

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD
INTEREST ARBITRATION PANEL

In the Matter of the Interest Arbitration between

THE CITY OF JOHNSTOWN,
Public Employer,

-and-

JOHNSTOWN POLICE
BENEVOLENT ASSOCIATION, INC.,
Employee Organization.

PERB Case No. IA2017-020; M2017-094

**OPINION
AND
AWARD
For the Period of
January 1, 2017 – December 31, 2018**

NYS PUBLIC EMPLOYMENT RELATIONS BOARD
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CONCILIATION

BEFORE:

Timothy S. Taylor, Esq.
Public Panel Member and Chairperson

Anthony V. Solfaro, President, New York State Union of Police Associations, Inc.,
Employee Organization Panel Member

Elayne G. Gold, Esq.
Public Employer Panel Member

APPEARANCES:

For the Johnstown Police Benevolent Association, Inc.

The Law Offices of John K. Grant, P.C.

By: John K. Grant, Esq., of Counsel

For the City of Johnstown

Roemer Wallens Gold & Mineaux, LLP

By: Elena P. Pablo, Esq., of Counsel

BACKGROUND

Pursuant to the provisions contained in Section 209.4 of the Civil Service Law, the undersigned Panel was designated by the New York State Public Employment Relations Board (“PERB”) to make a just and reasonable determination of a dispute between the City of Johnstown (“City”) and the Johnstown Police Benevolent Association, Inc. (“PBA”) for the 2 year period of January 1, 2017 – December 31, 2018.

The City is a municipal corporation located in Fulton County with a population of 8,743 according to the 2010 census. The City has a Police Department with 24 employees, excluding the Chief of Police, which make up the PBA unit. This includes 5 Sergeants, 2 officers assigned to investigations, and 17 patrol officers. The Police Department operates 24 hours a day, every day of the year, and officers work 12 hour shifts pursuant to a Memorandum of Agreement between the parties. The Base Wage schedule for police officers as of January 1, 2016 starts at \$43,385, and increase in each of the next 2 years, to reach the top Base Wage of \$54,931 after 2 years of service.

Police officers assigned to investigations have a Base Wage as of January 1, 2016, of \$59,864, and Sergeants of \$61,512. Unit members receive various economic benefits in addition to their Base Wage, including longevity, holiday pay, compensatory time, clothing allowances, shift differential, overtime, optional health insurance buyout, and accrued leaves in the form of sick, personal and vacation leave. These pay and leave benefits are in addition to the police officer’s Base Wage.

The City has 2 other bargaining units. They are the CSEA Public Works/Water Department and Firefighters Association units. Each of these units have 3 year Agreements from January 1,

2017 through December 31, 2019. For 2017, both of these units agreed to a wage freeze to the existing schedules. Both units received a 2% wage increase in 2018, and 2.5% in 2019 to the existing respective schedules.

The last collective bargaining agreement (“CBA”) between the City and PBA covered the period January 1, 2010, through December 31, 2016. In April 2017, the parties began negotiations for a successor contract, but the negotiations were unsuccessful. In November 2017, acting pursuant to the Rules of Procedure of PERB, a PERB-appointed mediator met with the parties. Mediation was unsuccessful, and on December 4, 2017, the PBA filed its Petition for Interest Arbitration pursuant to Section 209.4 of the Civil Service Law.

The City filed a timely Response to the Petition dated December 19, 2017. Thereafter, the undersigned Panel was designated by PERB, pursuant to Section 209.4 of the New York State Civil Service Law, to make a just and reasonable determination of this dispute. The parties filed respective Improper Practice Charges in January of 2018 related to certain proposals submitted to interest arbitration, and as may have been amended and/or withdrawn in part or whole by a party. (PERB Case No. U-36135 City v. PBA, and PERB Case No. U-36163 PBA v. City). Briefs were submitted on November 9, 2018.

A hearing was conducted before the Panel in City Hall on July 23, 2018. At the hearing both parties were represented by counsel. A transcribed record was taken at the hearing, which is the official record of this proceeding. Both parties were afforded the opportunity to present witnesses and documentary evidence in support of their respective positions. Both parties submitted numerous and extensive exhibits and witnesses, including post-hearing briefs in support of their respective positions.

Thereafter, the Panel thoroughly reviewed all data, evidence, arguments, sworn testimony, and the issues submitted by the parties. Despite significant discussion and deliberations during an Executive Session, the Panel was unable to reach consensus on an Award. As a result, this Award represents the determination of the Panel Chair, who was joined by one or both Panel members on an item by item basis.

The parties' positions are adequately specified in the Petition and the Response through numerous exhibits, sworn testimony and post-hearing briefs, all of which are incorporated by reference into this Award. Such positions will be summarized for this Opinion and Award ("Award"). Set out herein is the Panel's determination as to what constitutes a just and reasonable Award setting forth the terms and conditions for the 2 year period January 1, 2017, through December 31, 2018.

In arriving at such determination, the Panel has individually reviewed and considered all of the following criteria, as detailed in Civil Service Law Section 209.4(c)(v):

- a. comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services or requiring similar skills under similar working conditions and with other employees generally in public and private employment in comparable communities;
- b. the interests and welfare of the public and the financial ability of the public employer to pay;
- c. comparison of peculiarities in regard to other trades or professions, including specifically, 1) hazards of employment; 2) physical qualifications; 3) educational qualifications; 4) mental qualifications; 5) job training and skills;
- d. the terms of the collective agreements negotiated between the parties in the past providing for compensation and fringe benefits, including, but not limited to, the provisions for salary, insurance and retirement

benefits, medical and hospitalization benefits, paid time off and job security.

In 2013, the Taylor Law's interest arbitration statute was changed to identify "fiscally eligible" municipalities. The City qualifies under the tax rate criterion, but not the fund balance criterion. The changes are reflected in new subdivision 6 to CSL Section 209.4. The PBA acknowledges that the City is a "fiscally eligible" municipality within the meaning of that legislation with regard to only the tax rate criterion. Under this legislation, the Panel must recognize the State's real property tax cap, and take into account the public employer's "constraints, obligations, and requirements" through the tax cap "with respect to the total monetary value of any determination."

In interest arbitration proceedings involving a "fiscally eligible" municipality, the Panel must "first and foremost" consider the ability to pay by ascribing 70% weight to that municipality's ability to pay, and 30% to all the other statutory criteria combined. The legislation does not mean that a "fiscally eligible" municipality cannot pay the PBA's demands. The City asserts that it is constrained by its ability to fund the economic proposals submitted by the PBA in this proceeding for the years at issue.

PBA's Proposals

1. Provide in all Paid Leave Articles, if you work 12 hour shifts, you earn 12 hours, not 8 hours.
2. **ARTICLE 2 - DUES DEDUCTION AND AGENCY SHOP FEE:**

(pp. 1-2)

1. Dues Deduction - Insert 'pay period' where 'monthly' appears.

2. Agency Shop Fee - Insert 'pay period' where 'monthly' appears.

3. **ARTICLE 3 -DURATION OF AGREEMENT: (p. 2)**

Insert 'Award' where 'Agreement' appears; 'two (2)' where 'three (3)' appears, and '2017' and '2018' where '2007' and '2009' appears.

4. **ARTICLE 4 - BASE WAGE: (pp. 2-3) - Amend to read as follows:**

<u>Rank and Grade</u>	(3.5%) <u>1/1/17</u>	(3.5%) <u>1/1/18</u>
Police Officer 1st Year	\$44,903*	\$46,475
	HOURLY RATE TO BE INSERTED HERE**	
Police Officer 2nd Year	\$52,193	\$54,020
	HOURLY RATE TO BE INSERTED HERE	
Police Officer 3rd Year	\$56,843	\$58,833
	HOURLY RATE TO BE INSERTED HERE	
Investigator(s)	\$62,243***	\$64,716
	HOURLY RATE TO BE INSERTED HERE	
Sergeant(s)	\$64,517****	\$67,658
	HOURLY RATE TO BE INSERTED HERE	

* The Base Wage is for informational purposes only. (N/C)

** The hourly rate is the exact amount to be paid times 40 hours each week. (N/C)

*** The Investigator(s) shall be paid a differential over and above the Police Officer 3rd year as follows (N/C):

(+1/2%)	(+1/2%)
<u>1/1/17</u>	<u>1/1/18</u>
9.5%	10.0%

**** The Sergeant(s) shall be paid a differential over and above the Police Officer 3rd year as follows (N/C):

(+1.5%)	(+1.5%)
<u>1/1/17</u>	<u>1/1/18</u>
13.5%	15.0%

D. Payroll – Provide that the lag amount will be paid no later than the payroll period following separation.

5. **ARTICLE 5 - LONGEVITY INCREMENTS:** (p. 3) - Amend the schedule as follows:

Continuous Years of Service

			<u>1/1/17</u>		<u>1/1/18</u>
(N/C)	5 years	(+\$50.00)	\$2,150.00	(+\$50.00)	\$2,200.00
	8 years*	(+\$100.00)	\$2,300.00	(+\$100.00)	\$2,400.00
	12 years*	(+\$150.00)	\$2,450.00	(+\$150.00)	\$2,600.00
NEW	16 years	(+\$200.00)	\$2,600.00	(+\$200.00)	\$2,800.00
(N/C)	20 years	(+\$250.00)	\$2,850.00	(+\$250.00)	\$3,100.00
NEW	23 years and Above		\$3,250.00	(+\$250.00)	\$3,500.00

* Denotes a compression in the years.

6. **ARTICLE 10 - HOLIDAYS:** (pp.4-5)

Amend dates of Holidays listed for 2017 and 2018.

Add the following new sentence after the existing 2nd sentence in the 1st paragraph to read as follows:

Effective **January 1, 2017**, an employee who is scheduled off (days off/pass days), and works on a named Holiday herein, shall be paid at two and one-half (2.5X) times his/her overtime rate of pay, including longevity, if applicable.

7. **ARTICLE 12 -PERSONAL LEAVE:** (p. 5) - Add the following to read as follows:

Effective **January 1, 2017**, all unused personal leave at the end of each year shall be converted and credited to the employee's sick leave accumulation.

8. **ARTICLE 13 - SICK LEAVE:** (pp. 5-7) - Delete the 2nd and 3rd sentences regarding accumulation and insert the following to read as follows:

An employee shall be entitled to unlimited accumulation of sick leave.

Add the following to read as follows:

NEW (h) Sick Leave Incentive Pay

An employee shall be paid in the first (1st) pay period of January each year, based on the schedule below, for the preceding twelve (12) month period (e.g., January through December). In order to be eligible for the sick leave incentive pay, an employee shall be required to have a minimum of thirty (30) sick days accumulated by the end of December each year. The sick leave payment schedule is as follows:

Sick Leave Days Used	<u>Amount Paid</u>
0	6 days pay
1	5 days pay
2	4 days pay
3	3 days pay

The above shall be pro-rated for an employee who is Recipient of General Municipal Law §207- c benefit.

(e) Termination of Employment - RE-TITLE - SICK LEAVE PAYMENT UPON RETIREMENT: - Add a new paragraph to read as follows:

Effective **January 1, 2017**, an employee upon retirement only, shall have all of his/her unused accumulated sick leave converted into an Escrow Account, at the rate of pay in effect at that time (i.e., Base Wage and Longevity), to pay for the health insurance, optical and dental premium cost not paid for by the City until that amount of money has been exhausted. Thereafter, the retiree, based on the coverage (example: individual, 2 person or family), shall be responsible for his/her premium cost not paid by the City, to be paid no later than the tenth (10th) of each calendar month to the City.

9. **ARTICLE 18 - CLOTHING ALLOWANCE:** (pp. 9-10)- Amend amounts when assigned to plain clothes as follows:

(+\$100.00)	(+\$100.00)
<u>1/1/17</u>	<u>1/1/18</u>
\$625.00	\$725.00

Amend separate check amount to cover the purchase and maintenance of work related clothing as follows:

(+\$75.00)	(+\$75.00)
<u>1/1/17</u>	<u>1/1/18</u>
\$375.00	\$450.00

10. **ARTICLE 20 - OVERTIME:** (pp. 11-12)

In the 5th paragraph insert ‘two hundred and forty (240)’ where ‘one hundred (100)’ appears. **(NOTE: Refers to Compensatory Time Accumulation)**

11. **ARTICLE 27- HEALTH INSURANCE:** (pp. 13-16)

2. Delete the existing language on 20% contribution and insert the following to read as follows:

(ii) Effective **January 1, 2017**, all employees hired after January 1, 1995, shall contribute, in pre-taxed dollar, in equal amounts each pay period, fifteen percent (15%) of the health insurance premium of the plan selected.

(iii) Effective **January 1, 2017**, delete in its entirety. **(NOTE: Refers to a 25% contribution for employee hired after December 31, 2003).**

3. Insert the actual optical/vision and dental plan names.

4. Delete the existing language and insert the following to read as follows:

Effective **January 1, 2017**, the City may elect another health insurance plan as its primary plan, provided that the level of benefits and coverage are substantially equivalent to that of the primary health insurance plan provided, in all aspects, such as but not limited to, prescription drug co-pays, provider network, provider co-pays, Medicare Part "B" payments, etc.). It is agreed and understood by and between the parties that the City shall provide written notice to the PBA President at least sixty (60) calendar days prior to the effective date of the change to the proposed new health insurance plan. The City shall identify all changes in a side by side comparison in order for the PBA to determine whether or not the proposed new health insurance plan change provides substantially equivalent levels of benefits and coverage to that of the primary health insurance plan provided in all aspects as set forth herein. In the event the PBA determines that the proposed new health insurance plan does not meet the obligation set forth herein, it shall respond to the City no later than sixty (60) calendar days after the date that the City provided its written notice as set forth herein, that it disagrees that the proposed new health insurance plan is not substantially equivalent to the primary plan as set forth herein. In the event the PBA determined that the new proposed health insurance plan does not provide substantially equivalent levels of benefits and coverage as set forth herein, the matter shall be submitted directly to arbitration pursuant to Article 29 - Grievance Procedure, Step Three. The City shall not be permitted to implement the proposed new health insurance plan until such time that an arbitrator has issued his/her Award which upholds that the level of benefits and coverage are substantially equivalent in the proposed new health insurance plan.

The new proposed health insurance plan shall be through an insurance company licensed to do business in New York. The burden of proof at the arbitration hearing shall be on the City to sustain that the proposed new health insurance plan is substantially equivalent as set forth herein to the existing primary health insurance plan. **(The 3rd and 8th sentences are subject to pending Improper Practice Charge by the City).**

(b) HEALTH INSURANCE BUY-OUT-Amend the amounts as follows:

1/1/17

\$8,000.00 each year for family coverage waived. **(+\$2,000.00)**

\$6,500.00 each year for two person coverage waived. **(+\$2,000.00)**

\$4,500.00 each year for individual coverage waived. **(+\$2,000.00)**

(d) RETIREE HEALTH INSURANCE - Add the following:

NEW 4. Effective January 1, 2017, and upon retirement, an employee shall be entitled to and receive the same health insurance, optical and dental plans and coverage as active employees (e.g., individual, 2-person, or family) as follows:

Hired on or before October 10, 1991 - no contribution to premiums.

Hired on or after October 11, 1991 through January 1, 1995 - 10% contribution to premiums.

Hired on or after January 2, 1995 -15 % contribution to premiums.

An employee contributing towards the premium cost set forth above shall be entitled to pay for his/her share pursuant to Article 13 – Sick Leave.

12. **ARTICLE 33 - PROCEDURE FOR ADMINISTRATION OF SECTION 207-c OF THE GENERAL MUNICIPAL LAW FOR THE POLICE DEPARTMENT OF THE CITY OF JOHNSTOWN (pp. 23-27) Change heading to GENERAL MUNICIPAL LAW §207-c Procedure**

Include in Section 2, that “a failure to submit the required written notice and/or application within the specified time frame may result in the denial of §207-c status and benefits. However, the Chief of Police shall have the discretion to accept the written notice and/or application beyond the time frame set forth herein, upon a showing of good cause shown. A denial of the good cause shown shall be subject to Section 7”.

Include that employee can appeal any denial pursuant to Section 7. Define ‘work day’ to be Monday through Friday, excluding Holidays as set forth in Article 10, and when City Hall is closed. **(NOTE: The sentence defining the “work day” from the 1/1/10 through 12/31/16 Memorandum of Agreement, except added “and when City Hall is closed”).**

Include in Section 4, “the City, acting through the Chief of Police”. **(Subject to pending Improper Practice Charge by the City).**

Include in Section 5, that there was a reasonable basis for the decision. **(Subject of pending Improper Practice Charge by the City).**

Include in Section 7, that an employee granted Section 207-c status, remains on Section 207-c regarding reporting for light duty, or discontinuance of Section 207-c status until an arbitrator's decision is rendered to report for light duty, or is discontinued on Section 207- c status.

Include in Section 9 - delete “or continuous period of time” and provide that the 90-day period is work days in any calendar year.

13. PROPOSED NEW ARTICLE - WORK SCHEDULES

Incorporate the Memorandum of Agreement dated April 6, 2015 which provides for time off and 12-hour shifts for patrol. Also incorporate hours of work schedules for 8 hour shifts for those employees who are not working 12-hour patrol shifts. **(Subject of pending Improper Practice Charge by the City).**

City's Proposals

1. City 1: Article 4, Section B – ‘Payroll’ (at pp. 3-4) shall be amended by adding All employees will have direct deposit to a banking institution of their election. **(Subject to pending Improper Practice Charge by the PBA).**

2. City 2 – Amend Article 7, ‘Retirement Plan’ (at p. 5) to delete the phrase “final 12 month average salary plan”).

3. City 3 – Amend Article 7, ‘Retirement Plan’ (at p. 5) to delete

A Police Officer retiring between the 20th and 21st years of service shall be entitled, upon actual retirement, to \$5,000.00.

Any Police Officer who is eligible for service retirement as of June 7, 2004, and who now has more than 21 years of service, will, at the time of actual retirement, receive \$1,000.00.

4. City 4 – Amend Article 10, ‘Holidays’ (at p. 6) with update of dates of the holiday.

5. City 5 – Amend Article 12, ‘Personal Leave’ (at p. 7) such that all covered employees are hereby granted four (4) days personal leave in a calendar (January – December) year, to be scheduled ... [new language is underlined].

6. City 7 – Amend Article 33, ‘GML Procedures’, at Section 2(a) (at p. 26) to add

A failure to submit the required written notice and application within the specified time

frame shall result in a denial of benefits. The Chief of Police or his/her designee has the discretion to excuse a failure to timely file the required written notice and application within the specified time frame based on good cause shown. This provision is subject to the appeal procedure set forth in this 207-C Procedure.

The appeal procedure in the GML §207-c Procedure is set forth in Section 7 of Article 33.

COMPARABILITY

Section 209.4 of the Civil Service Law requires that in order to properly determine wages and other terms and conditions of employment, the Panel must engage in a comparative analysis of terms and conditions with ‘other employees performing similar services or requiring similar skills under similar working conditions with other employees in generally in public and private employment in comparable communities.’

PBA’s Position

The PBA asserts that Civil Service Law Section 209.4(c)(v) of the Civil Service Law directs the Panel to compare wages, hours and conditions of employment of PBA members with employees who perform similar work and employees generally in public and private employment in comparable communities.

The PBA contends that there are no public or private sector employees whose work compares to that of police officers. It insists that its members should be compared primarily with the wages, hours and conditions of employment of police officers employed by the City of Amsterdam, City of Gloversville, City of Saratoga Springs, Town of Glenville, Town of Niskayuna, Town of Rotterdam, Village of Herkimer, Village of Ilion and Village of Scotia.

The PBA maintains that this assertion is supported by a January 1, 2007 to December 31, 2009 interest arbitration award that determined that the appropriate comparables are police officers employed by the City of Gloversville located in the same County as the City, along with the City of Amsterdam, which is located in the contiguous County of Montgomery.

The PBA claims that there is no logical or substantive reason to deviate from this set of comparables, since this has been determined to be appropriate by the 2007-2009 interest arbitration Panel, and the parties do not disagree on those comparables.

City's Position

The City notes that in arriving at the most appropriate comparable jurisdictions, the Panel should consider factors such as size and population of the municipalities, size of the bargaining units, geographical proximity, as well as regional or local demographics and economics. The City observes that there is no dispute over the comparable jurisdictions. It agrees with the PBA that for comparability purposes, the City's police officers should be compared to police officers employed by the cities of Gloversville and Amsterdam.

The City takes notice of the prior interest award between the parties covering 2007 to 2009, where Panel Chair Jeffrey M. Selchick determined this to be the correct comparables. It does not contest this grouping of comparables. However, the City contends that the City's Firefighter and CSEA units should be used as a basis of comparison on the issue of base wage adjustments. Although the duties performed by police officers and firefighters are not identical, they both involve the provision of public safety services to the public. These two units indeed consist of employees "in comparable communities" and are under "similar working conditions" as those in the PBA.

Panel Determination on Comparability

Both parties acknowledge that police officers employed by the cities of Gloversville and Amsterdam are viewed as primary comparables. The Panel finds no reason to deviate from the prior interest award between the City and PBA, which found the parties' agreed-upon police groups of primary comparables to be the most appropriate, and that other municipalities within and outside of Fulton County are also considered as relevant, given their geographical proximity to the City. They share similar local economics, demographics and a similar range of wages and benefits for police officers.

INTERESTS AND WELFARE OF THE PUBLIC

PBA's Position

This criterion encompasses the public in general and the residents of the City in particular. The PBA maintains that it is beyond dispute that the "public", however broadly or narrowly that word is construed, is best served by having a professional, well-trained police department staffed with qualified and experienced police officers. The PBA contends that only when wages and benefits are at a sufficient level, it will attract candidates, and retain them as police officers.

The PBA argues that when a municipality, such as the City, is fortunate enough to be in a sound financial condition, the interests and welfare of the public compel an Award at a level which will entice persons to become and remain members of the City police department, and one that will reflect the police officers' relative status and position in the City and the surrounding law enforcement community.

City's Position

The City's inability to offer significant financial concessions does not reflect a lack of acknowledgment of the critical work performed by the members of this unit. It is instead a reflection of the City's financial situation, coupled with the significance of the monetary increases requested by the PBA.

Panel's Determination on Interest and Welfare of the Public

The Panel determines that police officers serve a vital and essential function. The public is best served by a well-trained police department staffed with qualified and experienced police officers.

ABILITY TO PAY

The Panel is required under CSL Section 209.4(c)(v)(b) to consider in its Award "the financial ability of the public employer to pay." Because the City is a fiscally eligible municipality, the Panel ascribes 70% weight to its ability to pay, and all other statutory criteria have been ascribed 30% weight.

PBA's Position

Under any of the many factors interest arbitration panels may consider under this criterion, the City easily can pay the wages and economic benefits sought by the PBA on behalf of the police officers it represents.

The PBA presented testimony from its expert witness, economist Kevin Decker, ("Decker") regarding this criterion. Decker has testified many times as a recognized expert in New York State municipal finance in police and fire interest arbitration proceedings, in tax certiorari proceedings, and civil judicial actions (PBA Exhibit 53).

Decker testified to his findings concerning the City's ability to pay after an extensive review of the City's own financial and other official government records, of up to 10 years. PBA Exhibit 53 contains the summary of those records and Decker's analysis of the City's financial condition. The City challenged neither the accuracy of Decker's charts/exhibits and summaries, nor his testimony.

As found by Decker, the City is in a relatively stable economic position. With a median family income of \$62,950, a low poverty rate, and just 14.8% of its population over 65, the City's residential taxpayer base is strong and capable of paying for the cost of a quality and fairly compensated police force.

Decker provided a full background of the City's current financial position. As testified to by Decker, the primary focus of his analysis is the City's General Fund, which is the primary operating fund of the City, and is the fund from which the members of the PBA are compensated. 77.7% of total City spending comes from the General Fund. 36.5% of this General Fund spending is for personal services, with 25.8% spent on Public Safety functions. The real property tax primarily supports the General Fund, at 38.7%. The Sales and Use Tax ("sales tax") is the 2nd largest source of revenue, representing 28.0%.

As noted by Decker, residents of the City have, incredibly, seen an average annual increase in their City tax rates for 2013-2018 of only 0.6%. The City did a re-evaluation in 2016, and reflects a 16.1% increase in taxable full value, a positive reflection on property values in the City.

Additionally, Decker noted that in 3 of the last 5 years, the City has complied with the tax cap formula. Because the City complied in 2015 and 2016, homeowners received a tax

freeze credit in both years. Those eligible homeowners received a rebate check from the State in each of those years. For at least 5 straight years, the City has used less than 50% of the constitutional tax limit, and Decker notes that the City is indeed in no danger of approaching the “limit” (PBA Exhibit 53F).

The second most significant source of revenue for the City is the sales tax. The City imposes its own sales tax of 2%, effectively due to a 50/50 division of a 4% County sales tax since 2005. A 10-year history of sales tax revenues in the City shows revenues climbing from just over \$3 million in 2008 to just over \$3.79 million in 2017. Decker noted that 2018 sales tax revenues would exceed \$3.95 million, more than the \$3.80 million projected in the City’s 2018 budget.

Decker also provided the Panel with a history of the City’s general fund fiscal operations. He found that the City had an operating surplus in two of the last five years, allowing the City to increase its total fund balance to \$4.677 million. The total Fund Balance has remained at a healthy 33.9% of expenditures in 2017. The unrestricted Fund Balance similarly is 32.1% of expenditures, or \$4.421 million of the total Fund Balance of \$4.677 million. Importantly, this Fund Balance, as a percentage of expenditures figures, exceeds all of the relevant entities' recommendations (PBA Exhibit 53K).

The New York State Comptroller (“Comptroller”) has adopted a Fiscal Stress Monitoring System, and concerning total Fund Balance, a municipality receives no fiscal stress points if the total fund balance is 20% or higher, and up to 3 points if the total Fund Balance falls below 10%. The City was assigned no stress points on this indicator for fiscal year 2016.

In employing the tests adopted by the Comptroller for fiscal stress, the City received a score of just 8.3% in 2016, and projected 6.7% for 2017, with a score of 45% being needed to receive the “Susceptible Fiscal Stress” score, and 65% needed to receive the designation “Significant Fiscal Stress.” Thus, the City was assigned “No Designation” by the Comptroller’s Office on fiscal stress with respect to fund balance.

Decker provided calculations of the cost of the PBA wage proposal of a 3.5% Base Wage increase in each of the 2 years of the award. Decker calculated that a 3.5% increase, even if financed entirely through the real property tax, would increase the tax levy by approximately \$60,935. It would increase tax rates 14 cents per thousand above the current rate, meaning the average single-family residences’ taxes would rise an additional 24 cents more per week, or \$12.81 annually. The actual cost of each 1% in Base Wage increase, with the appropriate rollups of FICA and NYS pension contribution, would be \$17,410. Decker pointed out that the City is enjoying continually rising water charge income, elimination of the 75% City funding toward libraries, and stable sales tax growth which consistently exceeds annual budget projections.

Decker also noted some of his other findings upon examination of the finances of the City. First, he pointed out that the City has included a contingency fund in its budget in each of the last 3 years (PBA Exhibit 53Q):

CONTINGENCY FUND

2016	\$25,000
2017	\$25,000
2018	\$25,000

These budgeted funds could be used to fund the demanded base wage and longevity increases. Importantly, City Treasurer Michael Gifford (“Gifford”) testified that the City has included in the budget in 2018 a full 2.5% for the City’s total payroll.

Decker also reported that he found that the City's FY 2017-18 budget includes an appropriation of \$1,802,200.00 personal service spending for the Police Department. This is \$177,606.00 or 10.9% more than spent in 2017. This is far more than the 2.5% Gifford stated was set aside for raises (PBA Exhibit 53Q).

Decker noted that the City enjoyed an A+ bond rating (5th best of 22) from Standard and Poor’s. Decker also noted the continuing downward trend in the rate of contribution required by the City for their police force with Tier 6 members entering service after 2012 contributing to their pension, and the City paying a dramatically lower employer contribution, and that “the tier 2 rate has come down by about 12.1 percent and its projected to go down another 15 percent. The Tier 6 rate has come down by 61/2%. Of 24 current PBA members, 13 are Tier 6 members. Thus, there are many funding sources by which the City could easily pay the PBA’s proposed wage and benefit increases and do so without imposing a hardship on the real property taxpayer (PBA Exhibit 53Q).

The credible and reliable factual data shows that the City is financially stable and can pay for the PBA’s proposals. The PBA urges the Panel to find that the City can pay for its proposals.

City’s Position

There is no dispute in this case that the City is a fiscally eligible municipality based on the City’s average 5-year full value real property tax rate. A City’s inclusion in this category based on that criteria means that in those municipalities, citizens shoulder a greater burden to

fund the municipality's operations than others. The Legislature has determined that a municipality having a full value real property tax rate greater than the real property tax rate of 75% of the counties, cities, towns, and villages in the state has fiscal stress significant enough to affect its ability to pay, and, therefore, requires the Panel to weigh the ability to pay as 70% of its consideration. Despite the PBA's arguments to the contrary, this classification is significant and indicative of the fact that the City is not in a position to fund a sizeable economic award.

City Treasurer Gifford testified that he has served as the elected City Treasurer since 1997. Gifford is a certified public accountant. He has a bachelor's degree from SUNY Oswego in economics, and a master's degree in accounting from SUNY Albany. He previously worked for 3 CPA firms before coming to work at the City. It is offered that Gifford has a strong financial background and truly understands the economic conditions facing the City.

The City's primary sources of revenue are property tax, sales tax, and state aid. The City is on a calendar year fiscal year. Gifford explains that the City's state aid has remained flat in recent years, other than amounts received and allocated for specific projects. So too have the City's sales tax revenues (City Exhibit 34). These rates are difficult to predict, and the City has not yet calculated the actual collection for 2018.

A review of the City's sales tax history demonstrates that while the City's conservative budgeting has resulted in a positive variance in the last 2 years, there have been years when the City's sales tax revenues have come in below the budgeted estimates. Although the City's sales tax collection for 2018 so far suggests a positive trend, it cannot be assumed that the City's sales tax revenues for 2018 will result in a positive variance, and certainly, it would be

imprudent for the City to rely on any such possible surplus that might result before it has been realized for purposes of determining the City's ability to pay at this time.

The City's use of the available constitutional tax limit has been in the range of 42.92% to 49.41% since 2013. It has increased steadily since 2015, climbing to its highest rate in 5 years in 2018 to 49.41%. (Id.; Tr. 86) The City's tax rate has also been increased over each of the last 3 years (2016-2018). The PBA's financial expert witness implied that it would be minimally intrusive to increase the tax rate as necessary to fund the PBA's Base Wage proposal. Decker's calculations as to what the necessary increase to that tax rate would be considers only the PBA's Base Wage proposal, and not the additional economic proposals submitted by the PBA, which include increased longevity, holiday pay, health insurance buyout, and an increase in the City's contribution to employee health insurance.

Nevertheless, Gifford explains that yet another increase to the City's tax rate would not be "well received" by the constituency, nor does he believe the Mayor or Common Council would deem that an acceptable course of action.

Through sound fiscal management, the City has been able to remain under the tax cap in 4 of the last 6 years. However, the City did exceed the tax cap in 2017 and 2018. Due to a "deflated" economic position caused by flat tax rates and a downgraded bond rating, the City was forced to implement a 9% tax increase. In 2018, a 2% tax increase was implemented in order to restore the General Fund balance. This too required an override by the City Council of the tax cap formula.

Gifford notes that the City's Standard and Poor's bond rating was downgraded in 2016. The reasons cited for that downgrade were the opinion that the City exhibited "deteriorating

budgetary performance and projected draw on reserves.” This downgrade also noted that the City operated at a budget deficit in 2015 in the General Fund, despite adequate management. The bond rating acknowledged the notably weak economy in the City. The rating document notes that although the City’s tax base remains stable, even a slight increase in the percentage of the tax base would deteriorate the City’s economic base. The City’s 2017 Standard and Poor’s bond rating remained steady and cited steps taken by the City to stabilize its economic situation by increasing its budgetary performance. This rating still recognized the weak economy in the City.

The City does not dispute that its General Fund balance is generally healthy. However, it is important to note that not all of the General Fund Balance considered in the PBA’s presentation regarding the City’s financial state is relevant to the instant proceedings. Gifford explained in his testimony that the City’s General Fund includes both the traditional General Fund as well as an underlying Water Fund. The City combined its General Fund with its Water Fund back in 2015 in response to a Memorandum from the Comptroller. That notice stated that municipalities such as the City do not need to report Water Fund operations separately from the General Fund since there is no prohibition in the City’s Charter restricting or committing those funds for use only within the Water Department.

However, the City does have a separate Water Board who is elected. Gifford explains that the City still maintains an underlying Water Fund in its internal accounting. The Mayor has never adopted a budget which would appropriate those funds from the underlying Water Fund for other purposes, and the Common Council has never sought to amend the City’s budget to so appropriate those funds.

In other words, despite the combined reporting, the Water Fund has continued to be treated as a separate fund for the City's internal purposes and not considered available for appropriation elsewhere. Therefore, those funds should not be considered as part of the City's General Fund Balance. Gifford provided a chart of the City's General Fund with the separate Water Fund broken out. This chart shows that the City's Unassigned General Fund Balance at the end of 2017 was \$2,116,558.00 (City Exhibit 31).

While the City was able to provide reasonable wage increases to the other bargaining units and non-union employees in the City in 2018 and 2019, the City asserts it cannot fund the full gambit of economic benefit increases sought by the PBA. As is reviewed herein, the costs of the PBA's proposals, when taken together, are significant and unjustified.

Panel's determination on Ability to Pay

The Panel Chair has carefully considered the statutory criteria regarding Ability to Pay as provided through the positions of the parties from the sworn testimony, exhibits and post hearing briefs filed, forming the record in this matter.

The 2010 national recession is over. The New York State and local economy have adjusted to the new normal of lower state and local taxation, lower rates of inflation and unemployment, and moderate increases in real property valuation. The recovery from the recession has been moderately successful in upstate New York, and particularly Fulton County. The City, while a "fiscally eligible" municipality, shows no signs of fiscal stress at this time. The Panel Chair finds that the record establishes that the fundamental economic conditions of the City are stable and good.

The City has done an excellent job of managing its resources. Its fiscal stress level under the Comptroller's fiscal stress monitoring system is 8.3% in 2016, and will be calculated at 6.7% for fiscal year 2017, which is a score evincing no sign of fiscal stress. It has a healthy fund balance according to industry standards. Its residents own moderately valuable properties, and its residents have good employment. The City has less poverty and fewer of its residents over the age of 65 than the primary comparable cities of Gloversville and Amsterdam. The Panel Chair is convinced that the City's current conservative fiscal management, along with its improving economic conditions, will allow it to maintain a good to strong economic position. The Panel Chair finds that the City has the ability to pay for this Award, and that the Base Wage and longevity increases awarded herein constitute a fair and reasonable Award.

COMPARISON OF PECULIARITIES OF THE POLICE PROFESSION

CSL Section 209.4(c)(v)(c) requires the Panel to compare the attributes of the police profession with other trades or professions. The Panel has carefully considered the statutory criteria regarding the comparison of the police profession with other trades or professions, including specifically: (1) hazards of employment; (2) physical qualifications; (3) educational qualifications; (4) mental qualifications; and (5) job training and skills.

The PBA argues that the police profession is unique and no real comparison can be made with other trades or professions. Instead, this criterion looks inward and examines the peculiarities of the police profession itself. In that regard, appropriate weight must be given to the especially hazardous nature of a police officer's work and to the special qualifications, training, and skills required of a police officer as shown in the civil service job descriptions,

training and fitness standards introduced as PBA Exhibits 39-43.

The parties do not dispute the fact that appropriate weight must be given to the especially hazardous nature of police work, and the unique training, skills, pressures, and dangers that police officers face each day. The Panel Chair finds that the peculiarities of the profession mandate a direct comparison with police officers.

TERMS OF THE PARTIES' COLLECTIVE BARGAINING AGREEMENTS

The Panel is required to consider the parties' bargaining history under CSL Section 209.4(c)(v)(d). The record includes all CBA's between the parties from 2001 through 2016, as well as the Interest Arbitration Award covering 2007-2009.

The PBA maintains that as collective negotiations under the Taylor Law extend to the negotiations and administration of a CBA, including the resolution of questions arising thereunder, CSL Sections 203; 204, the Panel should and must consider under this criterion the full range of transactions affecting the parties' labor relationships. The PBA stresses that certain of the City's proposals seek to alter the parties' Agreement dramatically.

The Panel has diligently reviewed the terms of CBA's negotiated in the past, and the interest arbitration award referenced above. This history provides significant context for the Panel to develop and create a just and reasonable Award.

BASE WAGES

The full text of the proposals and a summary of each proposal have been provided to the Panel, and are set forth earlier in this Award. Central to the PBA demands is financial compensation for unit members for the genuine danger they confront on a daily basis. The essential and dangerous nature of police work is recognized by the very statute that provided

for this Interest Arbitration proceeding.

The PBA has proposed a combined Base Wage, longevity and differential package intended to address the disparity that continues to exist between unit members and their most comparable jurisdictions.

The PBA has presented demands for a 3.5% Base Wage increase in each of the 2 years of the Award term, for all police officer titles. The proposal also includes differential increases for the Investigator title by 1/2% in each of the 2 years, and the Sergeant title by 1.5% in each of the 2 years.

The PBA also proposes increases to the longevity schedule with a compression and new levels as follows:

<u>Continuous Years of Service</u>		<u>1/1/17</u>		<u>1/1/18</u>
(N/C) 5 years	(+\$50.00)	\$2,150.00	(+\$50.00)	\$2,200.00
8 years*	(+\$100.00)	\$2,300.00	(+\$100.00)	\$2,400.00
12 years*	(+\$150.00)	\$2,450.00	(+\$150.00)	\$2,600.00
NEW 16 years	(+\$200.00)	\$2,600.00	(+\$200.00)	\$2,800.00
(N/C) 20 years	(+\$250.00)	\$2,850.00	(+\$250.00)	\$3,100.00
NEW 23 years and Above		\$3,250.00	(+\$250.00)	\$3,500.00

* Denotes a compression in the years.

This proposal incorporates an increase in the payment at each level, a compression so that 2 of the levels are reached several years earlier, and new levels of payments.

The PBA emphasizes that the combined effect of the 3.5% Base Wage adjustment, longevity increases and compression, and new levels does little to advance the objective of achieving parity with the 2 most primary comparable communities, the City of Gloversville and the City of Amsterdam. The PBA contends that the City has continued to lag behind these 2

primary comparable agencies for no apparent reason, given that the City's economic base is stronger in all major economic indicators than either of the cities of Amsterdam or Gloversville.

The PBA asserts that even if the Panel awards the full 3.5% percent Base Wage adjustment for each of the 2 years, and the full longevity demand, the City does not achieve parity until 2019. If there is any reduction of the 3.5% Base Wage demand, longevity increases or compression, parity will remain elusive.

The PBA notes that Arbitrator Selchick in the unanimous 2007-2009 Award recognized the close comparability of the 3 cities, the Panel's intent was to "award salary increases and adjustment to base... so that the difference between the salaries of City Officers and those in Amsterdam and Gloversville was lessened" and awarded a 3%, 3.5% and 3.5% in a 3 year Award in the midst of a major national recession to begin that correction (PBA Exhibit 11).

The PBA insists that this Panel should not reverse course and should recognize that the wage and longevity proposal of the PBA is not exorbitant or extreme given the financial condition of this City, and the continuing unjustifiable gap between this City, and the 2 most primary comparable municipalities.

City's Position

The Firefighters and CSEA units in the City, as well as City non-union employees, received wage freezes in 2017. The Firefighters, CSEA and non-union City employees received a 2% raise in 2018, which is well below the PBA's proposed 3.5%. The City did not budget for any raises for this unit, or any other unit, for 2017. The City budgeted for raises in

line with the raises received by the other units and non-union employees in the City for 2018.

The City argues that the PBA is certainly not under-compensated as compared to other employees in the City. Three of the top 5 earners in the City for 2017 were PBA members. No employees have left to pursue employment in a neighboring jurisdiction. A police officer transferred to the City from Gloversville. The City suggests that officers are not underpaid in comparison to the available market.

The City's cost-out of the PBA's wage proposal shows that the 3.5% Base Wage increase in 2017 would cost the City \$37,247.44, and the additional 3.5% increase in 2018 would cost an additional \$44,780 through the middle of 2018. The proposed increase to rank differential would result in an additional \$1,722.04 in 2017, and \$2,207.50 through the middle of 2018. The City notes that these wage increases affect not only base salary but also overtime and compensatory time costs, as well as educational stipends owed, which are based on a percentage of the employee's salary.

The City stresses that when compared with the cities of Amsterdam and Gloversville, the City is not lagging far enough behind either of these jurisdictions to justify a substantial salary increase. The PBA's Base Wage proposal should be kept in line with the wage increases received by other City employees. The City requests that the Panel provide for a reasonable wage increase in light of these factors. The PBA's proposed 3.5% and 3.5% wage increases are not reasonable.

Panel Determination on Base Wages and Longevity

The Panel Chair has carefully considered the statutory criteria balancing the reasonable economic needs of the City's police officers, with the City's obligations in the context of what

is fair and reasonable. Wages are one of the essential elements of any labor agreement. Employees have concerns and are anxious about the wages they will be paid, and wages represent the City's greatest expenditure.

The record contains data to support Base Wage increases for both years, and a longevity increase in the 2nd year of the Award. The City has genuine economic concerns for its residents. While the City has every right to have concerns for its taxpayers, the Panel Chair must assess the City's overall finances in rendering an Award. The City is in a good financial position. It has solid and reliable revenue streams, and solid and reliable financial reserves. The Comptroller's assessment of the City's overall financial health is good, indicating that the City, although technically a "fiscally eligible" municipality, is not in any financial distress. The overall evidentiary picture regarding the ability to pay shows that wage freezes are not justified, and that the City has the ability to pay for the modest increases awarded herein.

At the same time, the Panel Chair finds that the PBA's proposed salary increases of 3.5% per year are not justified. The average salary increase among the comparables was less than 3% for 2017 and 2018. No unit received a 3.5% increase in either 2017 or 2018.

The Panel Chair finds that a wage increase that is consistent with the principle of parity and incremental wage increases to close the wage gap with police officers employed by the cities of Gloversville and Amsterdam is the most appropriate way to handle increases for this unit at this time. Hence, the Panel Chair supports increases of 1.5 % effective January 1, 2017, and 2.0%, effective January 1, 2018 to the police officers' Base Wage schedule, with the Investigator(s) and Sergeant(s) differentials remaining unchanged.

The wage and longevity increases awarded by the Panel will allow City officers to retain their relative standing relative to the universe of comparables. While the Panel Chair does not find any justification for City police officers to be the highest paid in the County, there is support in the record for City police officers to maintain their standing relative to other police officers in the universe of comparables. If the Panel awarded no wage increases, the Panel would jeopardize the relative standing of the City's police officers.

In concluding that salary schedules shall be increased by 1.5% effective January 1, 2017, and 2.0% effective January 1, 2018, the Panel Chair finds that the City has the ability to pay for a fair increase in wages overall. Accordingly, and after careful consideration of the statutory criteria, sworn testimony, exhibits, documentation, and post-hearing briefs filed, forming the record in this matter, the Panel makes the following:

AWARD ON BASE WAGES

ARTICLE 4 BASE WAGE: Amend as follows:

(N/C)		<u>1/1/17</u>		<u>1/1/18</u>
<u>Rank and Grade</u>				
Police Office 1 st Year	(1.5%)	\$44,034 *	(2.0%)	\$44,907
		\$21.17/hr. **		\$21.59/hr.
Police Officer 2 nd Year	(1.5%)	\$51,189	(2.0%)	\$52,208
		\$24.61/hr. **		\$25.10/hr.
Police Officer 3 rd Year	(1.5%)	\$55,744	(2.0%)	\$56,867
		\$26.80/hr. **		\$27.34/hr.
Employee(s) Assigned to Investigations		\$60,757 ***		\$61,963
		\$29.21/hr. **		\$29.79/hr.
Sergeant(s)		\$62,442 ****		\$63,690
		\$30.02/hr.		\$30.62/hr.

* The Base Wage is for informational purposes only. (N/C)

** The hourly rate is the exact amount to be paid times 40 hours each week. (N/C)

*** The employee assigned to Investigations, shall be paid a differential over and above the Police Officer 3rd Year, to include shift differential and On-Call Pay: (N/C)

(N/C)	(N/C)
<u>1/1/17</u>	<u>1/1/18</u>
9.0%	9.0%

**** The Sergeant(s) shall be paid a differential over and above the Police Officer 3rd Year as follows: (N/C)

(N/C)	(N/C)
<u>1/1/17</u>	<u>1/1/18</u>
12.0%	12.0%

EO on differentials
Concur

EO on base wage
Dissent

Elayne G. Gold, Esq. 4/23/19
Date
Public Employer Panel Member

NVS CONCUR
X ON BASE WAGE
Concur

NVS ON DIFFERENTIALS
X
Dissent

Anthony V. Solfaro 4/23/19
Date
Employee Organization Panel Member

Panel Determination on Longevity

The Panel Chair finds clear support in the record for an increase to longevity. Thus, an increase to longevity is warranted so PBA members can maintain their relative standing to other police officers in the universe of comparables. The Panel Chair finds that the current longevity structure should be maintained and that the PBA's new proposed structure should be denied.

The Panel Chair finds that the longevity payments set forth in Article 5 should be increased on January 1, 2018, as set forth below. This will allow all employees who receive longevity to maintain their relative standing to the police officers in the cities of Gloversville and Amsterdam.

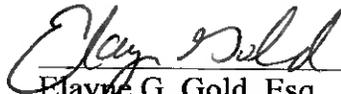
Accordingly, and after careful consideration of the statutory criteria, sworn testimony, exhibits, documentation, and post-hearing briefs filed, forming the record in this matter, the Panel makes the following:

AWARD ON LONGEVITY

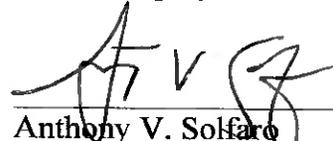
ARTICLE 5 LONGEVITY INCREMENTS: Amend the schedule as follows:

<u>(N/C)</u> <u>Continuous Years of Service</u>	<u>(N/C)</u> <u>1/1/17</u>		<u>1/1/18</u>
5 Years	\$2,100.00	(+\$80.00)	\$2,180.00
10 Years	\$2,200.00	(+\$80.00)	\$2,280.00
15 Years	\$2,300.00	(+\$85.00)	\$2,385.00
20 Years and Above	\$2,400.00	(+\$90.00)	\$2,490.00

_____ _____
 Concur Dissent

 _____ 4/23/19
 Elayne G. Gold, Esq. Date
 Public Employer Panel Member

 Concur Dissent

 _____ 4/23/19
 Anthony V. Solfaro Date
 Employee Organization Panel Member

REMAINING ISSUES

The Panel has reviewed all of the proposals/demands of both parties, as well as the extensive and voluminous record in support thereof, applying the statutory criteria, the sworn testimony, exhibits, documentation and post-hearing briefs. The fact that those proposals/demands have not been specifically addressed in this Award does not mean that they were not carefully studied and considered in the context of terms and benefits by the Panel members. In interest arbitration, as in collective bargaining, not all proposals/demands are resolved, and not all

contentions are agreed with. In reaching what it has determined to be a fair result, the Panel has not made an Award on all of the proposals/demands submitted by each of the parties.

AWARD ON REMAINING ISSUES BY THE CITY

Except as set forth in this Award, all of the City's proposals/demands are denied.

<u> </u> Concur	<u> </u> Dissent	<u> </u> Elayne G. Gold, Esq. Public Employer Panel Member	<u> </u> Date 4/23/19
<u> </u> Concur	<u> </u> Dissent	<u> </u> Anthony V. Solfaro Employee Organization Panel Member	<u> </u> Date 4/23/19

AWARD OF REMAINING ISSUE BY THE PBA

Except as set forth in this Award, all of the PBA's proposals/demands are denied.

<u> </u> Concur	<u> </u> Dissent	<u> </u> Elayne G. Gold, Esq. Public Employer Panel Member	<u> </u> Date 4/23/19
<u> </u> Concur	<u> </u> Dissent	<u> </u> Anthony V. Solfaro Employee Organization Panel Member	<u> </u> Date 4/23/19

calendar days after the payment of retroactivity is made, who will then convene the Panel for its determination.

✓
Concur Dissent

Elayne G. Gold 4/23/19
Elayne G. Gold, Esq. Date
Public Employer Panel Member

X
Concur Dissent

Anthony V. Solfaro 4/23/19
Anthony V. Solfaro Date
Employee Organization Panel Member

Accordingly, the Panel, following consideration of the record evidence, and after due consideration of the statutory criteria, including Section 209.6 regarding a "fiscally eligible" municipality, executes this instrument which is the Award.

STATE OF NEW YORK
COUNTY OF ALBANY

On this 23rd day of April, 2019 before me personally came and appeared Timothy S. Taylor, Esq., to me known and known to me to be the individual described in the foregoing instrument, and he acknowledged to me that he executed the same.

Timothy S. Taylor
Timothy S. Taylor, Esq.

Karen M. Pelland
Notary Public

KAREN M. PELLAND
Notary Public, State of New York
Qualified in Rensselaer County
No. 01PE6099791
Commission Expires October 06, 2019

STATE OF NEW YORK
COUNTY OF ALBANY

On this 23rd day of April, 2019 before me personally came and appeared Elayne G. Gold, Esq., to me known and known to me to be the individual described in the foregoing instrument, and she acknowledged to me that she executed the same.

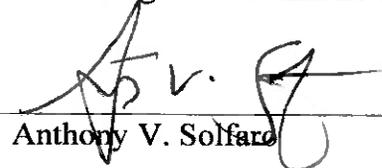
Elayne G. Gold
Elayne G. Gold, Esq.

Karen M. Pelland
Notary Public

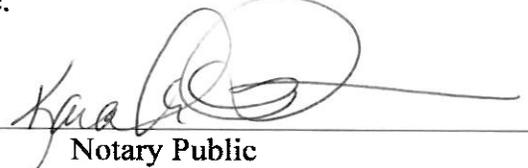
KAREN M. PELLAND
Notary Public, State of New York
Qualified in Rensselaer County
No. 01PE6099791
Commission Expires October 06, 2019

STATE OF NEW YORK
COUNTY OF ~~ORANGE~~ ALBANY

On this day of , 2019 before me personally came and appeared Anthony V. Solfaro, to me known and known to me to be the individual described in the foregoing instrument, and he acknowledged to me that he executed the same.



Anthony V. Solfaro



Notary Public

KAREN M. PELLAND
Notary Public, State of New York
Qualified in Rensselaer County
No. 01PE6099791
Commission Expires October 06, 2019