

BETWEEN

THE TOWN OF DURHAM, NEW HAMPSHIRE

AND

**THE AMERICAN FEDERATION OF STATE, COUNTY AND
MUNICIPAL EMPLOYEES COUNCIL 93 AND ITS
APPROPRIATE AFFILIATE LOCAL 863**

JANUARY 1, 2007 TO DECEMBER 31, 2009

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AGREEMENT

This Agreement is made and entered into by the Town of Durham, New Hampshire, hereinafter called the TOWN, and the American Federation of State, County and Municipal Employees, AFL-CIO, hereinafter called the UNION, representing the Employees of the Department of Public Works, Town of Durham, New Hampshire, who are members of the bargaining unit. THE PARTIES HERETO CONTRACT AND AGREE WITH EACH OTHER AS A RESULT OF COLLECTIVE BARGAINING AS FOLLOWS:

ARTICLE 1

RECOGNITION

1. Whenever used in this Agreement, the word "Employee" shall refer only to a person or persons actively and regularly engaged in the Department's work and enrolled in the regular payroll of the Department.
2. The Town hereby recognizes that the Union is the sole and exclusive representative of all employees of the Public Works Department who are members of the Bargaining Unit as defined by the Public Employees Labor Relations Board. It is recognized that it is the Town's obligation to contact the Unit Employee Representative for the purpose of negotiations and amendment to any provision of this Agreement.
3. The Town agrees to include the Permanent Part-time Maintenance Worker I position as part of the bargaining unit. That position will receive benefits on a pro rata basis equal to the percentage of full time work (i.e. a 3/4 position receives 3/4 benefits except for health insurance which is provided after thirty (30) hours). The employee in this position will receive pay for a holiday (if it falls on his/her work day) equal to the number of hours usually worked on that day.

ARTICLE 2

NONDISCRIMINATION

1. The Town will not discriminate in the hiring or the terms and conditions of employment against any employee covered by this Agreement because of membership in, or legitimate activity as required by this Agreement on behalf of the members of this Union, for the purposes of encouraging or discouraging membership in any employee organization.
2. The Union recognizes its responsibilities as the exclusive bargaining agent and agrees to represent all employees in the Bargaining Unit without discrimination, interference, restraint or coercion.
3. The provisions of this Agreement shall be applied equally to all employees in the Bargaining Unit without discrimination as to age, sex, marital status, race, color, creed, religion, national origin or political affiliation. The Union shall share equally with the Town the responsibility for applying these provisions of the Agreement.

ARTICLE 3
DUES CHECKOFF

1. The Town agrees to deduct the local dues from all employees who are covered by this Agreement and who are Union members, and to send said dues along with a statement indicating who has paid these dues to:

Diane Shannon, Business Manager
AFSCME Council 93
8 Beacon Street
Boston, Massachusetts 02108

The Union will keep the Town informed of the correct name and address of the Treasurer of Local 863, AFSCME.

2. This deduction of dues shall be made on a biweekly basis and shall be sent monthly to the AFSCME Council.
3. No deductions of dues will be made by the Town unless an authorization card, including the amount and signed by the employee, shall have been filed with the Town.
4. The Union shall notify the Town one (1) month prior to any change in the amount of dues to be deducted. The Town and the Union agree that until further notice, bi-weekly dues to be deducted shall be \$13.72 per Union employee.

ARTICLE 4

MANAGERIAL RIGHTS/PRODUCTIVITY

1. Except as otherwise limited by an express provision of this Agreement, the Town shall continue to have the right to exercise complete control and discretion over its organization and technology, including but not limited to, the determination of the standards of services to be provided and standards of productivity and performance of its employees.
2. Delivery of services to the public in the most efficient, effective and productive manner is of paramount importance to the Town and the Union. Such achievement is recognized to be a goal of both parties as they perform their respective roles to meet their respective responsibilities.
3. It is acknowledged that during the negotiations, which resulted in the Agreement, the Union had the unlimited right and opportunity to make demands and proposals with respect to all proper subjects of collective bargaining. Therefore, for the life of this Agreement, this Agreement shall constitute the total Agreement between the parties. The fact that this Agreement has been reached and is binding on both parties shall not constitute a bar to the reopening or amending of the contract by mutual agreement of the Town and the Union.

ARTICLE 5

MANAGEMENT OF MEMBERSHIP

1. Each employee who, on the effective date of this Agreement, is a member of the Union, and each employee who becomes a member after the date shall continue his/her membership in the Union during the duration of the Agreement.
2. Current nonunion employees are "grand-fathered" from the agency fee. All nonunion employees not "grand-fathered" shall pay an agency fee. The fee shall be the minimum according to the Union Charter and may not exceed the fee established by the Union Charter.

ARTICLE 6
NO STRIKES

1. Neither the Union nor any employee shall engage in, induce, support, encourage or condone a strike, work stoppage, slowdown, or withholding of services by employees.
2. In the event of any work curtailment by the Union by its officers or agents, the Union shall immediately declare such work stoppage, picketing or other curtailment to be unauthorized in writing and advise said employees to stop said conduct and return to work. Copies of such written notices shall be immediately furnished to the Town. The Union shall do everything in its power to obtain the return to work from said employees.

ARTICLE 7

SENIORITY

1. Seniority shall be defined as continuous full-time employment by the Department of Public Works. No employee shall be considered to have any seniority rights until he or she has completed the ninety (90) day probationary period, at which time the employee will have accrued ninety (90) days seniority.
2. Nothing in this Article shall be construed to limit the Town's ability to hire, promote, demote, or discharge employees. The intent of this Article is to demonstrate the Town's and the Union's recognition of seniority, as defined in Section 3 below.
3. Seniority, as defined in Section 1 of this Article, shall be a consideration only in the following types of actions:
 - a. Vacation Pick
 - b. Promotion
 - c. Layoff
 - d. Demotion

Choices of dates for vacation shall be granted to employees based upon seniority, with the most senior employee having first choice, the second most senior employee having second choice, and so on. All other current rules governing vacation pick shall remain in effect for the duration of this Agreement. Vacation leave will continue to be granted in accordance with Departmental scheduling needs and workload considerations.

Where qualifications are equal, seniority shall be the determining factor in promotion, demotion and layoff. Questions regarding the application of seniority shall be subject to the Grievance Procedure. A decision of the Director of Public Works shall be subject to the Grievance Procedure.

Where qualifications are equal, seniority shall govern in the selection of employees for layoffs and transfers. Where all experience, skills and past performance levels, as determined by the Director of Public Works, are equal for two employees, the employee with less seniority shall be laid off first. A decision of the Director of Public Works shall be subject to the Grievance Procedure.

It is recognized by the Town that length of service in a classification sometimes has a direct influence on the skills and proficiency level of the incumbent. For this reason, the Town has an interest in promoting from within where such promotion is based upon competition and has clearly defined criteria built into the promotion process. Where skills, proficiency levels, and experience in that type of work are equivalent, as determined by the Director of Public Works after testing and evaluating all candidates, seniority should govern.

It is recognized by the Town and the Union that the Town must hire or promote the most qualified workers available, in order to protect the public interest. Such public interest

requires the hiring and promotion of highly qualified workers, regardless of where they received their training and/or experience.

The Town, in order to balance the needs of the public with the needs of the employees for fair treatment in the promotion process, assures the Union that each employee who applies for any promotion will be interviewed and given a practical test where appropriate. Inherent in this promotion process will be a set of criteria, which will be used objectively to determine relative skills and proficiency levels among all applicants.

4. The Department reserves and shall have the right to make transfers primarily on the basis of ability and performance of duty, but shall be governed by seniority where equal ability and performance of duty have been demonstrated.
5. Until an employee has served the ninety (90) day probationary period, it shall be deemed that he/she has no seniority status. He/she may be discharged or laid off with or without cause, and such discharge or layoff shall not be subject to the grievance procedure.
6. An employee shall not forfeit any seniority during absence caused by:
 - a. Illness resulting in total temporary disability due to his regular work with the Department, certified by an affidavit from the Worker's Compensation carrier;
 - b. Illness not the result of his/her misconduct, resulting in total temporary disability, certified by a physician's affidavit every three months; and
 - c. Maternity leave.
7. An employee shall lose his/her seniority for, but not limited to, the following reasons:
 - a. Discharge
 - b. Resignation
8. An employee who meets the qualifications and is promoted to a higher-level position shall be placed in a probationary status for that position not to exceed 30 days. The employee shall be periodically evaluated to determine if he/she is performing the job in satisfactory manner. If an employee decides that he/she does not wish to continue in said position, then he/she shall be reduced in status to the same classification, pay grade and pay step as he/she had obtained prior to the promotion.

ARTICLE 8

PROMOTIONS AND TRANSFERS

1. The Department reserves and shall have the right to make promotions and transfers.
2. Jobs to be filled through promotion shall be posted on department bulletin boards in which the vacancy occurs for a period of five (5) working days.
3. Vacancies in management positions which are excluded from the bargaining unit shall be posted on the department bulletin boards, provided, however, that appointments to these positions shall not be subject to the grievance procedure.
4. Wherever possible, promotions shall be made from the ranks of regular employees who are employed by the department in which the vacancy occurs.
5. Employees in the department where the vacancy occurs who are absent during the entire posting period shall be notified of the vacancy by Certified Mail and given the opportunity to apply for the position within the posting period.
6. Job posting shall include job specifications, rate of pay, job location, and also if it is a permanent job with a permanent rating.
7. The above procedure shall be followed in all permanent promotions and transfers.

ARTICLE 9

DISCIPLINARY PROCEDURES

1. All disciplinary action shall be applied in a fair manner and shall be consistent with the infraction for which disciplinary action is being applied. No employee shall be disciplined or discharged without just cause as defined to include the following:
 - a. Misconduct
 - b. Incompetency or inefficiency
 - c. Failure to perform assigned duties
 - d. Disobedience or insubordination
 - e. Intoxication, drinking alcoholic beverages, or use of illegal drugs while on duty
 - f. Conviction of a felony
 - g. Failure to observe rules and regulations
 - h. Incompatibility with other employees
 - i. Unauthorized absence from duty
2. All suspensions and discharges must be stated in writing with the reason(s) stated and a copy given to the employee and the Union at the time of suspension or discharge.
3. Disciplinary actions shall normally follow this order:
 - a. A verbal warning
 - b. A written warning
 - c. Suspension without pay
 - d. Discharge

Under extreme circumstances, a, b, & c may be waived and discharge made at the time of the infraction.
4. The service record of an employee, disciplined under the provisions of this Article, shall be expunged after a period of one (1) year if disciplined under Article 10, Section 3-a and/or 3-b, and after two (2) years if disciplined under Article 10, Section 3-c.

ARTICLE 10

GRIEVANCE PROCEDURE

1. The purpose of this procedure is to produce proper and equitable solutions of Grievances. All Grievances will be handled as provided in this Section.

The parties agree that such procedure shall be kept as informal and confidential as may be appropriate for the procedural level involved. Nothing in this Agreement shall prevent any employee from individually presenting any Grievance to his employer, without representation of the Union, provided that the adjustment is not inconsistent with the terms of this Agreement. Those Grievances reduced to writing and resolved without Union representation shall be documented and forwarded to the Union within ten (10) working days.

2. The following definitions shall apply for the purposes of this Agreement:
 - a. Grievance shall mean a complaint by an employee that, as to such employee, the Town has interpreted and applied the Agreement in violation of a specific provision thereof.
 - b. An aggrieved employee shall mean the employee making the complaint.

For purposes of this Article, "working days" shall mean Monday through Friday, exclusive of legal holidays.

3. A matter which is not specifically covered by this Agreement or which is reserved either by this Agreement or by common or statutory law to the employer is not subject to the arbitration procedure set forth in Article XV. Only Grievances, as defined above, may be arbitrated under the provisions of Article 11.
4. Since it is important that Grievances be processed as quickly as possible, the number of days indicated at each level shall be considered as maximum. The time limits specified may be extended only by prior written mutual agreement.
5. The processing of Grievances shall be undertaken in accordance with the following procedures:

A written Grievance must be made to the employee's Department Head within five (5) working days of the action giving rise to the Grievance. The appeal must include the issue giving rise to the Grievance, the facts as the employees viewed them and the requested relief. The Department Head will respond to this appeal within five (5) working days. If the employee is not satisfied with the action to be taken by his/her Department Head, the employee may appeal the matter to the Town Administrator within five (5) working days to the Department Head's decision.

The Town Administrator will, within seven (7) working days of the request, meet with the aggrieved employee and all involved parties, hear testimony and render a decision

within seven (7) working days of the hearing. The employee will be given a written confirmation of the Administrator's decision within five (5) working days of the time a decision is rendered.

If the Grievance has not been resolved to the satisfaction of the aggrieved employee, the Union may, by giving written notice to the Administrator within ten (10) working days after the conclusion of the meeting referred to in Level 2, submit the Grievance to Arbitration. Such notice shall be addressed in writing to the Administrator. The Arbitration shall be governed by the provisions of Article 11.

6. No Grievance shall be considered which is not presented within the time limits specified in Section 5a. If a Grievance is not, or if the action required to present the Grievance to the next higher level shall not have been taken within the specified time limits, the Grievance shall be deemed to have been waived and shall not, thereafter, be subject to the Grievance Procedure or the Arbitration Procedure set forth in Article 11, unless such individual settlement is not enforced.
7. All documents, communications and records dealing with the processing of a Grievance shall be filed separately from the personnel file of the participant.
8. No Grievance in process during the term of this Agreement shall lapse because of the termination of this Agreement. Any such Grievance shall be disposed of under the procedures provided by this Agreement.

ARTICLE 11

ARBITRATION

1. In the event that the Union elects to proceed to Arbitration, the Administrator or his designee and the Union will endeavor to agree upon a mutually acceptable Arbitrator and obtain a commitment from said Arbitrator to serve. If the Parties are unable to agree upon an Arbitrator or to obtain a commitment to serve, the Grievance shall be referred to the American Arbitration Association by the Union no later than twenty (20) days after the receipt of the notice of submission to Arbitration (Article 10). In such an event, the Arbitrator shall be selected in accordance with the rules of the American Arbitration Association, then applicable to voluntary labor Arbitrations.
2. The Town and the Union agree that they will individually be responsible for their own costs, preparation and presentation. The Town and the Union further agree that they shall equally share in the compensation and the expenses of the Arbitrator.
3. The function of the Arbitrator is to determine the interpretation of specific provisions of this Agreement. There shall be no right in Arbitration to obtain and no Arbitrator shall have any power or authority to award or determine any change in, modification or alteration of, addition to, or detraction from any other provisions of this Agreement. The Arbitrator may or may not, make his award retroactive to the initial filing date of the Grievance as the equities of the case may require.
4. Each Grievance shall be separately processed at any Arbitration proceeding hereunder unless the Parties otherwise agree.
5. The Arbitrator shall furnish a written opinion specifying the reasons for his decision. The decision of the Arbitrator, if within the scope of his authority and power within this Agreement, shall be final and binding upon the Union and the Town and the aggrieved employee who initiated the Grievance.

ARTICLE 12

HOURS OF WORK

1. The normal workweek shall commence on Monday morning at 12:01 A.M. and shall end the following Sunday night at midnight.

Commencing on April 15 and continuing until October 15 of each year, the work schedule shall consist of four (4) ten-hour workdays. During this period, the Town shall compensate employees covered by this Agreement at time and one-half their base rate of pay for all hours worked in excess of 40 hours in any one workweek, or any hours worked in excess of ten (10) hours in one workday.

2. The normal workday shall be between the hours of 7:00 A.M. and 3:30 P.M.

ARTICLE 13

OVERTIME/SHIFT DIFFERENTIAL

1. The Town shall compensate employees covered by this Agreement at time and one-half their base rate of pay for all hours worked in excess of 40 hours in any one workweek, or any hours worked in excess of eight (8) hours in any one workday.
2. In addition, the Town shall compensate employees at time and one-half their base rate of pay for all hours worked before 7:00 A.M., or after 3:30 P.M., except as follows:

When one week's notice is given by the Public Works Director as to a temporary change in the workday. When that notice is given, a fifty-cent (\$0.50) per hour differential shall be paid for those hours worked before 7:00 AM or after 3:30 PM.

It is expressly understood that this section pertains to temporary shift changes in the Highway Department, and that the Town's ability to assign shifts and compensate employees through shift differentials is not otherwise altered.
3. EMERGENCY WORK: It shall be the duty of all able-bodied employees to make themselves available for work during the course of emergencies. An emergency shall be defined by the Director of Public Works and shall include but not be limited to the following:

Any natural or man-made condition which halts or hinders a public service or which endangers public safety.

Employees covered by this Agreement shall be paid double time for all work performed in excess of sixteen (16) consecutive hours as the result of snow or other emergencies as determined by the Public Works Director.
4. The parties agree that overtime work shall be assigned on a rotating basis, among all qualified employees.
5. No temporary employees, as defined by the Public Employees Labor Relations Board, shall be assigned to overtime work until all regular employees shall have had the opportunity for such assignment.
6. Any employee who is called back to work, having completed eight (8) hours of work that day, shall receive a minimum of three (3) hours pay at time and one-half the normal rate.
7. In the event that either party wishes to consider payment by the task rather than by the hour for duties performed, the parties agree to convene a labor management committee to discuss the concept and the administrative details which could be put into effect. If both parties agree, the Agreement may be amended to comply with the committee's recommendations.
8. Notwithstanding anything to the contrary above, the employee designated, as the "landfill attendant" shall be regularly scheduled for two (2) consecutive days off in each seven (7) day period.

ARTICLE 14

REST PERIODS AND CLEANUP TIME

The Town agrees to provide rest periods and cleanup time as mandated by State and Federal Law.

ARTICLE 15

HOLIDAYS

1. Employees shall be entitled to regular full pay for the following eleven (11) holidays:

- New Year's Day
- Civil Rights Day
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Veteran's Day
- Thanksgiving Day
- the Day after Thanksgiving Day
- Christmas Day
- the Day before or after Christmas Day

2. All work performed on a holiday shall be at the rate of time and one-half over and above the eight hours pay for the holiday, for all hours worked. This holiday pay shall apply only if the employee works the regular eight (8) hour day preceding and following the particular holiday, unless he or she is on scheduled vacation leave.
3. During the period of April 15 through October 15, employees will be compensated ten (10) hours holiday pay if a ten (10) hour workday is missed.

ARTICLE 16

VACATION LEAVE

1. For the purpose of this Section, one week shall be defined as five (5) working days or forty (40) working hours within five consecutive days.
2. Vacation leave without loss of pay shall be granted to Unit employees in the following manner:

<u>YEARS OF FULL-TIME CONTINUOUS SERVICE</u>	<u>VACATION LEAVE</u>	<u>MAXIMUM - ACCUMULATION</u>
0 through 5 years	8 hours/month	240 hours
6 through 10 years	12 hours/month	240 hours
10 full years & over	14 hours/month	240 hours

3. Choice of vacation leave within the Department shall be allotted according to seniority; provided however, that any employee having more than two (2) weeks (eighty [80] hours) of vacation leave will be allotted only the first two (2) weeks (eighty [80] hours), according to his or her preference and seniority; additional vacation leave will be allotted at a time mutually agreeable to the employee and the Director of Public Works.
4. Employees shall request vacation leave at least four (4) weeks and no more than one (1) year in advance of the first day of the requested vacation. Approval shall be granted or denied within two (2) weeks of the employee's submission.
5. When an employee terminates employment with the Department for any reason, he or she shall be compensated for all vacation leave earned, at the regular rate of pay, or as determined by law.

ARTICLE 17

SICK LEAVE

1. Employees will earn sick leave at a rate of 8 hours per month. New employees hired no later than the 10th of the month will receive credit for that initial month. Sick leave will be made available and credited for use on the first of each month. Employees scheduled to work less than 40 hours per week shall not earn sick leave.
2. Unused sick leave may be accumulated over the term of employment as follows:

<u>COMPLETED YEARS</u>	<u>ACCRUAL RATE</u>	<u>MAXIMUM LEAVE ACCRUAL</u>
0-5	8 hours/month	380 hours
6 or more	8 hours/month	*840 hours

*As of October 1, 2000, Brian Beers and Daniel Driscoll have accumulated more than 840 hours of sick leave. They shall retain the amount accumulated as of October 01, 2000, but shall not accumulate any further (i.e. if either employee uses any hours of his accumulated sick leave, then he shall be allowed accumulation in the expended amount).

3. Employees who voluntarily terminate their employment with the Town with at least thirty (30) days notice shall receive payment for their accrued sick leave as follows:

0 to 5 years of service -	Ten (10%) percent
6 to 9 years of service -	Fifteen (15%) percent
10 or more years of service -	Twenty-Five (25%) percent

Employees who are involuntarily terminated, or who leave without the required thirty (30) days notice, shall forfeit all sick leave payments.

4. Verification of illness/disability from a medical doctor may be required by Department Heads at any time and shall be required for sick leave in excess of three (3) consecutive days.
5. Probationary employees will accrue sick leave but may not draw leave or sick pay for time off taken due to illness during their probationary period. Probationary employees who do not achieve permanent status shall forfeit any accrued sick leave.
6. Sick leave may be legitimately drawn in the event of the following: absences due to illness, injury or exposure to contagious diseases endangering the health of other employees when requested by the attending physician, medical and dental appointments, and care of immediate family members whose illness or condition requires the employee to remain at home (care beyond three days requires approval by Town Administrator). Employees absent for such reasons must report their absence to Department Heads within one hour of their regularly scheduled starting time.

ARTICLE 18

SICK LEAVE INCENTIVE

Any employee who utilizes one (1) day or less of sick leave in any six (6) month period (January to June, July to December) shall receive an amount equal to one day's pay. Said payment shall be made within thirty (30) days of the end of the half-year.

ARTICLE 19

PERSONAL LEAVE

1. Personal leave shall be granted with pay similar to vacation leave and is intended to afford the employee with the opportunity to address unanticipated events or emergencies of short duration.
2. Full-time employees are awarded personal days after completion of one (1) year of service and thereafter on the employee's anniversary date. Personal days off may be earned at a rate of one (1) day per year for those employees with less than six (6) years of service. Those employees having six (6) or more years of service will be entitled to three (3) days per year. Personal days must not be accumulated beyond twenty-four (24) hours and must be used within twelve (12) months of the time they are earned.
3. Notice equivalent to that expected for sick leave is required for the use of these days.
4. There will be no payment of these benefits upon termination.
5. During the 4/3 work week schedule no personal day may be used unless the purpose for its use cannot be scheduled either outside of work hours or on the employees scheduled days off.

ARTICLE 20

BEREAVEMENT LEAVE

1. Bereavement Leave of three (3) working days with pay shall be granted an employee in the event of the death of his or her: spouse, father, mother, grandfather, grandmother, father-in-law, mother-in-law, child, brother, sister or a relative domiciled in the employee's household.
2. Under extenuating circumstances, special leave of two (2) working days with pay must be granted by the Town in order that the employee may arrange or attend a funeral of a relative other than those mentioned in the above paragraph.

ARTICLE 21

FAMILY LEAVE

Qualified employees shall be granted up to twenty-six (26) weeks of unpaid leave in any twelve (12) month period for:

1. The birth and first year care of a child;
2. Adoption or foster placement of a child in the employee's home (use of a licensed adoption agency is not required, but foster placement requires State action rather than merely an informal arrangement to care for another person's child);
3. The care of a spouse, child or parent with a serious health condition; or
4. The serious health condition of the employee.

Employees must give thirty (30) days advance written notice to the Town of Durham of the need to take unpaid FMLA leave when it is foreseeable for the birth or placement of a child, for adoption or for planned medical treatment. When planning medical treatment, employees should consult with their Department Head and make reasonable efforts to schedule the leave so as not to unduly disrupt the Town's operation. This is subject to the approval of the healthcare provider. If employees fail to provide the Town with the thirty (30) day notice, the Town may deny the leave until thirty (30) days after the notice is provided.

When the leave is unforeseeable, employees must give notice as soon as practicable, but no later than two (2) working days. Notice should be given either in person or by phone when medical emergencies are involved, and may be given orally by the employee's spouse or other family member if the employee is unable to give the notice.

When the FMLA leave is for medical reasons, employee or employee's family, medical certification of a serious health condition may be requested. The Town of Durham at the Town's expense, may also request a second opinion.

If the opinions of the healthcare providers furnishing the first and second opinions differ, the Town may request the employee to obtain a final and binding third opinion at the Town's expense.

If the employee will be out longer than thirty (30) days for a serious health condition, for him/herself or a family member, a "recertification" of medical condition will be required to be submitted on a monthly basis.

If an employee is out on medical leave for him/herself, the employee must submit a "fitness-for-duty" certification before he/she will be reinstated for work.

Any FMLA leave for a birth or adoption/foster care placement in the employee's home must be concluded within the 12-month period beginning on the date of the birth or placement. An expectant mother is not required to wait until the actual birth of the child to qualify for FMLA leave. For foster placement or adoption, FMLA leave can begin before the actual placement of an adopted or foster care child in the home of the employee if the employee is required to attend counseling sessions, appear in Court, consult with an attorney or doctor, submit to a physical examination, or travel to pick up the child. When leave is taken because of a birth or placement of a child for adoption or foster care in the employee's home, an employee may NOT take leave intermittently or on a reduced leave schedule.

If an employee requests foreseeable intermittent leave or a reduced work schedule for planned medical treatment for the employee or a family member, the Town may temporarily transfer the employee to an available alternative position with equivalent pay and benefits. Benefits, which are earned such as vacation and sick leave, for example, may be proportionately reduced to reflect the employee's reduced working time.

An employee is entitled to reinstatement to an equivalent position with equivalent benefits, pay and other terms and conditions of employment when returning from FMLA leave. There is no right to return to the same position, only a right to have an equivalent position.

The Town of Durham may require reports from an employee on FMLA leave regarding the employee's status and intent to return to work in order that benefits may be continued.

An employee may elect to substitute all or part of accrued paid sick leave, earned time, or personal time for unpaid FMLA leave. If accrued time is not used, the employee will remain entitled to all of the paid leave, which is earned and accrued at the time of the FMLA leave. However, an employee may NOT accrue any additional benefits or paid earned, sick or other leave time during unpaid FMLA leave. Paid short-term disability leaves are considered medical leaves for the purposes of the FMLA Act. Such paid disability leaves would be counted in the twenty-six (26) weeks of leave permitted under the FMLA leave. It is the Town of Durham's responsibility to designate leave, paid or unpaid, as FMLA-qualifying, based on information provided by the employee.

When an employee takes an FMLA leave, the employee's coverage of health insurance and life & disability insurance will remain the same as if the employee were still working his/her normal workweek. However, if the employee fails to return to work or returns to work and fails to stay thirty (30) calendar days, the employee shall reimburse the Town of Durham for all insurance premiums paid while on FMLA leave.

Benefits offered by the Town of Durham but paid for by the employee through payroll deduction, will cease unless the employee makes prior arrangement for payment with the Business Office.

ARTICLE 22

MILITARY AND CIVIC LEAVE

1. Military and Civic Duty leave shall be governed by existing laws.
2. JURY DUTY: An employee called as a juror will be paid the difference between the fee received for such service and the amount of straight time earnings lost by reason of such services. Satisfactory evidence of such service must be submitted to the employee's immediate supervisor.

Employees who are called to jury duty and are excused from jury duty for a day or days shall report to their regular work assignment. If any employee is excused from jury duty within three (3) hours prior to the end of his/her normal shift, he/she shall report to work.

ARTICLE 23

LEAVE OF ABSENCE

1. The Town agrees to allow the Union representative, the UER, and/or the aggrieved employee to meet to discuss and submit grievances, for up to one hour at the end of the assigned employee's shift, such employee to be paid at the employee's regular pay rate. However, in order for the involved employee to be paid, the Town must receive eight (8) hours notification of such a meeting.
2. Time lost by a representative of the Union on grievance settlements or negotiations shall be paid for by the Town as provided in RSA 273-A:11.
3. One employee elected as a delegate to either the AFSCME International Convention, N.H. Public Employees Convention, Council #93 or the New Hampshire State Labor Council Convention shall be allowed a leave of absence with pay not to exceed one (1) working day per year.

ARTICLE 24

LONGEVITY PAY

Longevity pay will be granted to all permanent full-time employees as a means of compensating such employees for long-term service to the Town. Such pay shall be paid by check by the end of the first payroll in December.

LENGTH OF SERVICE
(COMPLETED YEARS)

5-9 Years	\$150.00*
10-14 Years	\$400.00
15-19 Years	\$550.00
20 and above	\$700.00

* Only employees hired before January 01, 2000 will be eligible to receive this payment when applicable.

ARTICLE 25

INSURANCE BENEFITS

1. The Town agrees to continue health, hospitalization and major medical insurance for each employee under the Matthew Thornton Blue HMO program. The plan includes a Managed Care Program, a mail-in prescription program and Delta Dental Option 3 with the employee's choice to buy up to Delta Dental Option 1.
2.
 - A. All employees shall pay ten percent (10%) of the monthly health premiums for the ~~Matthew Thornton Blue HMO Program~~ and Delta Dental Option 3 Flex premiums or equivalent plans.
 - B. Each employee may chose to participate in any other health insurance program offered by the Town and the Town will pay said premium only in an amount equal to its Matthew Thornton contribution.
 - C. Each employee may chose to participate in Delta Dental Option 1 provided that they pay the difference between the Option 3 and Option 1 plan, as well as 10% of the monthly Delta Dental Option 3 Plan.
3. Provided that an Employee can demonstrate to the satisfaction of the Town, that he/she has adequate health insurance from another source, that Employee may decline to be covered by the Town's plan and receive in its place an annual payment of forty (40%) percent of the Town's share of the premium payable by December 15, for each year he/she declines such coverage.
4. The Town will continue to purchase Life and Disability Insurance for the Bargaining unit employees in the amount of coverage currently in effect (\$50,000.00 Death Benefit).

The employees acknowledge that the Town has created a TOWN WIDE INSURANCE ADVISORY COMMITTEE comprised in part of Town Employees. The unit members agree to provide that Committee with representatives to participate in the various deliberations of the Committee with the express purpose of resolving coverage problems and exploring coverage and cost problems.
5. The Town shall provide all employees covered by this Agreement with a short-term disability insurance policy (which can be self-funded) which will provide sixty (60%) percent of the employee's base weekly wage up to a maximum of Six Hundred Dollars (\$600.00) per week for up to twenty-six (26) week's disability. This program will be available immediately in the event of an employee's accident and after eight (8) consecutive days' absence for illness.

ARTICLE 26

WORKER'S COMPENSATION

All employees of the Public Works Department who become injured while in the performance of their duties shall receive Worker's Compensation while on leave. If the absence is caused by accident, compensable under Worker's Compensation, then the Town shall pay the difference between Worker's Compensation and the employee's regular pay during the employee's Worker's Compensation eligibility utilizing the employee's accumulated sick and vacation leave. The employee shall have the sole and exclusive right to decline this utilization of his/her accumulated sick and annual leave and receive only worker's compensation payments.

ARTICLE 27

LIABILITY

The Town recognizes that the employees covered by this Agreement are included among those Town employees held harmless and indemnified in accordance with the vote of the Town Meeting on March 15, 1979, pursuant to RSA 31:105.

ARTICLE 28

SAFETY

The Department shall continue to have the right to make and modify regulations for the safety and health of its employees during their hours of employment. Representatives of the Department and the Union may meet once in ninety (90) days at the request of either party to discuss such regulations.

ARTICLE 29

UNIFORMS

The Town shall provide the following clothing to permanent employees of the bargaining unit:

- 5 pair of pants
- 5 shirts
- 5 tee shirts
- 1 jacket
- 1 pair of working shoes
- Rain gear
- Hard hat
- Safety glasses.

Each employee shall receive issuance of new articles as mentioned above when he/she returns to the Town that article which is worn. It is the responsibility of the employee to wear all uniforms and equipment as stated by policy of the Town.

ARTICLE 30

BULLETIN BOARDS

1. The Department shall provide space on bulletin boards for the posting of notices of the Department addressed to the employees and for notices of the Union addressed to its members and other members of the Bargaining Unit. No notices shall be posted in or around the Town property except on such boards and then only after approval by the Department as being suitable for posting. No Union notice shall be posted until it shall have been signed by the President or Secretary of the Union. Job openings shall be posted by the Town on Departmental bulletin boards.
2. All positions, promotions or transfers shall be posted on the Department bulletin boards for at least five (5) working days and any interested employee shall have the opportunity to apply for such position, promotion or transfer.

ARTICLE 31

EDUCATIONAL INCENTIVE REIMBURSEMENT

1. The Town recognizes the desirability of a career development program based upon the completion of work related training programs.
2. Toward that end, the Town agrees to reimburse employees for certain courses and training programs based upon, but not limited to, the following criteria:
 - a. The course must be related to work of the employee and have direct relevance to his tasks;
 - b. Employees will be chosen based upon demonstrated high job performance and experience with the Town;
 - c. The course must be of benefit both to the employee and to the Town;
 - d. Courses may not be attended during working hours;
 - e. A passing grade must be attained in order for the Town to pay for the course. Where the Town has paid in advance, failure to achieve a "C" will result in the cost being deducted from the employee's accrued vacation leave;
 - f. Tuition, books and fees may not exceed Four Hundred (\$400.00) Dollars for any one (1) employee per year;
 - g. The total cost of the program shall not exceed Thirteen Hundred and Fifty (\$1,350.00) Dollars per year; and
 - h. The Director of Public Works shall have the authority to approve or disapprove all education incentive reimbursements.
3. Approval for courses will be considered on the basis of relevancy of the course, number of employees applying, and funds available.
4. If a course is paid for in whole or in part through a Federal or State program, the Town will not reimburse for such amount in order to eliminate double payment for any course.

ARTICLE 32

WAGE SCALE AND PAY PLAN

The wage schedule will increase by two percent (2%) in each of the years 2007, 2008 and 2009.

2007							
JOB GROUP	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6	STEP 7
I		14.77	14.91	15.07	15.21	15.37	15.52
II	15.44	15.81	15.97	16.13	16.28	16.45	16.62
III	16.67	17.07	17.24	17.42	17.60	17.78	17.95
IV	17.93	18.50	18.69	18.87	19.05	19.25	19.44
TRADESMAN	19.23	19.94	20.15	20.34	20.55	20.76	20.96
V	20.53	21.38	21.58	21.81	22.03	22.26	22.48
2008							
JOB GROUP	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6	STEP 7
I		15.06	15.21	15.37	15.51	15.68	15.83
II	15.75	16.13	16.29	16.45	16.60	16.78	16.95
III	17.00	17.42	17.58	17.77	17.95	18.13	18.31
IV	18.29	18.87	19.06	19.25	19.43	19.63	19.83
TRADESMAN	19.61	20.34	20.55	20.75	20.96	21.17	21.38
V	20.94	21.81	22.01	22.24	22.47	22.70	22.93
2009							
JOB GROUP	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6	STEP 7
I		15.37	15.51	15.67	15.82	15.99	16.15
II	16.07	16.45	16.62	16.78	16.94	17.12	17.29
III	17.34	17.76	17.93	18.13	18.31	18.50	18.68
IV	18.66	19.25	19.44	19.63	19.82	20.02	20.23
TRADESMAN	20.00	20.75	20.96	21.16	21.38	21.60	21.81
V	21.36	22.24	22.46	22.69	22.92	23.16	23.39

1. Each new employee shall remain in the Step at which he/she was hired for six (6) months. Upon six (6) months satisfactory completion of work, if the employee has satisfied the minimum performance standards for the position, he/she then shall be advanced to the next Step in the Job Group. If promoted from one Job Group to another, he/she shall be placed in the Step in the higher Job Group which will effect a raise in his/her hourly rate at least equivalent to the difference between Step 1 and Step 2 or the higher Job Group.

Movement on the salary schedule shall be annually based upon the employee's anniversary date of hire and satisfactory work performance.

2. STANDBY: Employees who are assigned to standby duty on any basis (be it "regular" or "intermittent") shall receive a fifteen (\$15.00) per day differential.

The Town reserves the right to determine which employees shall be on standby and the number of employees on standby at any one time.

3. PLUS RATES: Effective on the execution of this agreement, any employee who is required by the Town to assume the responsibilities of a position in a higher job group (either within or without this Union) for eight (8) consecutive hours or more in one work day, shall be compensated at the appropriate step in that higher job group or position.

ARTICLE 33

SAVING CLAUSE

In the event that any Article, Section or portion of this Agreement be in violation of State law or Town ordinance or be found to be unlawful and unenforceable by any Court of competent jurisdiction, or have the effect of loss to the Town of funds made available through Federal law, rule or regulation, then such specific Article, Section or portion shall be amended to the extent necessary to conform with such law, rule or regulation, but the remainder of this Agreement shall continue in full force and effect.

ARTICLE 34

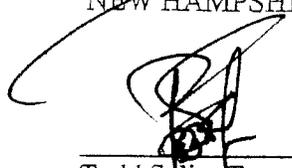
DURATION

This Agreement shall be effective as of January 01, 2007 and shall continue in full force and effect until December 31, 2009.

The Union acknowledges that it is the intent of the Town, in the next round of negotiations, as part of its proposals, to address the issue of the five (5) day work week.

IN WITNESS WHEREOF, the parties to this Agreement have caused it to be signed by their duly authorized officers and/or representatives this 27th day of NOVEMBER, 2007.

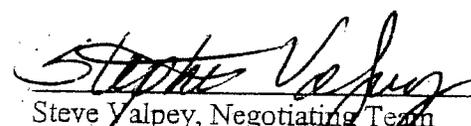
FOR THE TOWN OF DURHAM,
NEW HAMPSHIRE

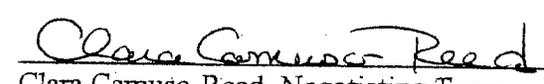


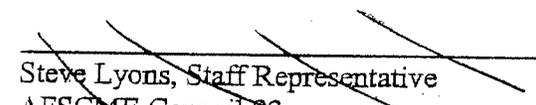
Todd Solig, Town Administrator

FOR THE AFSCME COUNCIL 93,
LOCAL 863



Daniel Driscoll, Negotiating Team

Steve Valpey, Negotiating Team

Clara Camuso-Reed, Negotiating Team

~~Steve Lyons, Staff Representative
AFSCME Council 93~~