

**JOINT LABOR-MANAGEMENT COMMITTEE**

Michael C. Ryan, Esq., Neutral Chair  
Matthew Reddy, Labor Representative  
Dean Mazzarella, Management Representative

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In the Matter of the Interest  
Arbitration between

CITY OF SOMERVILLE

-and-

FIREFIGHTERS ASSOCIATION  
OF SOMERVILLE, LOCAL 76,  
IAFF

JLMC No. 16-5501  
Interest Arbitration  
CBA commencing July 1, 2015

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**For the Union**

Paul T. Hynes, Esq.

**For the City**

Philip Collins, Esq.  
Melissa R. Murray, Esq.

**I. BACKGROUND**

This proceeding is an interest arbitration pursuant to St. 1973, c. 589, as amended through St. 1987, c. 589, §1 (the "Statute"). It concerns the successor to the parties' most recent collective bargaining agreement ("CBA"), which expired on June 30, 2015.

On November 13, 2017, after hearing, the Joint Labor Management Committee ("JLMC") voted to send seven issues to hearing. The parties have since agreed that the CBA will be

effective 7/1/15 - 6/30/18, so Duration is no longer at issue. The remaining issues are:

Union

1. Wages
2. Night Availability (Article V, § 3)
3. Education Increments (Article VII, § 3)
4. Education Stipends (Article VIII)
5. Hazard Duty (Article VI, § 6)
6. Longevity (Article V)

City

1. Wages, as set forth in the City's Revised Submission Under § 3a, dated November 3, 2017

There were three days of hearing on February 23, April 13, and May 15, 2018, at which the parties presented many witnesses and voluminous documentary evidence. Both parties submitted comprehensive briefs.

The issues are exclusively economic. Accordingly, the parties focused their arguments not so much on each individual proposal, as on the City's ability to pay and the external and internal comparables. The panel, having met three times, has adopted the same approach.

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The City of Somerville is a densely settled urban area, with a population of approximately 80,000 in just over four square miles. It shares borders with Boston, Cambridge, Medford, and Arlington. It is economically, ethnically, and demographically diverse, with a mixture of

students, professionals, recent immigrants, and multi-generational families. Much of the housing stock is wood-frame, multi-unit, and at least a hundred years old.

Over the past twenty years, the City has seen dramatic economic development. Property values have risen, commercial districts have expanded and become revitalized, and residential and mixed-use construction is taking place all over the City. There has been extensive commercial and residential development in Assembly Row, including a new Orange Line subway station. With the opening of the Green Line extension ("GLX") in Union Square (currently scheduled for 2021, although there have been many delays), the City anticipates equally transformative large-scale development in that neighborhood.

The bargaining unit consists of 104 firefighters and 44 superior officers in the City's fire department ("Department"). They are divided into four groups, each of which works two 24-hour shifts every eight days. Since 2010, about 3% of calls to the Department have been for fires, 46-51% for medical emergencies, 36%-43% for other emergencies, and 8-14% for non-emergencies. In recent years, the highest numbers of working fires were in 2000 (12), 2008 (16), and 2013 (17).

## **II. PARTIES' PROPOSALS AND POSITIONS**

### **ISSUE 1: WAGES**

#### **Article V, § 1**

*(Parties agree on full retroactivity.)*

#### **UNION PROPOSAL:**

7/1/15 - 4%

7/1/16 - 4%

7/1/17 - 4%

#### **CITY PROPOSAL:**

7/1/15 - 1.5%

7/1/16 - 2%

7/1/17 - 2%

Amend Article V, § 1 as follows:

~~Effective July 1, 2012 all stipends (with the exception of perfect attendance and hazardous duty) shall be rolled into the base pay and considered as regular compensation for all purposes. The base salary currently in effect for each rank will be the starting point, each member's earned stipends will then be added to that rank base, any raise increase will then be calculated, and finally the night availability differential will be applied.~~

Effective July 1, 2016, hazardous duty, uniform, and defibrillator stipends shall be the only stipends rolled into the base pay creating a new base rate and any raise increase will then be calculated. The following stipends will be then added to the base rate: Master Firefighter, EMT, Longevity and Education (where applicable). The night availability differential will be applied and considered as regular compensation for all purposes.

### **ISSUE 2: NIGHT AVAILABILITY**

#### **Article V, § 3**

#### **UNION PROPOSAL:**

Increase from 7% to 8%

*NOTE: Per Article V, § 1, percentage is calculated on base + applicable stipends.*

**ISSUE 3: EMT STIPEND  
(aka Educational Incentive)  
Article VII, § 3**

***UNION'S PROPOSAL:***

Effective 7/1/15, increase from \$2,000 to \$4,000

*NOTE: 70% of the bargaining unit receives this stipend. Under the "methodology" (see below), the current EMT stipend is actually \$2,282.*

**ISSUE 4: EDUCATION STIPEND  
Article VIII, § 3**

***UNION PROPOSAL:***

Effective 7/1/15, increase:

For Associate's, from \$2,000 to 4,000

For Bachelor's, from \$4,000 to \$8,000

*NOTE: About one-third of the unit has an associate's or bachelor's degree. Under the "methodology" (see below) the current stipends are actually \$2,282 and \$4,564.*

**ISSUE 5: HAZARDOUS DUTY  
Article 5, § 6**

***UNION PROPOSAL:***

Increase from \$1,000 to \$2,000

**ISSUE 6: LONGEVITY  
Article VI**

***UNION PROPOSAL:***

Increase as follows:

Years	Increase From:	To
5	300	500
10	400	700
15	900	1,100
20	1,650	1,850
25	2,200	2,400
30	0	3,000

#### **A. Parties' Positions on "Methodology"**

**City's Position.** Under Article V, § 1, any percentage increase to wages automatically applies to all stipends except perfect attendance and hazardous duty. This is what is meant by the "methodology." As a result, neither the stipend amounts nor the Night Availability differential, as printed in the contract, are accurate. The stipends increase every year, and the 7% Night Availability is calculated on the base + applicable stipends (i.e., EMT, education incentive, master firefighter, longevity, and/or clothing allowance), as increased by the percentage. Thus every percent wage increase has a knock-on effect, as it compounds across all other stipends and benefits.

The following table illustrates how the methodology affects the Union's proposals for increases in the EMT stipend and longevity:

<b>EFFECT OF "METHODOLOGY" ON UNION'S EMT AND LONGEVITY PROPOSALS</b>							
	<b>FY15</b>	<b>7/1/15</b>	<b>FY16 +4%</b>	<b>FY17 +4%</b>	<b>FY18 +4%</b>	<b>1% increase in Night Availability (7%→8%).</b>	<b>Increase over FY15 CBA Value</b>
<b>Base</b>							
<b>Top Step</b>	63,710	63,710	66,258	68,908	71,665	77,398	13,688
<b>10 Years</b>	400	700	728	757	787	850	450
<b>20 Years</b>	165	1,850	1,924	2,000	2,081	2,247	597
<b>EMT</b>	2,000	4,000	4,160	4,326	4,499	4,859	2,859

The City's proposal would roll some benefits into the base. Other, more individualized benefits (e.g.,

Educational Incentive) would no longer be automatically increased, but would remain regular compensation for purposes of calculating Night Availability and overtime.

Stipend	CBA Value	2.5% FY13	2% FY14	2% FY15	1.5% FY16	Night Availability 7%	New Value	Increase
Defib	750	769	784	800	812	869	869	119
Clothing	1,000	1,025	1,046	1,067	1,083	1,159	1,159	159
Hazardous Duty	1,000	n/a	n/a	n/a	n/a	n/a	1,000	1,000

**Union's Position.** The Union opposes any change to the "methodology" language. It points out that it was awarded by a prior interest arbitration panel in City of Somerville, JLMC Case No. 10-12-F (Litton, 2011) and was retained by the parties in subsequent negotiations.

#### **B. Parties' Positions on Ability to Pay**

**City's Position.** As shown in the following table, the City's proposal has a total cost of \$1.5 million, over \$4 million less than the Union's proposals.<sup>1</sup>

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<sup>1</sup> It should be noted that because the parties relied on different fiscal years, their estimates of the costs of each other's proposals differ:

	CITY'S ESTIMATE	UNION'S ESTIMATE
CITY'S PROPOSAL	1,551,893	1,406,000
UNION'S PROPOSAL	5,861,680	5,659,000

**CITY'S ESTIMATE OF COST OF ITS PROPOSAL**  
Effective 7/1/16, Defib, Uniform, and Hazardous Duty  
are rolled into base, creating a new base salary.  
Percent increase is then applied to enhanced based.

	<b>FY16 1.5%</b>	<b>FY17 2.0%</b>	<b>FY18 2.0%</b>
New base	10,859,661	11,566,695	11,751,987
Longevity	181,261	172,911	164,409
Master FF	57,236	50,701	44,206
Defib	123,041	0	0
EMT	222,318	230,034	225,839
Uniform	180,459	0	0
Education	165,345	189,165	170,626
Salary & stipends	11,789,322	12,209,505	12,357,068
Holiday	789,390	809,199	816,867
Overtime (w/o 7%)	1,415,308	1,161,084	1,282,998
Night Availability	979,581	992,585	1,011,985
Hazardous duty	152,000	0	0
<b>Total Compensation</b>	<b>15,125,602</b>	<b>15,172,374</b>	<b>15,468,918</b>
Cost over baseline	221,285	519,561	811,047
<b>TOTAL COST OF PROPOSAL</b>			<b>1,551,893</b>

Despite its dramatic resurgence, the City's financial condition remains precarious. It has not yet recovered from the 2008 recession, which caused drastic cuts in state aid. To balance the budget and avoid layoffs, the City had to rely more heavily on property taxes, one-time revenues, free cash, rainy-day funds, and developer contributions. This created a structural budget deficit that will continue during the contract years at issue. Moody's and S&P have noted that this may jeopardize the City's favorable bond rating in the future.



The City has been at or near its Prop. 2½ limit for some time. While the City's excess capacity has grown slightly to \$1.5 million, it is under tremendous political pressure to stay below the levy limit. In comparison, the City of Cambridge has an excess capacity of \$155 million.

After a spike in 2014 and 2015, new growth has been flat, and is not expected to reach 2015 levels until 2019. The City expected \$9.5 million revenue from building permits in FY18, but received only \$8.5. After a record 110 inches of snow in FY16, the City spent \$9.9 million for snow removal, after budgeting only \$977,000. When FEMA's promised reimbursement failed to materialize, \$1.4 million of the deficit continued through FY18.

In the addition to these budgetary problems, the City must remedy a degraded infrastructure because of years of unaddressed maintenance:

- The City is extensively repairing its water and sewer system, much of which is over 100 years old.
- As of November 2017, there was a \$73.8 million backlog of street repairs, and \$36,243,459 of sidewalk and handicap ramp repairs.
- In 2012, federal authorities required the City to submit an ADA Transition and Remediation Plan, including a schedule for making necessary structural modifications, over a 20-year timeline. The estimated cost exceeds \$100 million.

- The City is building a new \$257 million high school to replace the old structure, which dated to 1895.

Because of these and other capital projects, the City is anticipating issuing debt of \$400 million over the next ten years. Additionally, after years of delays, the City has committed to issuing another \$50 million worth of long-term bonds for the Green Line Extension ("GLX"). The anticipated development will greatly increase commercial property tax revenue. It is therefore extremely important that the City retain its recently upgraded bond ratings from Moody's (Aa1) and S&P (AA+), since a downgrade would increase the cost of borrowing.

The City's \$133 million unfunded pension liability as of FY18, and \$304 million liability for Other Post-Retirement Benefits ("OPEB"), are other areas of concern. The City's current paydown of \$200,000 a year for OPEB is insufficient. The City's financial consultant has advised the City to build OPEB into its regular operating budget, and disapproved of the Union's contention that the City should address OPEB only after paying off its pension obligations.

While it is true that the City is attracting new growth, building a stronger cash and reserve position, and has given market increases to non-union employees, that

does not mean it is suddenly wealthy. GLX and the development of Union Square may well produce revenue, but future growth is not a basis for a retroactive award. Finance Director Bean dismissed the Union's notion that the City has plenty of money on hand to fund its proposals. He testified that the City can use the salary contingency fund to fund the CBA, and, theoretically, the salary and wage portion of the stabilization fund (\$5,648,388 as of 6/30/17). However, it would be imprudent to use any other component of the stabilization fund, given the impending increase in the City's debt service.<sup>2</sup>

The City cannot use free cash to fund a CBA. The Department of Revenue advises that, since free cash is a nonrecurring revenue source, free cash "should be restricted to paying one-time expenditures, funding capital projects, or replenishing other reserves," not recurring expenses like wages. CPA Sullivan agreed, testifying,

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<sup>2</sup> From FY13 to FY17, the City's stabilization fund steadily increased, which is one reason for its favorable bond rating. Portions of Somerville's stabilization fund are earmarked (though not legally restricted, for such expenditures as street reconstruction, open space improvement, street trees, and facility renovation. The \$5.6 million "salary and wage" portion is the largest item in the fund.

G.L.c. 40, §5B also allows a municipality to create special-purpose stabilization funds. In addition to its general-purpose stabilization fund, the City has a special-purpose fund for the water and sewer upgrades.

"Every municipal finance person knows that free cash should not be used in any way, shape or form to make it easier for a structural deficit in a budget that is going to be there year after year." At the beginning of FY18, Moody's cautioned against relying on annual free cash appropriations.

Bean also dismantled the rest of the Union's list of supposedly available funds:

- The foundation reserve award is a school department grant that can only be used for education.
- The \$16 million in the health claims trust fund is the residue from the City's self-funded status before it moved to the Group Insurance Commission in 2012. About 20% is due to be refunded as a return of premium to employees and retirees who were part of the self-funded system. The remainder can only be used for health insurance or medical costs. The City and its G.L.c. 32B Public Employee Committee are formulating a plan to distribute those funds, with the City's share going to its OPEB liability.
- The remaining items are special revenue accounts that are designated for particular purposes.
- The FEMA snow reimbursement is "long gone," according to Bean.
- Parking meter receipts are used to reduce the tax rate.
- The National Grid grant must be used for energy efficiency.
- DPW Barlett and Insurance reimbursement consist of insurance payments to cover losses, such as vehicles involved in crashes.

- Police Detail and Retirement are holding accounts for money from third parties, to be paid to police personnel and employees of the Retirement Board. The Retirement Board is a separate entity from the City, but uses the City's payroll system as a convenience. The City receives money from the Board, and disburses it from this account to the Board's staff.
- The City is precluded by statute from using bond issuance funds for other purposes. St. 2016, c.218 (the "Municipal Modernization Act").

**Union's Position.** The City has more than enough money on hand to fund the Union's proposal.

#### UNION'S LIST OF AVAILABLE CITY FUNDS

GENERAL FUND		Undisputed Amount
Free Cash – 7/1/17	11,621,000	11,621,000
Stabilization Funds – 6/30/17	18,245,000	18,245
Health Claims Trust Fund	16,289,000*	12,217
Budgeted Salary Contingency FY18	2,800,000	2,800
<b>OTHER</b>		
Foundation Reserve Award	530,538*	
FY15 FEMA Snow reimbursement	-1,072,147	
Parking Meter Receipts	1,693,275*	
National Grid efficiency grant	35,796*	
DPW Bartlett recovery	31,892*	
Insurance reimbursement	16,560*	
Police detail fund	75,674*	
Retirement – revolving	29,668*	
Bond issuance expense	446,774*	
TOTAL (rounded)	50,743,000	44,883,000
Cost of Union's proposal		5,659,000

\*The City disputes these dollar amounts, in whole or in part

The Union's expert, Kevin Dacey, derived these estimates from the City's own documents. The balance in the General Fund increased almost 21% from FY15 to FY17. The City's asset-to-liability ratio increased nearly 32% during the same period. In upgrading the City's bond

rating, Moody's noted the City's "healthy financial position," and observed that even though the City's debt burden is expected to increase over the near to medium term, it is "manageable."

The City refuses to consider funding sources other than the approximately \$7 million it has reserved to settle this CBA. But JLMC panels have noted that the statutory factor of *ability* to pay does not mean *comfort* or *willingness* to pay, nor can it be measured by the funds that the City has set aside for pay raises.

The City's basic argument is that it is facing a financial crisis because of the prospect of increased debt service to fund a number of capital projects. However, it failed to produce any hard evidence that it cannot *currently* fund the Union's proposals. The mayor's FY18 budget presentation to the Board of Aldermen, made when these projects were already on the drawing board, indicates no such financial concerns:

Our free cash and rainy day funds remain at the highest in our history even as we make record investments in our schools, open space, transit, and infrastructure. Our bond rating remains the highest in the City's history, as the rating agencies take note of our continuing growth and sound management practices. With record new growth and commercial investment, our tax base is expanding. Commercial taxes and permit revenues continue to grow, allowing us to make targeted investments. In the last two years, our building permit revenues increased by over 465 percent. Over

the same period, more than 250 new businesses have been added to our local economy. We've added more than 6,000 new jobs to the city since 2010 and more than 15,000 new jobs are called for in the Union Square neighborhood plan

The City also disregarded such offsets as developer contributions, user fees for the water and sewer upgrade, and increased tax revenue from large-scale development. The need to building a new high school, repair roads and sidewalks, improve handicap access, and upgrade the sewer system does not justify the City's regressive wage proposal. All municipalities must confront unexpected fiscal problems; Somerville's are less severe than most.

### **C. Parties' Positions on External Comparables**

**City's Position.** Two years ago, the panel in Somerville Police Employees Ass'n, JLMC-14-4174 (Altman, 2016) ("Police Patrol Award") chose Arlington, Brookline, Cambridge, Lowell, Malden, Medford, Melrose, Newton, Quincy, and Waltham as comparable communities. In this case, the City adds Everett and Revere, neighboring cities with relatively lower incomes and property values; and Framingham, Peabody, and Weymouth, which are just outside Rte 128 and have comparable incomes and significant commercial development. These 15 comparables are near Somerville and are similar in size, population, income, and other economic factors. Like Somerville, several have

large commercial centers with shops, restaurants, and entertainment. Except for Arlington and Peabody, all have MBTA or commuter rail stations. If the panel does not accept the City's choice, it should use the ten communities in the Police Award.

The following tables compare the parties' proposals with the base pay and other compensation of firefighters in the fifteen comparables in FY18 at five, fifteen, and thirty years. Those longevity benchmarks cover a large majority of the Somerville bargaining unit.<sup>3</sup>

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<sup>3</sup> Some comparables have stipends in addition to those shown. For example:

- Arlington: ambulance stipend of \$10/tour when assigned to ambulance
- Cambridge: paramedic stipend of 4/5% of top step
- Everett: \$500/certification, max. \$3000
- Malden: 7% increase for 3 years after 20 years
- Revere: \$500 Narcan stipend



**Parties' Proposals and Comparable Communities  
Five Years Longevity**

	Base	Night Diff	EMT	Longevity 5 Yrs	Other Stipends (Total)*	Holiday	TOTAL	+ Education	
								+Assoc	+BA
Arlington	59,073	3,842	1,234	635 <sup>†</sup>	1,271	3,770	69,815	3,086	3,086
Brookline	64,249	5,461	3,855	0	815	3,684	78,064	5,000	10,000
Cambridge	66,868	3,439	3,176	0	8,191	7,159	88,833	4,012	10,699
Everett	66,318	1,911	1,326	0	8,905	5,723	84,185	2,200	2,200
Framingham	55,954	1,439	1,539	0	5,455	2,959	67,346	4,651	6,201
Lowell	66,048	4,225	2,920	991	4,365	6,392	84,941	1,535	3,071
Malden	59,761	3,586	1,793	1,868	1,700	6,417	75,124	3,113	3,735
Medford**	71,351	3,934	500	400	0	4,762	80,947	1,000	1,300
Melrose	55,595	2,855	3,800	0	1,250	3,606	67,106	1,750	2,500
Newton	59,370	2,771	1,215	0	2,949	3,817	70,122	6,220	12,439
Peabody	59,481	5,056	0	300	2,160	4,465	71,462	1,500	2,500
Quincy	62,478	13,710	3,010	175	5,824	5,073	90,270	3,124	4,686
Revere	56,945	0	3,986	0	9,483	4,655	75,070	1,708	3,417
Waltham	59,068	6,025	1,325	0	4,460	4,672	75,550	4,971	4,971
Weymouth	60,883	3,135	1,254	0	4,687	3,840	73,799	2,050	3,550
						<b>Average:</b>	<b>76,842</b>		
<b>PROPOSALS:</b>									
City	<b>70,402</b>	<b>4928</b>	<b>2316</b>	<b>347</b>	<b>0</b>	<b>5,250</b>	<b>83,243</b>	<b>2,316</b>	<b>4,956</b>
Union	<b>71,665</b>	<b>5733</b>	<b>4859</b>	<b>607</b>	<b>5,397</b>	<b>5,739</b>	<b>93,001</b>	<b>4,859</b>	<b>9,719</b>

\*Defib, Clothing, Hazmat, Other

\*\*Not settled through FY18; figures shown represent City's proposal applied to base

<sup>†</sup>Slight increase if firefighter has a degree

**Parties' Proposals and Comparable Communities  
Fifteen Years Longevity**

	Base	Night Diff	EMT	Longevity 15 Yrs	Other Stipends (Total)*	Holiday	TOTAL	+ Education	
								+Assoc	+BA
Arlington	55,666	3,507	1,234	1,947 <sup>†</sup>	1,271	3,934	69,815	3,086	3,086
Brookline	64,249	5,461	3,855	650	815	3,684	78,064	5,000	10,000
Cambridge	66,868	3,439	3,176	0	8,191	7,145	88,833	4,012	10,699
Everett	66,318	1,911	1,326	1,900	8,905	5,723	84,185	2,200	2,200
Framingham	56,970	1,465	1,567	250	5,554	3,013	68,819	4,754	6,201
Lowell	66,048	4,225	2,920	2,972	4,365	6,392	84,941	1,535	3,071
Malden	59,761	3,586	1,793	3,735	1,700	6,594	75,124	3,735	3,735
Medford**	71,351	3,934	500	700	0	4,780	80,947	1,000	1,300
Melrose	55,595	2,855	3,800	750	1,250	3,649	67,106	1,750	2,500
Newton	65,195	3,042	1,215	1,500	3,183	4,268	78,403	6,814	12,439
Peabody	59,481	5,056	0	1,000	2,160	4,512	71,462	1,500	2,500
Quincy	62,478	13,710	3,010	350	5,824	5,073	90,270	3,124	4,686
Revere	59,794	0	4,186	1,600	9,739	5,008	80,328	1,794	3,417
Waltham	59,068	6,025	1,325	3,314	4,460	4,901	75,550	4,971	4,971
Weymouth	62,695	3,135	1,254	1,050	4,687	3,998	76,818	2,050	3,550
						<b>Average:</b>	<b>78,044</b>		
<b>PROPOSALS:</b>									
City	<b>70,402</b>	<b>4,928</b>	<b>2,316</b>	<b>1,042</b>	<b>0</b>	<b>5,296</b>	<b>83,243</b>	<b>2,316</b>	<b>4,956</b>
Union	<b>71,665</b>	<b>5,733</b>	<b>4,859</b>	<b>1,336</b>	<b>5,397</b>	<b>5,788</b>	<b>93,001</b>	<b>4,859</b>	<b>9,719</b>

\*Defib, Clothing, Hazmat, Other

\*\*Not settled through FY18; figures shown represent City's proposal applied to base

<sup>†</sup>Slight increase if firefighter has a degree

**Parties' Proposals and Comparable Communities  
Thirty Years Longevity**

	Base	Night Diff	EMT	Longevity 30 Yrs	Other Stipends (Total)*	Holiday	TOTAL	(+ Education)	
								Assoc	BA
<b>Arlington</b>	61,104	3,951	1,234	3,283 <sup>†</sup>	1261	4,062	74,896	3,086	3,086
<b>Brookline</b>	67,462	5,734	4,048	1,000	815	3,684	82,927	5,000	10,000
<b>Cambridge</b>	66,868	3,439	3,176	0	8191	7,159	88,819	4,012	10,699
<b>Everett</b>	66,318	1,911	1,326	3,400	8905	5,723	87,585	2,200	2,200
<b>Framingham</b>	61,931	1,593	1,703	400	6038	2,959	74,940	5,177	6,903
<b>Lowell</b>	66,048	4,225	2,920	5,944	4365	6,392	89,895	1,535	3,071
<b>Malden</b>	63,944	3,837	1,918	4,659	1700	6,417	83,172	4659	4,659
<b>Medford**</b>	71,351	3,934	500	1,850	0	4,762	82,488	1,000	1,300
<b>Melrose</b>	55,595	2,855	3,800	2,500	1250	3,606	69,750	1,750	2,500
<b>Newton</b>	65,195	3,042	1,215	3,500	3183	3,817	80,519	6,814	13,628
<b>Peabody</b>	59,481	5,056	0	2,500	2160	4,465	73,810	1,500	2,500
<b>Quincy</b>	68,882	15,115	3,135	1,000	6422	5,073	100,463	3,444	5,166
<b>Revere</b>	59,794	0	4,186	4,600	9739	4,655	83,553	1,794	3,588
<b>Waltham</b>	59,068	6,025	1,325	4,639	4460	4,672	80,510	4,971	6,627
<b>Weymouth</b>	66,456	3,135	1,254	1,550	4687	3,840	81,316	2,050	3,550
						<b>Average:</b>	<b>82,309</b>		
<b>PROPOSALS:</b>									
<b>City</b>	<b>70,402</b>	<b>4928</b>	<b>2316</b>	<b>2,548</b>	<b>0</b>	<b>5,250</b>	<b>86,828</b>	<b>2,316</b>	<b>4,957</b>
<b>Union</b>	<b>71,665</b>	<b>5733</b>	<b>4859</b>	<b>3,645</b>	<b>5,397</b>	<b>5,739</b>	<b>97,625</b>	<b>4,859</b>	<b>9,720</b>

\*Defib, Clothing, Hazmat, Other

\*\*Not settled through FY18; figures shown represent City's proposal applied to base

<sup>†</sup>Slight increase if firefighter has a degree.

The Union's limited list of comparables does not capture the variety of population sizes, operating budgets, and equalized valuation/population among Somerville's neighboring communities. By excluding the factor of density, the Union eliminated the obviously comparable communities of Arlington, Brookline, Malden, and Revere. There is no rationale for excluding communities whose CBAs were the product of interest arbitration.

Boston is obviously not comparable to Somerville:

**CITY'S COMPARISON OF SOMERVILLE AND BOSTON**

	<b>BOSTON</b>	<b>SOMERVILLE</b>
Population (2014)	660,278	79,356
FY17 Budget	3.04 billion	2.65 million
FY16 Fire Dept. Budget	214.5 million	16.6 million
FY17 Property Taxes/Levy	2.09 billion	136 million
FY17 Assessed Value	143.9 billion	12.6 billion
FY17 Residential Tax Rate/\$1000 Valuation	10.59	11.67
Engines	33	5
Ladders	22	3
Rescues	2 heavy rescues	1
Boats	3	0
Hazmat	1	0
Decontamination Unit	1	0

\*\*\*There are also major differences in infrastructure, commerce, housing, demographics, and transportation systems.

The Union attempts to evade these problems by carving out Allston/Brighton and Charlestown, and then performing an apples-to-oranges comparison using data for the entire city of Boston.<sup>4</sup> Those neighborhoods are not governmental entities and do not have separate fire departments or CBAs.

Mutual aid is a dubious basis for comparison. The Union witnesses' testimony that Somerville relies "heavily" on Boston is a misstatement. In general, Boston does not

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<sup>4</sup> Under the Union's approach, Dedham, Needham, and Milton would be comparable to Boston because of their similarities to contiguous Boston neighborhoods, and Avon would be comparable to Brockton for the same reason.

respond directly until a third alarm. Boston and Medford are first responders only on a small stretch of I-93; one Charlestown fire company responds to the Union Square station to await a subsequent call.

Almost all the Union's comparables are dissimilar to Somerville's ability to pay. Five have higher per capita incomes than Somerville, while Brockton's is among the lowest in the state. Everett and Revere are virtually indistinguishable, so the only possible reason to include Everett and exclude Revere is Everett's higher base salary. The same applies to the Union's inclusion of Medford while excluding Malden.

**Union's Position.** Based on demographics, population size, size of department, and hazards encountered, Boston, Brockton, Cambridge, Everett, Medford, Newton, and Quincy are comparable to Somerville:

**UNION'S COMPARABLES  
BASIS OF COMPARISON**

	<b>Boston</b>	<b>Brockton</b>	<b>Cambridge</b>	<b>Everett</b>	<b>Medford</b>	<b>Quincy</b>	<b>Newton</b>	<b>Somerville</b>
Population (2014)	660,278	94,800	109,700	44,741	57,295	93,494	88,506	<b>78,804</b>
Area (sq. mi.)	48.3	21.3	6.4	3.4	8.1	16.6	17.8	<b>4.1</b>
Pop./Sq. mi.	13,676	4,444	17,176	13,044	7,073	5,644	4,961	<b>19,261</b>
S&P Bond rating	AAA	A1	AAA	AA+	AA	AA+	AAA	<b>AA+</b>
FY17 Free cash	\$337m	\$14.6m	\$202m	\$6.7m	\$9.9m	\$4.8m	\$12.7m	<b>\$10.8m</b>
FY16 Stabilization	\$0	\$3.1m	\$49.1m	\$15.4m	\$5,210	\$12.5m	\$0	<b>\$28.9m</b>
Per capita income (2014)	\$44,718	\$58,985	\$19,427	\$18,814	\$34,490	\$31,129	\$116,822	<b>33,806</b>
Bordering?	Yes	No	Yes	Yes	Yes	No	No	
	Allston/ Bright.							
Fire stations	33	5	6	3	6	8	6	<b>5</b>
Engine companies	33	5	6	3	6	8	6	<b>5</b>
Ladder	22	3	3	2	2	3	3	<b>3</b>

Companies									
Heavy rescue companies	2	0	0	1	1-x staffed	0	1	1	1
Paramedic companies	0	0	0	2	0	0	0	0	0
Multi-story wood residences	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Multi-story apartments	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
High-rises	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Hotels, B&Bs	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Medical Facilities	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Elderly housing	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Commercial/ industrial	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Heavy freight rail	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Commuter rail	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Electric trolleys	Yes	NO	Yes	Yes	NO	Yes	Yes	Yes	Yes
Subway	Yes	NO	Yes	NO	NO	NO	NO	NO	Yes
Water hazards	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Residential schools/ Colleges	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Additionally, Charlestown, Cambridge, Everett, and Medford have mutual-aid agreements with Somerville. Charlestown, Cambridge, and Medford have the closest mutual-aid relationships because they respond to initial alarms at "line boxes" (i.e., they cross the city line to answer an alarm close to one of its own firehouses).<sup>5</sup> Charlestown also has shared coordinated response on Rte. 93 and the Zakim Bridge.

Although Boston is much larger than Somerville in area and population, the Union has carved out Charlestown and Allston/Brighton, which together closely

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<sup>5</sup>There was a dispute concerning the Union's statement that "Boston provides all mutual aid to Somerville up through the fourth alarm." Boston covers one Somerville station on the report of a working fire, and sends companies on the third and fourth alarm.

resemble Somerville in population, density, and housing stock. This invalidates the City's argument that Boston's resources far exceed Somerville's. On a proportional basis, their resources are almost identical. Charlestown and Allston/Brighton have about 12% of Boston's population, and 12% of Boston's free cash plus stabilization was about \$40.4 million in FY17. That is very close to Somerville's \$39.7 million. In combination, Charlestown and Allston/Brighton have fire-department resources that are similar to Somerville's (five firehouses, five engines, and three ladders), and almost identical population size and density.

The City's comparables include many smaller, suburban communities that have nothing in common with Somerville. The City provided no evidence concerning the size, characteristics, and workload of the fire departments in these cities and towns. For those communities whose CBAs do not extend to FY18, the City applied its own wage offer to hypothetically extend them. By contrast, the Union relies on actual data, comparing compensation as of the comparables' last settled dates to current compensation in Somerville.

As the following tables show, Somerville firefighters lag 0.7% to 35.1% behind the comparable communities

**Union's Comparison at Last Settled Dates  
15 Year Firefighter EMT, No Degree**

	As of	Base	Night Diff	Holiday	Longevity 15 Yrs	Other Stipends (Total)*	TOTAL	+ Education	
								+Assoc	+BA
<b>Boston**</b>	FY17	69,123	6,581	6,138	8,568	8,506	107,484	8,568**	
<b>Brockton</b>	FY19	60,807	13,388	5,789	950	14,451	95,385	6,745	13,490
<b>Cambridge</b>	FY18	66,868	3,439	5,866 <sup>†</sup>	0	11,367	87,540	4,694	12,518
<b>Everett</b>	FY19	67,644	1,911	5,838	1,900	9,944	87,237	1,000	1,500
<b>Medford</b>	FY17	69,983	3,801	4,037	700	500	79,021	1,000	1,300
<b>Newton</b>	FY18	65,195	3,234	4,569 <sup>†</sup>	1,500	4,398	78,896	6,520	13,039
<b>Quincy</b>	FY20	65,639	14,403	5,468	350	8,315	94,175	3,282	4,923
<b>SOMERVILLE</b>	<b>FY15</b>	<b>63,710</b>	<b>4,814</b>	<b>4,953</b>	<b>960</b>	<b>5,106</b>	<b>79,543</b>	<b>2,133</b>	<b>4,266</b>

\*Defib, Clothing, Hazmat, Other

\*\*Boston TCAP split between education and longevity

<sup>†</sup> City and Union differ on this figure

<b>Somerville % Lag 15 Year Firefighter EMT, No Degree</b>	
<b>Boston</b>	-35.1
<b>Brockton</b>	-19.9
<b>Cambridge</b>	-10.1
<b>Everett</b>	-9.7
<b>Medford</b>	0.7
<b>Newton</b>	0.8
<b>Quincy</b>	-18.4

In their most recent CBA, firefighters in the closest external comparable, Cambridge, received a total overall increase of approximately 12.7%, with wage increases totaling 6.9%, and increases in holiday pay, hazmat, EMT and education.

**D. Parties' Positions on Internal Comparables**

The City is party to eight other non-school CBAs<sup>6</sup>:

Firefighters, Local 76, Alarm Unit  
Police Patrol  
Police Superiors

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<sup>6</sup> School custodians, school nurses, and crossing guards bargain with the City.

Somerville Municipal Employees Association ("SMEA"),  
 Units A, B, and D (clerical, public works, school  
 nurses, and supervisors)  
 SEIU, Local 888 (E-911 police dispatchers)  
 SEIU, Local 888 (Crossing guards)  
 NCFO, Local 3 (School Custodians)

The police patrol officers, police superiors, all  
 three SMEA units, and school custodians all have unsettled  
 CBAs. The police superiors are currently in interest  
 arbitration before a different panel of the JLMC.

**City's Position.** JLMC panels have repeatedly given  
 great weight to a pattern of internal settlements. Of the  
 seven City unions that settled for FY16, six accepted 2%.  
 The only exception was the police dispatchers, who received  
 2% plus a market adjustment in FY15.

**PERCENT INCREASES, CITY UNIONS  
 FY13 – FY20**

	FY13	FY14	FY15	FY16	FY17	FY18	FY19	FY20
Firefighters	2.5	2.0	2.0	In interest arbitration				
Fire Alarm	2.5	2.0	2.0	2.0	2.0	2.0		
Police Patrol	2.5	2.0	2.0	Negotiations pending				
Police Superiors	In interest arbitration							
SMEA Unit A	2.0	1.0	2.0	2.0	Mediation & factfinding pending			
SMEA Unit B	2.0	1.0	2.0	2.0	In mediation & factfinding			
SMEA Unit D	2.0	1.0	2.0	2.0	Commencing negotiations			
SEIU L.888								
Police Dispatch	2.0	2.0	2%*	0%	2.0	2.0	2.0	2.0
SEIU L. 888								
Crossing Guards	2.0	2.0	0%*	2.0	2.0	2.0	1.5	1.5
NCFO L. 3								
School Custodians	2.0	2.0	2.0	2.0	2.0	In negotiations		

\*Both units received market wage adjustments effective 1/1/15

Police and fire base pay are almost identical.  
 Firefighters actually do better in longevity, defibrillator  
 pay, longevity, and hazardous duty (versus WMD pay for  
 police).



**CITY'S BASE PAY COMPARISON  
POLICE AND FIREFIGHTERS - 6/30/15**

	Firefighter	Patrol Officer	Firefighter Nights	Patrol Officer Nights
<b>Step 1</b>	53,074.90	51,811.51	56,790.14	55,438.31
<b>Step 2</b>	54,831.58	53,482.49	58,669.79	57,226.26
<b>Step 3</b>	63,710.02	61,933.79	68,169.72	66,269.15
<b>Step 4</b>	n/a	63,753.49	n/a	68,216.23

**CITY'S OTHER BENEFIT COMPARISON  
POLICE AND FIREFIGHTERS – 6/30/15**

	Firefighter		Patrol Officer	Union's Proposal	
Night Differential	7%		7%	8%	
Longevity	CBA	"Methodology"		CBA	"Methodology"
5	300	343.32	0	500	
10	400	456.42	0	700	
15	900	1,026.95	0	1,100	Not calculated
20	1,650	1,882.75	800	1,850	
25	2,200	2,510.33	1,600	2,400	
30	2,200	2,510.33	3,200	3,000	
<b>EMT</b>	2,000		-	4,000	
<b>Hazardous Duty/WMD</b>	1,000		500	2,000	
<b>Defibrillator</b>	750	855.79	-	-	
<b>Master Firefighter</b>	1,000 (25 yrs)	1,141.06	-	-	

The only area where police do better is in education incentive. That is because of a legislative policy choice to enact the Quinn Bill, which does not apply to firefighters. Police do earn more from details and overtime, but must voluntarily work an extraordinary number of extra hours for those earnings.

The Union's comparison of police and fire compensation is flawed by errors and omissions, including the incorrect inclusion of longevity, which does not commence for police until 20 years; inclusion of night and weekend differentials for all patrol officers; and the omission of EMT pay for firefighters.

**Union's Position.** JLMC panels favor parity among public-safety bargaining units. The firefighters would have to receive a minimum total 18.8% increase to achieve parity with the Somerville patrol officers. The Union does not propose to close that entire gap, but only seeks reasonable increases.

**UNION'S COMPARISON  
POLICE AND FIREFIGHTERS AT 15 YEARS – 6/30/15**

	Patrol Officer	Firefighter	Patrol Officer	Firefighter	Patrol Officer	Firefighter
Degree	None		Associate's		Bachelor's	
Base	63,753	63,710	63,753	63,710	63,753	63,710
Night Avail.	4,463	4,665	4,463	4,665	4,463	4,665
Night Differential*	1,000		1,000		1,000	
Weekend Differential*	3,601		3,601		3,601	
Education Incentive			6,375	2,133	12,751	4,266
Hazardous Duty		1,000		1,000		1,000
Weapons	500		500		500	
WMD	500		500		500	
Defib		800		800		800
Longevity**	800	960	800	960	800	960
Clothing		1,173		1,173		
Holiday	4,659	4,800	5,088	4,953	5,517	5,107
<b>TOTALS</b>	<b>79,276</b>	<b>77,108</b>	<b>86,080</b>	<b>79,543</b>	<b>92,885</b>	<b>81,980</b>

\*Where eligible

\*\*City maintains that police are not eligible until 20 years

As of FY15, a 15-year firefighter with a bachelor's degree lagged behind a similar police officer by 13.3%. Factoring in overtime and details, the disparity was actually 27.2% in calendar 2016, even though firefighters work 242 more hours annually. Police supervisors outpace fire officers by 25.2%(lieutenants), 14.2% (captains) and 11.4% (chief officers).

#### **IV. DECISION AND AWARD**

The Statute requires the panel to give weight to the following factors:

\* \* \*

- 2) The financial ability of the municipality to meet costs. ...
- 3) The interests and welfare of the public.
- 4) The hazards of employment, physical, educational and mental qualifications, job training and skills involved.
- 5) A comparison of wages, hours and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally in public and private employment in comparable communities.
- 6) The decisions and recommendations of the factfinder, if any.
- 7) The average consumer prices for goods and services, commonly known as the cost of living.
- 8) The overall compensation presently received by the employees, including direct wages and fringe benefits.
- 9) Changes in any of the foregoing circumstances during the pendency of the dispute.
- 10) 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, factfinding, arbitration or otherwise between parties, in the public services or in private employment.
- 11) The stipulation of the parties.

**A. City's Proposal to Modify the "Methodology"**

To evaluate the City's proposal regarding the "methodology," it is necessary to consider the history of the relevant paragraph in Article V, § 1. It originated in City of Somerville and IAFF, Local 76, JLMC Case No. 10-12-F (Litton, 2011), which adopted the following Union proposal:

All stipends shall be rolled into the base pay and considered as regular compensation for all purposes as of the start of FY 2010 on July 1, 2009.

There was no discussion of the background of this proposal, or the Litton panel's reasoning.

The Somerville Board of Alderman rejected the Litton panel's award. Subsequently, the parties entered into a MOA on January 19, 2012, covering two CBAs: FY07-10 and FY10-12. The 2010-12 CBA included the following:

All stipends (with the exception of perfect attendance and hazardous duty) shall be rolled into the base pay and considered as regular compensation for all purposes as of the start of FY 2013 on July 1, 2012.

Evidently there was further bargaining over this provision during negotiations for the 2012-15 CBA, resulting in the language that the City now seeks to amend.

It is undisputed that the parties have not interpreted "rolled into the base" as signifying that the stipends would thereafter cease to exist as separate entities.

Rather, rolling the stipends into the base entails a three-step calculation:

1. Apply the annual wage increase to each individual firefighter's EMT, education incentive, master firefighter, longevity, and clothing stipends (as applicable);
2. Add the applicable stipends, as increased, to each individual's base;
3. Apply the 7% night differential to the result.

Thus, the stipend amounts listed in the CBA do not reflect the actual amounts, which increase each year. Nor is the base + night availability listed in the salary appendix accurate, because it does not include the stipends in the base.<sup>7</sup> Moreover, since the stipends continue to exist as separate entities, they are susceptible to two forms of increase: the overall percentage increase, and a dollar amount, should the parties negotiate one. Additionally, any increase to a stipend automatically increases the night availability.

The City strongly opposes what it describes as a "funky, convoluted" methodology. It illustrates the compounding effect as follows:

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<sup>7</sup>A note in the appendix states, "This is the base salary and night availability only and does not include individual stipends which are added to the base to calculate each individual's weekly salary."

# **EFFECT OF METHODOLOGY ON UNION PROPOSALS**

	FY15	7/1/15	Union Proposals				Increase over FY15 CBA Value
			FY16 +4%	FY17 +4%	FY18 +4%	1% increase in Night Availability (7%→8%).	
<b>Base</b>							
<b>Top Step</b>	63,710	63,710	66,258	68,908	71,665	77,398	13,688
<b>10 Years</b>	400	700	728	757	787	850	450
<b>20 Years</b>	165	1,850	1,924	2,000	2,081	2,247	597
<b>EMT</b>	2,000	4,000	4,160	4,326	4,499	4,859	2,859

The City proposes to eliminate the methodology in the second year, roll some stipends into the base, and then eliminate them as separate entities. The remaining stipends would be regular compensation for purposes of calculating night differential and overtime but would no longer be automatically subject to percentage increases. The City illustrates its proposal as follows:

Stipend	CBA Value	2.5% FY13	2% FY14	2% FY15	1.5% Fy16	Night Availability 7%	New Value	Increase
<b>Defib</b>	750	769	784	800	812	869	869	119
<b>Clothing</b>	1,000	1,025	1,046	1,067	1,083	1,159	1,159	159
<b>Hazardous Duty</b>	1,000	n/a	n/a	n/a	n/a	n/a	1,000	1,000

In the abstract, there is a certain appeal to the City's arguments. It is inefficient to have a CBA that is full of inaccurate numbers, and which requires cumbersome calculations to determine the actual amount of most stipends. However, the language that created the methodology is relatively new. It entered the CBA in January 2012, and the parties renegotiated it in the 2012-15 CBA. The panel declines to remove significant language that the City either did not propose to remove, or was

unable to remove, in the prior round at the bargaining table.

### **B. The City's Ability to Pay**

The City of Somerville is in an unusual position. For many years, it was an insular community of multi-family rental housing and an eroding industrial base. Because of a unique combination of circumstances -- including the extension of the Red Line, the end of rent control in Cambridge, the blossoming of the high-tech and bio-tech economy, and a renewed interest in urban living - it is now one of the most desirable places to live in New England. It is anticipating large-scale development in the office, retail, residential, and transportation sectors.

Much of the City's public infrastructure is still catching up with these phenomena. The City is in the midst of extensive repairs to, or reconstruction of, its streets, sidewalks, water and sewer systems, and high school. While making these considerable expenditures, the City is unwilling to raise property taxes to their limit, because a significant portion of the population remains middle- or lower-income.

As applied to the factor of "ability to pay," the parties reinterpret this mixed picture in black and white. The City maintains that it still has structural deficits

left over from the 2008 recession, and is about to undertake a heavy debt burden. Over the next ten years, the City will be issuing debt of some \$400 million to cover major capital expenditures, as well as another \$50 million for the long-delayed GLX. It also has a \$133 million liability for the unfunded portion of pension (about 34% of its obligation), which is due to be paid down by 2049, and a \$304 million liability for OPEB.

The Union insists that the City is flush with wealth. It points out that in July 2017, Moody's upgraded the City's bond rating from Aa2 to Aa1, noting that the City is in a "healthy financial position," with a "sizeable tax base that has experienced significant growth in recent years." Furthermore, the City's General Fund increased almost 21% from FY15 to FY17, and its asset/liability ratio increased nearly 32% during the same period. The Union produced a list of budgetary items that are purportedly available to fund its proposal.

The truth is somewhere between these two opposing versions. The Union's contention that the City has ample money to spare is untenable. Finance Director Bean convincingly demonstrated that it would be improvident or unlawful to fund the CBA with most of the items on the



Union's laundry list of available money. He testified that the only two available sources are (1) the salary contingency fund, about \$2.1 million; and (2) the "salary and wage" portion of the stabilization fund, \$5,648,388 as of 6/30/17. While that may be an unduly restrictive view, the City cannot be expected to drain its coffers to fund increases for its employees. Finance Director Bean and CPA Sullivan convincingly demonstrated that the City should not use free cash to fund a CBA.

The City must also be cautious about its stabilization fund. A stabilization fund is essentially a savings account for capital and other necessary future expenditures. From FY13 to FY17, the City's stabilization fund steadily increased to \$18.2 million, which is one reason for its favorable bond rating. The City's willingness to assume substantial debt at this point is a bet on Somerville's economic future; to help that bet succeed, to the benefit of all its residents and employees, the City must reserve adequate funds for much-needed capital improvements.

On the other hand, there is no question that the City is in a period of unprecedented prosperity and growth. Its property values continue to rise. It is attracting

substantial investment. Its finances are on a sound footing, as shown by its excellent bond rating. All of this warrants higher percentage increases than the City is proposing. It is notable that even in the midst of the 2008 recession, the firefighters received more generous increases than the City is offering now:

FY09	2.0
FY10	2.5
FY11	2.5
FY12	3.0
FY13	2.5

### **C. External and Internal Comparables**

Turning to the comparables, less than two years ago, the Police Patrol panel, after careful consideration, chose Arlington, Brookline, Cambridge, Lowell, Malden, Medford, Melrose, Newton, Quincy, and Waltham as comparable communities. It based that choice largely on a 2012 City-commissioned compensation study by the Collins Center for Public Management at UMass. It rejected the Union's attempt to add Boston to the list. In the interests of consistency and predictability, this panel is inclined to retain the Police Patrol list. We could tinker with it, but as the Police Patrol panel observed, choosing external

comparables is not an exact science, and since no two communities are exactly alike, perfect comparability is unattainable. Since police and fire in any one community are regularly compared in a parity approach, it is appropriate to continue to use that set of comparables, unless the parties can agree on an alternative.

Like the Police Patrol panel, we are unable to accept the Union's choice of Boston. By almost any measure, it is not comparable to Somerville. It does not solve the problem to carve out the neighborhoods of Charlestown and Allston/Brighton and designate the result a comparable "community." The City of Boston and its firefighters negotiate wages, hours, and working conditions on the basis of firefighters' work in the entire city, not a subset. Nor can we accept a mutual-aid relationship as an indicator of comparability within the meaning of the Statute. Except for geographical proximity, it does not relate to any of the factors that make municipalities "comparable" for collective bargaining purposes.

As for the City's proposed comparables, we agree with the Union that Framingham, Peabody, and Weymouth have little

in common with Somerville. They are geographically distant and have a much more suburban character.

Even so, it remains particularly difficult to compare firefighters' total compensation to the comparables because there are so many components, including other payments, for example, night and/or weekend work, longevity, clothing, hazardous duty, and credentials for EMT, defibrillator, and hazardous materials. Moreover, the components are highly variable among communities. Not every CBA includes all of them. Of those that are included, some are stipends and some are percentages, and some are rolled into the base and some are not.

Even as to the communities that both parties consider comparable, the Union compounds these difficulties by comparing Somerville's FY15 compensation to the comparator's "last settled date," that is, the first year of their most recently settled CBAs. That was FY17 in Medford, FY18 in Cambridge and Newton, and FY20 in Quincy. Not surprisingly, this apples-to-oranges comparison shows the Somerville firefighters lagging behind the comparators. But that is not a fair comparison. The only way to get an accurate

picture of the Somerville firefighters' ranking among their peers is to base the comparison on the same fiscal year.

The Union's contention that it lags far behind its peers does not comport with the data. If we consider Somerville and the comparators at the starting point for this award, which is FY15, the data shows that in fact, Somerville was well within the upper third of comparators in most components of compensation, and second highest in total compensation overall.<sup>8</sup> It is closer to the middle in

**RANKING OF SOMERVILLE AND COMPARABLES, FY15  
15-YEAR FIREFIGHTER  
TOTAL COMPENSATION**

Base		Night Differential		EMT		Longevity (15 Yrs)		Defib		Clothing	
Melrose	52,378	Melrose	2,855	Medford	500	Cambridge	0	Medford	0	Medford	0
Arlington	55,666	Newton	2,867	Arlington	1,113	Quincy	350	Brookline	0	Quincy	0
Waltham	56,217	Malden	3,097	Newton	1,215	Medford	600	Lowell	0	Newton	150
Malden	56,314	Cambridge	3,144	Waltham	1,237	Brookline	650	Newton	425	Malden	500
Brookline	57,932	Arlington	3,507	Quincy	1,368	Melrose	750	Melrose	500	Arlington	650
Quincy	59,457	Medford	3,727	Cambridge	1,681	Newton	800	Arlington	557	Brookline	690
Cambridge	61,142	Lowell	3,982	Malden	1,689	Somerville	1,027	Malden	700	Waltham	725
Newton	61,436	Brookline	4,055	Lowell	2,128	Arlington	1,792	Quincy	803	Cambridge	900
Lowell	62,257	Somerville	4,460	Somerville	2,282	Lowell	2,802	Somerville	856	Melrose	1,000
Somerville	63,710	Waltham	5,622	Brookline	3,476	Waltham	3,092	Waltham	2,080	Somerville	1,255
Medford	66,908	Quincy	8,919	Melrose	3,800	Malden	5,631	Malden	2,904	Lowell	1,300

Hazmat		Other		Holiday		TOTAL		Education			
								+Associates		+ Bachelors	
Arlington	0	Arlington	0	Brookline	3,352	Melrose	64,761	Medford	1000	Medford	1,300
Medford	0	Brookline	0	Melrose	3,478	Arlington	66,911	Melrose	1,250	Melrose	2,000
Melrose	0	Cambridge	0	Arlington	3,626	Newton	70,666	Lowell	1,447	Arlington	2,811
Newton	0	Lowell	0	Newton	3,913	Brookline	71,604	Somerville	2,282	Lowell*	2,894
Somerville	1,000	Malden	0	Quincy	4,273	Waltham	73,433	Brookline	2,500	Quincy	4,459
Waltham	1,124	Medford	0	Medford	4,483	Malden	75,923	Arlington	2,811	Somerville	4,564
Brookline	1,448	Melrose	0	Waltham	4,573	Medford	76,218	Quincy	2,973	Brookline	5,000
Malden	1,600	Quincy	0	Somerville	4,953	Quincy	76,240	Cambridge	3,669	Malden	5,631
Quincy	2,438	Waltham	0	Cambridge	5,973	Cambridge	79,107	Waltham	4,638	Waltham	6,184
Cambridge	3,363	Somerville	0	Lowell	5,974	Somerville	79,543	Malden	5,631	Cambridge	9,171
Lowell	4,114	Newton	1,075	Malden	6,391	Lowell	82,557	Newton	6,308	Newton	12,615

<sup>8</sup>The data in the following tables is based on City Ex. 4B (FY15) and Revised City Ex. 4C (FY18). The City revised City Ex. 4C in response to criticisms from the Union. As far as we are aware, the Union submitted no criticisms of City Ex. 4B. We have chosen fifteen years of longevity as fairly representative of the entire bargaining unit.

longevity, hazmat, and the increment for a bachelor's degree. The only area where it is among the lowest is in the increment for an associate's degree.

As the following table shows, if the Union's proposals were accepted, in FY18, a fifteen-year Somerville firefighter with no degree would top the comparables in total compensation, earning about \$4,000 more than his Cambridge peer.<sup>9</sup> That is a considerable leap in a single CBA.

**SOMERVILLE AND COMPARABLES WITH  
CITY'S AND UNION'S PROPOSALS, FY18  
15-YEAR FIREFIGHTER**

	Base	Night Diff	EMT	Longevity 15 Yrs	Other Stipends (Total)*	Holiday	TOTAL	+ Education	
								+Assoc	+BA
<b>Arlington</b>	59,073	3,842	1,234	1,947 <sup>†</sup>	1,271	3934	69,815	3,086	3,086
<b>Brookline</b>	64,249	5,461	3,855	650	815	3,684	78,064	5,000	10,000
<b>Cambridge</b>	66,868	3,439	3,176	0	8,191	7,145	88,833	4,012	10,699
<b>Everett</b>	66,318	1,911	1,326	1,900	8,905	5,723	84,185	2,200	2,200
<b>Framingham</b>	56,970	1,465	1,567	250	5,554	3,013	68,819	4,754	6,201
<b>Lowell</b>	66,048	4,225	2,920	2,972	4,365	6,392	84,941	1,535	3,071
<b>Malden</b>	59,761	3,586	1,793	3,735	1,700	6,594	75,124	3,735	3,735
<b>Medford**</b>									
<b>Melrose</b>	55,595	2,855	3,800	750	1,250	3,649	67,106	1,750	2,500
<b>Newton</b>	65,195	3,042	1,215	1,500	3,183	4268	78,403	6,814	12,439
<b>Peabody</b>	59,481	5,056	0	1,000	2,160	4,512	71,462	1,500	2,500
<b>Quincy</b>	62,478	13,710	3,010	350	5,824	5,073	90,270	3,124	4,686
<b>Revere</b>	59,794	0	4186	1600	9,739	5,008	80,328	1,794	3,417
<b>Waltham</b>	59,068	6,025	1,325	3,314	4,460	4,901	75,550	4,971	4,971
<b>Weymouth</b>	62,695	3,135	1,254	1,050	4,687	3,998	76,818	2,050	3,550
<b>SOMERVILLE:</b>									
With City's Proposal	<b>70,402</b>	<b>4,928</b>	<b>2,316</b>	<b>1,042</b>	<b>0</b>	<b>5,296</b>	<b>83,243</b>	<b>2,316</b>	<b>4,956</b>
With Union's Proposal	<b>71,665</b>	<b>5,733</b>	<b>4,859</b>	<b>1,336</b>	<b>5,397</b>	<b>5,788</b>	<b>93,001</b>	<b>4,859</b>	<b>9,719</b>

\*Defib, Clothing, Hazmat, Other

\*\*Not settled through FY18; figures shown represent City's proposal applied to base

<sup>†</sup>Slight increase if firefighter has a degree

<sup>9</sup> We emphasize Cambridge because the Union stated in its brief that it is particularly focused on that comparator.

On the other hand, the City's proposals would move the same fifteen-year firefighter backward, from second to fourth highest in total compensation, and about \$5,500 behind Cambridge. Given the City's current financial health, that seems unreasonable. Furthermore, the Union produced persuasive evidence that the work of a firefighter in Somerville is particularly hazardous. Despite its small geographic size, Somerville has many of the features of much larger cities: a subway, railroads, a waterfront, an interstate highway, and industrial facilities with hazardous materials. It is densely settled, difficult to navigate, and has older housing stock with wood-frame construction. As new construction proceeds, office buildings, hotels, and residential developments will only add to the complexities.

Of equal or greater significance is the internal comparison between Somerville's firefighters and patrol officers. As both parties recognize, public-safety personnel are most appropriately compared to each other, rather than other municipal employees.<sup>10</sup> They share a highly

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<sup>10</sup>The City argues that the comparison should extend to all Somerville bargaining units, and characterizes the 2% increases in six CBAs in FY16 as a "pattern." That is an exaggeration. A single year is too thin to constitute a pattern; moreover, some of the increases were in the last year of a CBA, and some were in the first.

specialized set of working conditions, qualifications, hazards, and skills.

The City is correct that the base pay of police and firefighters at fifteen years are almost identical. However, base pay alone is not a meaningful basis for comparison, because it is only the starting point for a series of individualized enhancements. It is a fact of life that police have many more opportunities for overtime and details than firefighters, and can earn tens of thousands of dollars if they choose to work the extra hours. Galling as this may be to firefighters, JLMC panels have not viewed it as a disparity warranting redress.

Another factor in the patrol officers' favor is their far more advantageous educational incentive pay, owing largely to the Quinn Bill. Enacted in 1970, the Quinn Bill entitles police personnel who earned degrees in criminal justice to an additional 10%, 20%, or 25%, depending upon the degree, with the Commonwealth picking up half the cost. In 2009, the Commonwealth ceased paying its share, and many communities assumed the entire cost, rather than see their police force take a substantial cut in pay. Some communities, like Somerville, paid only for officers hired



before 2009. However, in the Police Patrol Award, the panel required the City to phase in the full incentive for post-2009 hires as well. As a result, Somerville police officers with associate's degrees earn, or will earn, an additional \$6,375 per year, and \$12,751 for a bachelor's degree. That is about three times the educational incentive for firefighters, and accounts for much of the disparity in non-voluntary compensation between police and firefighters.

Although the legislature never saw fit to enact a Quinn Bill for firefighters, as a practical matter, there is a discrepancy between the Somerville police and firefighters that requires some correction. The City's proposals do not accomplish this, nor do they allow the firefighters to maintain or perhaps better their position among the comparables.

One logical solution would be to allow the Union's proposal to increase the educational incentive, which would place that benefit close to the level of the patrol officers. However, two-thirds of the bargaining unit would see no benefit from that in the short term, or perhaps ever. Instead, the panel will allow the Union's proposal

for night availability, which accrues to the entire bargaining unit.

The panel has carefully considered the remaining Union proposals, and a majority has decided that they are not in order at this time. The evidence simply does not bear out the Union's contention that Somerville firefighters lag far behind their peers. Moreover, the rate of inflation has been low during the contract period. According to City Exh. 9A, the All Urban CPI for Boston-Newton-Cambridge increased only 5.0% over the three years from 2014 through 2017.

Finally, the percentage wage increases that we have awarded equal or exceed the comparables' increases in almost every contract year:

**Comparables - Percent Increases  
FY16-18**

	<b>FY16</b>	<b>FY17</b>	<b>FY18</b>
<b>Arlington</b>	New wage scale	2.0%	2.0%
<b>Brookline</b>	2.0%	2.0	2.0
<b>Cambridge</b>	2.4%	2.0	2.5
<b>Lowell</b>	0.0%	3.0	3.0
<b>Malden</b>	2.0%	2.0	2.0
<b>Medford</b>	2.0% 1/1/16	1.0% 7/1/16 1.5% 1/1/17	Not settled
<b>Melrose</b>	1% + 1% step adjustment	1% + 1% step adjustment	1% + 1% step adjustment
<b>Newton</b>	2.0%	1.5%	2.5%
<b>Quincy</b>	1.0%	2.0%	2.0%
<b>Waltham</b>	2.0%	2.0%	2.0%

In sum, there are no compelling circumstances that would justify a total increase in compensation of even more than the rate of inflation, such as we have awarded here.

#### **D. Conclusion**

In consideration of the City's current financial health, the standing of the Somerville firefighters among comparable communities, the comparative compensation of the Somerville firefighters and Somerville police officers, the particular hazards of working as a firefighter in Somerville, and the other factors recited above, the panel awards as follows:

#### **AWARD**

During the term of the parties' collective bargaining agreement effective July 1, 2015 through June 30, 2018:

The firefighters shall receive the following adjustments to base wages:

Effective 7/1/15 - 2.0%  
Effective 7/1/16 - 2.5%  
Effective 7/1/17 - 2.5%

The night availability differential, as set forth in Article V, § 3, shall be increased from 7% to 8%, effective 7/1/15, fully retroactive to that effective date.

The remaining proposals are denied.



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Michael C. Ryan  
**Neutral Chair**

I dissent. See attached.

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Matthew Reddy  
**Labor Representative**

I concur. See attached.

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Dean Mazzaella  
**Management Representative**

November 2, 2018

**Dissent by panel member Reddy:**

I am taking an unprecedented action for me and dissenting on this Award. I have served as a labor representative on dozens of cases and this is the first time I have ever been so outraged to issue a written dissent. I pride myself on being objective and, although my role is that of an advocate for labor, I strive to thoroughly review the evidence submitted by both sides and work to find a decision that is fair for both sides.

As to this case, I adhered to my practice during panel sessions, where I presented a summary of my review of the briefs and data on the issues. I expected a reciprocal presentation from management's perspective and spirited dialogue among all three panelists, in order to fulfil the statutory mandate for tripartite arbitration. Surprisingly, and disappointingly, my fellow panelists offered little but opinions that were devoid of factual support in the actual record. These panel sessions were brief, much shorter than what I am used to, and lacked adequate dedication to the issues.

The parties deserved better than what the majority is awarding in this decision. They bargained for two years, participated in a three-day arbitration proceeding that litigated multiple issues, and paid their attorneys to advocate for them and file thoughtful, voluminous briefs.

By contrast, the panel met for less than three hours total and the majority issues an award that fails to address nearly half of what was presented. For example, the Award simply ignores two Union issues, hazardous duty pay and EMT compensation, without any explanation or justification. This omission is all the more shocking when one

considers that the JLMC statute mandates the panel to consider the hazards of the position. To add insult to injury, the decision contains the wrong union attorney's name on the front page, leading one to question the attention to detail in the rest of the award.

The majority does not explain why, let alone acknowledge, it ignored two Union issues. The Union presented unrefuted evidence supporting its hazardous duty proposal including a witness whose testimony lasted more than one day of a three day hearing. Similarly, the Union presented compelling evidence about the EMT stipends, which have not been increased in ten years despite unrefuted evidence that new skills have been introduced including Narcan administration. By failing to address issues certified by the JLMC, the panel has abdicated its statutory role and has acted to increase the labor strife that this process was intended to abate. In my opinion, the panel has an obligation to address all issues certified by the JLMC, and to acknowledge the evidence and arguments in favor and in opposition to all issues and to explain why the majority has accepted, modified or rejected the proposal. The panel does not have the option to simply ignore its charge.

Concurring opinion by Dean Mazzearella:

I concur in the award because I believe that the increase in total compensation over its three year period is consistent with city settlements and public safety settlements and awards, and, it is fair. Moreover, it maintains total compensation for Somerville Firefighters at a level well above that enjoyed in comparable cities. However, I believe the increase in night availability differential is not warranted by evidence of internal or external data, and would have been better spent increasing Firefighter education. Nevertheless, I believe the award serves the purpose of the statute to resolve this dispute about a contract period now expired.