107.4 million in available funds in its General Fund.⁴ Property taxes generate 36% of the City's General Fund

⁴ DOR defines "available funds" as "balances in the various fund types that represent nonrecurring revenue sources" which "[a]s a matter of sound practice ... are frequently appropriated for unforeseen expenses, capital expenditures, or other one-time costs." Examples include free cash, which is the remaining, unrestricted funds from operations of the previous fiscal year.

revenue, and over the past decade, the City's tax levy has grown by 45.8%, from \$95.5 million to \$139.2 million. In FY20, property taxes generated \$127 million, and were expected to generate \$133.5 million in revenue in Fiscal Year 2021.

Currently, available funds total \$107.4 million, consisting of:

- \$2.3 million in certified free cash;
- \$11.3 million in stabilization funds;
- \$23.4 million in Unrestricted General Government Aid
- \$5.7 million in Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") funds;
- \$64.7 million in American Rescue Plan Act ("ARPA") funds.

Even excluding CARES Act and ARPA funds,⁵ it is undisputed that the other resources are available, and more than three times the City's asserted cost of the Union's proposals.

The City offered no credible evidence at hearing to refute its ability to pay. It claimed that the Union's proposals would require it to increase "already staggeringly high" property taxes but did not mention that it lowered commercial and

⁵ The City is incorrect that it cannot use ARPA funds for police wages or benefits. According to guidance from the U.S. Department of the Treasury, ARPA funds may be used to replace lost revenue, provide premium pay to eligible workers, and replenish other General Fund money. <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds>. City witness Ekstrom testified that police officers meet the definition of "eligible workers," and also testified that ARPA funds may be used for payroll.

residential property taxes in 2020 and still saw record revenue. It also contradicted the statement in its own FY20 CAFR that the City's "spendable fund balance" increased by \$4.0 million to a total of \$25.9 million. This includes \$8.9 million that was reduced in the Free Cash certification, leaving a net, after reductions, of \$17 million in nominally available funds.

The City's reliance upon the DOR's Financial Analysis is misplaced, because the report, issued in January 2021, is outdated, and does not include CARES Act or ARPA funds or the City's FY20 CAFR. In sum, the City's arguments amount to the assertion that it simply does not want to pay police officers more than its proposed 3% over a three-year term. JLMC panels have routinely rejected mere unwillingness to pay as a valid argument.

City: The City's financial position has been precarious for decades. The past ten years have seen progress, but its position is still fragile. The City's stable bond rating depends on its continued prudent financial management.

There is no room in the City's budget for unmanageable wage increases. The City carries liabilities totaling more than one billion dollars, including:

Net pension liability	\$314,256,172 (averaging \$30 million/year)
Net OPEB liability	\$589,857,423
Bonds, Notes, Capital Leases	\$220,743,573
Net School Spending	\$8,395,309
Workers Comp Claims	4,516,026

Compensated Absences	\$13,560,690
TOTAL	\$1,151,329.193

Only a quarter of the budget is available for operating expenses, almost all of which consist of payroll costs. Fixed obligations make up 75% of the City's budget, including education, which accounts for over 50% of total expenditures. The City has yet to meet its net school spending requirement, with a cumulative deficit that stood at over \$8.4 million at the end of FY21.

At the end of FY21 the General Fund had an unassigned fund balance of \$12.2 million and a stabilization fund balance of \$10.4 million. Over the past five years, free cash has ranged from \$1.5 to \$3.9 million. Available reserves, including any subsequent free cash certification, represent only 5.6% of the City's annual operating expenditures, rather than the recommended 16.7%.

The COVID-19 pandemic has only exacerbated this picture. The shuttering of businesses, an unemployment rate that reached 25%, and the loss of anticipated revenue forced the City to drastically cut spending, reduce or eliminate public services, and resort to non-recurring funds to balance its budget. It postponed capital projects and eliminated 28 positions, including 10 vacant firefighter positions and 9 positions in the Department.

Diverting ARPA funds for the Union's proposals would be contrary to law and not prudent fiscal policy. ARPA funds are one-time, non-recurring resources, which, like free cash, should be restricted to one-time expenditures, not wage increases which extend indefinitely into the future. Furthermore, the City's expert, former auditor and current financial consultant Robert Ekstrom, testified that ARPA funds may only be used for the four purposes enumerated in the Interim Final Rule (IFR) and Final Rule, published January 7, 2022):

1. Support urgent COVID-19 response efforts to decrease the spread of the virus;
2. Support immediate economic stabilization for households and businesses;
3. Address systemic public health and economic challenges;
4. Replace lost public sector revenue to strengthen vital public services and help retain jobs.⁶

The first three categories exclude regular salary and wage increases for performing normal job duties. The fourth does not expressly exclude pay increases, but its obvious intent is to restore services to pre-pandemic levels, not seed new commitments. Finally, most of the term of the CBA at issue preceded the pandemic, so the use of pandemic relief funds is completely inappropriate.

⁶ Under the Final Rule, local governments have the option of calculating actual lost revenue for calendar years 2020 through 2024 or electing a \$10 million aggregate loss for the five-year period. The City has not yet made its election, but there is no doubt that its actual loss in calendar 2020 was \$9.828 million, \$8.625 million of which was addressed by additional state aid restricted solely to education.

The City cannot rely on anticipated future development, such as offshore wind, as a source of revenue. Development may be planned but is not guaranteed.

II. PROPOSALS AND POSITIONS

WAGES

CITY PROPOSAL:⁷

1% on 7/1/18
1% on 7/1/19
1% on 7/1/20

UNION PROPOSAL:

3% on 7/1/18
3% on 7/1/19
3% on 7/1/20

Union: New Bedford police are among the lowest paid in Massachusetts, with wages at or near the bottom of the comparable communities. On average, they receive 4.81% less in salary than their comparable counterparts. Newly hired New Bedford patrol officers earn 3%-18% less than their counterparts in the top five comparable cities. Taking all contractual benefits into account, New Bedford patrol officers still earn 3%-17% less than similarly situated patrol officers in *all* comparable cities.

⁷The Union points out that this proposal, which the City presented at the hearing, differs from the City's original certified proposal.

The disparity is particularly striking because New Bedford's crime rate is among the highest in Massachusetts. Among the comparables, it has the third highest rate of violent crime; among the ten largest cities in Massachusetts, it has the fourth highest violent crime rate per capita. Because officers are underpaid and overworked, the Department has tremendous difficulty attracting new personnel. Even Chief Oliveira acknowledged that Department morale is at an all-time low.

The City's proposal is completely out of line with the parties' bargaining history:

- 2012-15 CBA - total 5.5%
- 2015-16 Settlement Summary Agreement - 3.0%
- 2016-18 MOA - total 3.25%

City: The City's proposal is fair and reasonable in view of its financial position, costing just under \$1.3 million over the contract period. The Union's proposed increase of \$3.1 million over three years would consume 17% of available reserves, which could lead to a full step reduction in the City's bond rating. That would translate into \$1 million of additional interest.

The City's proposal is consistent with the parties' bargaining history:

FY13	0%
FY14	1.5% (January) + \$2,500 one-time payment
FY15	1% (July), 1.5% (January), 1.5% (6/28/15)
FY16	2% (July), 1% (January)
FY17	1.5% (January)
FY18	1.5% (January)

It is also consistent with the firefighters' increases:

FY17	1.5% (January)
FY18	1.5% (January)
FY19	1% (July), 1% (January)
FY20	2% (JLMC)
FY21	2% (JLMC)
FY22	2% (JLMC) ⁸

Other City groups also settled for reasonable increases during the same contract period:

	FY19	FY20	FY21
AFSCME 93, Local 851-B	0%	1%	1%
AFSCME 93, Local 851-A	1%	2%	1%
Management	1.5%	2%	1%

There was no significant increase in the cost of living over the three-year contract period. The CPI-U for Boston of 1.9%/1.1%/1.8% (the latter in the first half of the year) aligns more closely with the City's proposal. Contrary to the Union's contention, there were no increases in calls or services during the relevant fiscal years. Crime numbers remained stable or

⁸ The JLMC-awarded increases were balanced by concessions from the firefighters, including light-duty language, restructuring of education incentives, and civilianization of ten positions in the signal room.

actually decreased, as shown below.

Description	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Violent Crimes Reported	652	546	579	558	501
Property Crimes Reported	2,922	2,654	2,317	2,020	1,615
Police Called Dispatched	90,459	90,238	90,193	84,068	80,336
Police Citations Issued	6,412	8,341	7,521	5,604	3,824
Arrests Made	3,841	3,819	3,905	3,504	2,955
Accidents Reported	5,627	5,825	3,499	3,260	3,381

NARCAN STIPEND

UNION PROPOSAL:

1% Narcan stipend added to the base

Union: Of the ten largest cities in Massachusetts, New Bedford ranks third in per capita fatal opioid overdoses and second in non-fatal overdoses. Out of 574 Narcan administrations in 2020, 173 were by police officers, and officers were dispatched to every single instance.

As the first responders, police not only administer Narcan but also ventilate the individuals, although most officers have no EMT or paramedic training. The hazards associated with this duty include contact with fentanyl, other dangerous drugs, needles, and body fluids.

A majority of the comparable cities pay officers additional compensation for Narcan administration. The City focuses on whether the comparables' CBAs use the word "Narcan," but admits

that those officers receive "hazard pay" for administering Narcan. Panel Member Perreira recognized this inconsistency by pointing out that Fall River compensates officers for Narcan administration with paid time off.

While the City maintains that administering Narcan is a "routine" police function that officers have been performing since 2014, it ignores that fact that, historically, EMS personnel administered Narcan, not police. As Chief Oliveira testified, "If firefighters were expected to execute traditional police duties, such as search warrants, they would expect additional compensation."

City: Administering Narcan is an essential function of a police officers' job, for which they are already compensated.⁹ They have been administering Narcan since 2014 and EpiPens for at least 28 years. No other comparable community receives such a differential. The only way the Union can demonstrate otherwise is by eliding differentials for Narcan and hazardous duty.

EDUCATION INCENTIVE

UNION PROPOSAL:

The CBA currently provides the following educational incentives:

⁹ Most Narcan is administered by firefighters or EMTs, not police officers. The Union offered no evidence to support its contention 30% of the administrations are by police.

	Degrees in Law Enforcement:		
	Associate's	Bachelor's	Master's
Patrol Officer	\$2,800	\$5,700	\$ 7,000
Sergeant	\$3,400	\$6,500	\$ 8,000
Lieutenant	\$3,800	\$7,600	\$10,000
Captain	\$4,400	\$8,800	\$11,000

The Union proposes the following increases:

	Degrees in Law Enforcement:		
	Associate's	Bachelor's	Master's
7/1/19	\$500	\$750	\$1,000
7/1/20	\$500	\$750	\$1,000
7/30/21	\$500	\$750	\$1,000

Union: At a time when police personnel are under intense public scrutiny, officers need education in critical thinking, communication and substantive law. The current educational "incentives" actually disincentivize New Bedford police from furthering their education and discourage degree-holding officers from joining the Department. In all comparable cities, educational incentives are a percentage of base pay: 3%-5% for an Associates degree, 6%-10% for a Bachelors degree, and 10%-12.5% for a Masters or Law Degree. New Bedford's incentives diminish over time as a percentage of salary. When Detective Jordan Ferreira worked for the Swansea Police Department, his educational incentive was a percentage of his base pay and totaled \$13,000. In New Bedford, his educational incentive for the same degree is \$5,600.

City: This proposal would cost the City nearly \$70,000, continuing for years to come. It is irrelevant that Officer

Ferreira received a different incentive in Swansea because Swansea is not a comparable community. Moreover, New Bedford provides much greater opportunity for lateral movement and positions in specialty units.

VACATION

UNION PROPOSAL:

Increase vacation time as follows:

Years of Service	Current Benefit	Union Proposal
6 months – 5 years	10 days	14 days
5 – 10 years	15 days	21 days
10 – 20 years	20 days	28 days
20 – 25 years	27 days	37 days
25 - 30 years	28 days	40 days
30+ years	30 days	42 days

CITY PROPOSAL:

Preclude officers from working during vacations unless called in at the direction of the Chief or the Deputy Chief. If required to work on a vacation day, an officer's next scheduled shift following his/her vacation will be treated as a vacation day.

Union: New Bedford officers receive less vacation time, and wait longer to receive it, than officers in the comparable cities. Except for Brockton, officers in all the comparables receive 14-16 days after six months. All the comparables, without exception, provide 30-48 days after 20 years of service.

Currently, it is up to the officer whether to work during a vacation. The City seeks to avoid paying officers an hourly wage and vacation pay in the same week, claiming this would reduce overtime and promote "health and well-being." The City's would better direct its efforts toward increasing staffing.

The City complains that the Union's proposal would create the additional expense of backfilling, but Chief Oliveira admitted that the City only backfills patrol positions, not detectives, internal affairs, or superiors.

City: Officers already receive substantial vacation leave. This proposal would increase it by an average of 40%, far exceeding the benefit in any other City CBA, and adding almost 2,000 days to the Department's budget. It would also increase overtime costs.

	Police- Current Benefit	Union's Proposal	Fire	AFSCME Unit A	AFSCME Unit B
Six (6) months – five (5) years	10 Days	18 days	(2) 48-hour work weeks + (1) 24-hour shift	Prorated	Prorated
Five (5) years – Ten (10) years	15 Days	21 days	(6) 24-hour shifts	15 days	120 hours
Ten (10) years – Twenty (20) years	20 Days	28 days	(8) 24-hour shifts	20 days	160 hours
More than Twenty (20) years	27 Days	37 days	(11) 24-hour shifts	27 days	216 hours
More than Twenty- Five (25) years	28 days	40 days	(11) 24-hour shifts	28 days	224 hours
More than Thirty (30) years	30 days	42 days	(12) 24-hour shifts	30 days	240 hours

The proposal far exceeds vacation leave in any other community. The panel must disregard the Union's chart of

comparable communities' purported vacation benefits because the Union did not produce backup documentation.

The City's proposal would ensure that officers take necessary time off. The Union offered no testimony or evidence to oppose this proposal.

PAID DETAILS

UNION PROPOSAL:

Increase current paid detail rate of \$50/hr. to:

July 1, 2019: \$52/hr

July 1, 2020: \$54/hr.

Union: The current detail rate is the lowest of the comparables. The majority of comparables have a minimum detail rate of \$55/hr., increasing to as high as \$90/hr. for, e.g., liquor, concert, or overnight details.

The City offered no evidence to justify its rejection of this proposal. According to the City's own witness, increasing the detail rate would actually benefit the City, since the City receives a 10% administration fee on details.

City: Police officers work between eight and nine thousand details annually. Details are outside the City's control. Since the City must give private parties 30 days' notice of a change in rates, and cannot retroactively charge private companies increased detail rates, any change in detail rates can only take effect 30 or more days after the funding of this award.

An increase in detail rates will make businesses less likely to undertake projects in New Bedford. The Union did not substantiate its assertions about the detail rates in other communities with those communities' CBAs.

MEDICAL APPOINTMENTS ON IOD

UNION PROPOSAL:

Add language to Article 39, the IOD article, providing that "medical appointments count as a workday."

Union: Officers on light duty often require physical therapy or other medical treatment. Medical personnel sometimes direct the officer to go home and rest, rather than return to work. The Union's proposal eliminates the impossible choice between disregarding this instruction and sacrificing a day's pay. Ultimately, this will benefit the City by expediting officers' return to full duty.

City: The Union agreed to light-duty language in the most recent CBA. Officers receive paid release time to attend medical appointments. Under the Union's proposal, an officer could go home after a fifteen-minute doctor's appointment with no loss of pay or leave time, possibly creating overtime costs as well. The Union produced no documents or testimony regarding this proposal, nor evidence that any community has this benefit.

BUFFERS

CITY PROPOSAL:

City: The Department currently has one "buffer" officer to fill in for officers unable or unavailable to work their shifts. Additional officers are often forced to work overtime, which is costly for the City and burdensome for the officers, particularly junior officers. The City's proposal will decrease this burden, reduce overtime costs, and require no significant concession from the Union.

Union: The only reason the City gave for this proposal is that "overtime is costly."

CIVILIANIZATION OF PIO AND MIS POSITIONS

CITY PROPOSAL:

Add the following language to the recognition clause:

The Public Information Officer (PIO) and the Assistant Director of Management Information Systems (MIS) shall be civilian employees.

Currently, a lieutenant shares the duties of the PIO position with the civilian Communications Director, whom the lieutenant supervises. In fact, PIO duties are a very small part of the lieutenant's job; in fact, the Communications Director has generally performed all the duties since October 2016. The proposal would have a minor effect on one bargaining unit position.

The position of Assistant Director of MIS (also known as the Senior Systems Analyst) requires a high level of training, skill and experience in information systems and information systems security. There are no officers with those qualifications; in fact, a civilian has held the position since 2018. The Union offered no evidence or testimony to oppose this proposal.

RESIDENCY REQUIREMENT

CITY PROPOSAL:

Require all new hires to reside and remain residents of the City as a condition of continued employment.

City: A residency requirement will strengthen officers' connection with the community and promote community trust.

The CBA already contains a residency requirement:

Police officer hired prior to March 24, 2018 shall reside in the City of New Bedford for no less than 4 consecutive years from the date of employment. Officers hired after March 24, 2018 shall reside in the City of New Bedford for no less than 10 consecutive years from the date of employment.

Other City unions also have residency requirements:

Unit	Residency Requirement
Fire	Firefighters appointed after September 2017 must be residents of the City for at least the first 10 years of employment. After 10 years, firefighters must live in a 15-mile radius.
	Firefighters appointed prior to September 2017 must live in the City for at least the first 4 years of employment. After 4 years, firefighters must live in a 15-mile radius.
AFSCME Unit A	Employees hired after 2017 must be a resident of the City as a condition of employment.
	Employees hired prior to 2017 must live in the City for at least 3 years. After 3 years, employees may live in 8 surrounding municipalities.
AFSCME Unit B	Employees must live in the City for at least 3 years. After 3 years, employees may live in 14 surrounding municipalities.

Non-unionized City employees must reside in the City or take a 10% pay cut.

The Union's contention that the proposal would create hiring difficulties is meritless. Civil service law, G.L. c. 31, § 58), permits municipalities to give hiring preference to residents. If officers receive preference because of their residence, they should be required to maintain residency for the duration of their employment.

Union: Chief Oliveira himself testified that an increased residency requirement would have a negative impact on hiring and retaining police officers.

III. OPINION AND AWARD

COMPARABLE COMMUNITIES

In the panel's view, Brockton, Fall River, Lawrence, Lowell, Lynn, and Taunton are the appropriate comparable communities. The parties agree that Brockton, Fall River, and Lawrence are comparable. The City's proposed addition of all other cities identified as "Gateway Communities" in G.L. 23A, §3A is not appropriate; the statute, part of a comprehensive economic development program, does not track the objectives of St. 1973, c. 1078. The Union's proposed inclusion of Quincy is equally unsuitable; that municipality really has no relevant factor in common with New Bedford.

ABILITY TO PAY

It is a given that no municipality ever has sufficient funds to meet all its priorities. Historically, New Bedford has confronted more than its share of economic difficulties. However, the evidence leaves no doubt that the City's financial position has steadily improved over the past decade. Its positive bond ratings bear this out. Moreover, while the COVID-19 pandemic has unquestionably imposed hardships, both bond-rating agencies anticipate no lasting impairment of the City's finances.

That is not to say that the City is able to afford all the Union's proposals. There are many competing demands on the City's resources. However, the panel is confident that the City has the ability to pay the wage increases and benefits we have awarded.

In evaluating the City's financial position, the panel has not included CARES Act or ARPA funds. Regardless of whether federal regulations permit these funds to be used for contractual wage increases, we agree with the City that it would be imprudent to use these one-time grants to fund wage obligations that extend into the indefinite future.

WAGES AND NARCAN STIPEND

Effective 7/1/18: 2%
Effective 7/1/19: 2%

Effective 7/1/20: 2%

NARCAN: No change

These two issues are closely related. In essence, the Union's NARCAN proposal, which would add 1% to the base for every member of the bargaining unit, is indistinguishable from a wage increase.

The City's proposed wage increases do not comport with the City's current financial position, the cost of living, or the comparables. As the Union correctly observes, the City's police officers are among the lowest paid of the comparable communities. The City's proposal is below the CPI-U for Boston during the relevant period (1.9%/1.1%/1.8%) and would not allow the Union to approach parity.

On the other hand, the Union's combined wage/NARCAN proposal, amounting to a 4% increase in one contract year, is inconsistent with the comparables and also with the increases received by other City bargaining units. On balance, 2%/2%/2% increases are reasonable. The panel has taken the officers' NARCAN duties into account in reaching that result.

EDUCATION INCENTIVE

**Effective 7/1/19 - increase levels by \$500/750/\$1000
No additional increases**

The panel supports educational incentives for police officers, particularly given the increasing challenges and

complexity of law enforcement. However, the Union's proposal does not comport with the City's ability to pay. The panel has therefore allowed only the first year of the Union's three-year proposal.

VACATION

No change.

An increase in vacation time, with the accompanying increase in overtime, is too costly to be warranted at this time.

The City's proposal would impose an unusual limitation on officers' use of vacation time. The panel is not convinced that it is necessary at this time.

PAID DETAILS

Increase detail rate to \$54/hr. as soon as reasonably possible, with no retroactivity.

The comparables warrant an increase in the detail rate. As the Union notes, this will plainly impose no cost on the City since details are paid by third parties.

The increase in rates will be implemented as soon as reasonably possible in view of the City's obligation to provide 30 days' notice to third parties of a change in rates. There will be no retroactivity, because the panel declines to shift the cost of details from third parties to the City.

MEDICAL APPOINTMENTS ON IOD

No change.

The panel is not convinced that there is a pressing issue that justifies the Union's proposal. Officers on light duty receive paid release time to attend medical appointments, including physical therapy. The evidence does not suggest that these appointments are often so difficult or stressful that the officer cannot return to their light duty work.

BUFFERS

No change.

The panel is not convinced of the efficacy of the City's proposal.

CIVILIANIZATION OF PIO AND MIS POSITIONS

City's proposal is allowed.

The City's proposal to civilianize these positions is an appropriate adjustment to the bargaining unit. The Union advanced no serious objections.

RESIDENCY REQUIREMENT

No change.

While the City offers several valid policy reasons for its proposal, the ten-year residency requirement that is currently in place is already significant, and well within the comparables.

IV. SUMMARY OF AWARD

During the term of the parties' collective bargaining agreement effective July 1, 2018, through June 30, 2021:

There will be the following adjustments to base wages:

Effective July 1, 2018 - 2%,
Effective July 1, 2019 - 2%
Effective July 1, 2020 - 2%

Such adjustments shall be fully retroactive to their effective dates.

The Union's proposal for a Narcan stipend is denied.

Effective 7/1/19, Education Incentive levels will be increased by \$500/\$750/\$1000. The Union's proposal for further increases is denied.

Both parties' proposals for changes in vacation leave are denied.

The paid detail rate will be increased to \$54/hr. as soon as reasonably possible, with no retroactivity.

The Union's proposal regarding Injured-on-Duty Leave is denied.

The City's proposals regarding Buffers and Residency Requirement are denied.

The City's proposal to civilianize the PIO and MIS positions is allowed.

Michael C Ryan

Michael C. Ryan
Neutral Chair

signed

I AGREE.

Michael Perreira
Labor Representative

signed

I AGREE.

Dean Mazarella
Management Representative

March 9, 2022

The arbitrator has original signatures of the two other panel members in possession.