# AGREEMENT

# BETWEEN

# THE CITY OF BERLIN

# AND

# TEAMSTERS LOCAL 633

**JULY 1, 2014**

**to**

**JUNE 30, 2017**

## ARTICLE 1 - RECOGNITION

Section 1. The City hereby recognizes the Teamsters Union Local 633 as the exclusive bargaining representative, pursuant to the provisions of New Hampshire RSA 273-A, for the full time and part time regular employees in the positions of Health Officer, City Clerk, Chief Assessor, Welfare Administrator, City Engineer, Fire Chief, Recreation Director, Public Works Director, City Planner, Chief Operator and Superintendent and Head Librarian.

EXCLUSIONS: City Manager, Confidential Secretary, Comptroller/Tax Collector. All other supervisors, professional and confidential employees, persons in a probationary or temporary status, employed seasonally, irregularly or on call and all other employees of the City of Berlin.

Section 2. It is specifically agreed by the parties hereto that any rights, duties or authority existing by virtue of the New Hampshire Revised Statutes Annotated or other law shall in no way be abridged or limited by any of the provisions of the Agreement, and to the extent that any provision of this Agreement is inconsistent with any such law, the provision(s) of law shall prevail.

## ARTICLE 2 - ENTIRE AGREEMENT

Section 1.

The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that the understandings and agreement arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the City and the Union, for the duration of this Agreement, each voluntarily and unqualifiedly waives the right, and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter referred to, or covered in this Agreement, or with respect to any subject or matter not specifically referred to, or covered in this Agreement, even though such subjects or matters may not have been within the knowledge of contemplation or either or both of the parties at the time they negotiated or signed this Agreement. This Agreement may only be amended during its term by the parties' mutual agreement in writing.

Section 2.

The Department Heads are professional personnel who have enjoyed a flexibility of their general working conditions through practices that reflect only their level of authority, responsibility and accountability. The City and the Union agree that these practices relating to the general working conditions will not be changed. However, should the continuation of such a practice impose an undue hardship on the City or if the practice has been abused, the Union shall agree to work with the City to modify or eliminate the practice. Practices that are the subject of any State or Federal Law or Regulation and that may require automatic compliance so as not to cause the City to be in violation of these Laws or Regulations, may be changed by the City upon notification to the Union.

Section 3.

Any dispute concerning the change or elimination of a practice shall be submitted for decision to the grievance procedure. Except as required above by Law or Regulation, any matter that is being processed through the grievance procedure, the practice shall be continued until said decision is rendered.

## ARTICLE 3 - MANAGEMENT RIGHTS CLAUSE

Section 1.

The City retains all its customary rights and authority to manage, make decisions, establish standards and use discretion to direct the municipality and its employees except as otherwise specified in this agreement. The Union acknowledges the right of the City to make or change any standards, rules or regulations governing the conduct of the City and its employees provided they are not inconsistent with the provision of this agreement and further recognizes that the exercise of any management function or right which is not specifically modified by this agreement is not subject to the grievance procedure or arbitration during the term of this agreement. The City shall notify the Union of the changes to the standards, rules and regulations.

## ARTICLE 4 - EMPLOYEE RIGHTS

Section 1.

The City and the Union agree not to discriminate against any employee covered by this Agreement in conditions of employment in order to discourage or encourage membership in the Union, or to discriminate against any employee because that have given testimony, or taken part in a grievance procedure, or proceedings of the Union.

Section 2.

The City and the Union reaffirm and will maintain the policy not to discriminate against any person because of race, ethnicity, color, national origin, citizenship, religions, sex, marital status, age or disability. All such claims under this section shall be processed through the grievance procedure before taking action with State or Federal agencies.

Section 3.

The Fire Chief shall continue to have a clothing allowance equivalent to that of the IAFF#1088 and the WWTP Superintendent shall continue to have a clothing allowance equivalent to that of AFSCME Local #1444.

## ARTICLE 5 - SHOP STEWARD

Section 1.

The City agrees to recognize one (1) Shop Steward and one (1) Alternate Shop Steward, who will serve in the absence of the regular Shop Steward.

## ARTICLE 6 - UNION VISITS

The City shall permit the authorized representative of the Union to have access to the public areas of the City's buildings for the purpose of conferring with the Employer and for the handling of pending grievances. Such access shall be by prior arrangements and at such reasonable times and places and in such manner as not to interfere with the Department Heads or with the operations of the City's business.

## ARTICLE 7 - UNION BULLETIN BOARDS AND MAIL

The City shall furnish Union Department Heads with mail slots at the appropriate locations for the receipt of postings of notices of Union meetings and other official Union business. These mail slots shall be designated as Union Department Head slots. The Union shall have access to deposit notices in these. The current practice of Central mail boxes in City Hall shall be deemed satisfactory.

## ARTICLE 8 - EMPLOYEE INDEMNIFICATION

The City shall defend all employees against any claims made against them arising out of an act or omission by the employee while acting in good faith within the employee's scope of employment. The City shall indemnify all employees for any judgments entered against them arising out of any act or omission by the employee acting in good faith within the employee's scope of employment to the extent that the claim is within the limits of coverage of an insurance policy maintained by the City as per RSA 31.

## ARTICLE 9 - DUES CHECK OFF

Section 1.

Upon an individually written authorization card signed by the employee and approved by the Union, the City agrees to deduct from each employee's wages weekly, a sum for the Union dues to be paid to the Union each month. The Union agrees to hold the City harmless from any claim or liability arising out of the deduction of dues and payment to the Union or other deductions made under this Article. All new employees may become members of Teamsters 633 after completing the initial six month probationary period.

Section 2.

All employees who choose not to become members of the Union shall pay a service fee equal to the monthly dues deducted from each employee's weekly wages. This service fee shall be submitted to the Union along with Union dues on a monthly basis. The City shall be held harmless from any claim on liability arising out of the deductions of service payments to the Union under this Article.

Section 3.

The City agrees to implement up to two additional lawful payroll deductions (such as D.R.I.V.E. & Teamster Credit Union) for employees upon written authorization by the employee as specified by the employee. These payroll deductions will be remitted to the payee specified by the employee on a monthly schedule specified in writing by the employee.

## ARTICLE 10 - SENIORITY

Section 1.

Seniority shall be measured from the last date of hire of an employee. Seniority shall terminate upon the occurrence of one of the following events:

- Retirement (as defined by the NHRS retirement plan, Social Security or other approved retirement plans).
- Discharge for just cause
- Resignation
- Lay off for twenty four (24) months
- Absence due to illness or accident in excess of twelve (12) months (non-job related)
- Failure to return from lay off within fourteen (14) calendar days of the notification

Seniority shall continue to accrue during periods of qualified worker's compensation due to illness or accident on the job.

This definition of seniority and parts thereof shall have force and effect only with respect to provisions of this Agreement specifically requiring the City to make personnel decisions in whole or part on the basis of seniority.

## ARTICLE 11 - NO STRIKE/NO LOCKOUT

Section 1.

Under no circumstances will the Union cause, encourage, sponsor or participate in any strike, sit-down, stay-in, stay-out, sick-in, sick-out, work slow down, or picketing of any kind while on duty, multiple resignations, withholding of services or curtailment of work or restrictions or interference with the operations of the City or Departments thereof during the term of this Agreement. In the event of any such activity, the City shall not be required to negotiate on the merits of the dispute which gave rise to

such activity until any and all such activity has ceased. The City will not lock out any employees during the term of this Agreement.

Section 2.

Should any employee or group of employees covered by this Agreement engage in any activity prohibited by section 1 of this Article or State Law, the Union shall forthwith disavow any such activity and shall immediately work with the City to jointly file the necessary court actions to require such employee or group of employees to terminate such activity forthwith. It is understood that any employee violating this Article shall be subject to immediate discharge.

## ARTICLE 12 - DISCRIMINATION AND HARASSMENT

Section 1. DEFINITION OF TERMS

DISCRIMINATION: A show of partiality or favoritism in the treatment of, prejudice against, or animus towards any group of persons who are a protected class under civil rights legislation of the United States of the State of New Hampshire, including any group of persons distinct because of race, religious affiliation or belief, ethnicity, gender or similar characteristic, or such partiality, favoritism, prejudice or animus with respect to any person because of membership or perceived membership in any such group. Discrimination shall include unlawful partiality, favoritism, prejudice or animus with respect to any age classification. Discrimination shall include any unlawful conduct defined as discrimination by a federal or state civil rights legislation, or any reasonable administrative rule adopted pursuant thereto.

HARASSMENT: Harassment shall include any unlawful conduct defined as harassment by any federal or state legislation or any reasonable administrative rule adopted pursuant thereto. Harassment shall include sexual harassment, including but not limited to sexually-oriented rude or offensive remarks or use of position to seek sexual favor. Harassment shall include retaliation for reporting of any incident or practice, reasonably believed by the person reporting it to be discrimination or harassment in violation of these rules.

Section 2. POLICY STATEMENT

The City of Berlin and the Union, Teamsters, do not condone nor support the practice of harassment or discrimination in any form, by any person in the employ of the City or representing the City. Upon learning of a situation that violates this policy or the Federal Laws, the City will take immediate corrective and remedial actions that are deemed appropriate. In addition, the City will keep its employees informed about the applicability of compliance with these Federal Laws in the work place.

Any employee who believes or suspects himself or herself or any other person to be or to have been the victim or violations of the policies stated herein with regard to discrimination or harassment shall report same to the appropriate personnel. The appropriate personnel shall be the City Manager or the person believed to be perpetrating the discrimination or harassment, except as otherwise provided herein. The reporting person who is the victim may choose to communicate his or her beliefs to the perceived perpetrator in lieu of reporting to supervisory personnel, but shall report to the City Manager

if the conduct persists.

Section 3. PROCEDURE

STEP 1: Employees having a sexual harassment problem should, along with a union representative, discuss such problem with the City Manager in an effort to try and resolve the problem. However, the fact that this obligation is not fulfilled shall not cause the employee to lose any right.

STEP 2: Upon receipt by the Union of a request in writing from the griever, the Union shall file the grievance at the last step of the grievance procedure, prior to arbitration. Grievances of this nature shall be treated in the strictest confidence by both parties.

STEP 3: Should the grievance not be solved at this step of the grievance procedure, the Union may then proceed to arbitration. Arbitration proceedings will be in the strictest of confidence and privacy.

It is further understood by the Union and the City that a discrimination and harassment free environment will exist in the workplace. Therefore where proven harassment has been determined, appropriate disciplinary action or remedial action may result.

## ARTICLE 13 - AMERICAN WITH DISABILITIES ACT

The City of Berlin shall be in compliance with said Act for the hiring and the tenure of bargaining unit members.

## ARTICLE 14 - HOURS OR WORK AND WORK WEEK

Section 1.

Covered employees are considered professional employees and will generally work a five (5) day work week which will consist of either thirty five (35) hours or forty (40) hours depending upon the department they are in charge of. The exact days and hours of work may vary depending upon the work within the department assigned. Covered employees shall be eligible for compensatory time off when their hours of work exceed their regular hours in a work week.

The work week shall consist of five (5) consecutive days, Monday through Friday.

Section 2.

Regular work weeks for covered positions are as follows:

| Dept. | Work Week |
|---|---|
| Chief Assessor | 35 hours |
| Chief Operator and Supt. | 40 hours |
| City Clerk | 35 hours |
| City Engineer | 35 hours |
| Fire Chief | 40 hours |

| Dept. | Work Week | | |
|---|---|---|---|
| | | Public Works Director | 40 hours |
| | | Recreation Director | 35 hours |
| Head Librarian | 35 hours | Welfare Administrator | 35 hours |
| Health Officer | 35 hours | City Planner | 40 hours |

## ARTICLE 15 - PROBATIONARY PERIOD

Section 1.

All new employees for positions covered under this agreement, shall serve a probationary period of six (6) months from the date of hire and during this period shall be classified as probationary employees.

Section 2.

Probationary employees are considered employees at will and may be terminated with or without cause and shall not be entitled to representation by the Union.

Section 3.

Probationary employees shall be eligible to receive all benefits extended to non-probationary employees covered under this Agreement commencing in accordance with the enrollment policies of the specific benefit providers. Sick leave and vacation leave accruals will commence from the date of hire but may not be used by the employee until the completion of the six month probationary period,.

Section 4.

All new employees for positions covered by this Agreement may become members of Teamsters Local 633 after completing their initial six (6) month probationary period.

## ARTICLE 16 - COMPENSATORY TIME OFF

Section 1.

Both the City and the Union recognize that the Department Heads are professionals by the very nature of their management positions and are expected to create, direct and complete their Department functions in a schedule that they generally dictate. Under Federal law, such professionals accept that they work varying hours and work schedules to meet their department's goals. The City agrees that when it becomes necessary for a Department Head to work hours that are considerably extended beyond their general work schedule they shall accrue compensatory time at a rate of one and one half hours for each hour worked and the Department Heads shall be paid at a rate of time and one half for all hours worked on a holiday. Payment shall be for a minimum of four hours for any hours worked except any previously scheduled work hours. For those Department Heads with a 35 hour work week, worked hours between 35 and 40 shall accrue at a 1:1 ratio for compensatory time.

Work hours in excess of 40 to 50 hours per week shall accrue at a 1:1.5 ratio for compensatory time as long as the City Manager or designee signs off on all accrued compensatory time. All hours worked in

excess of 50 hours per week shall be paid at 1:1.5 X the hourly rate, as long as the City Manager or designee signs off on all accrued compensatory time.

Section 2.

The use of Compensatory time off once it has been accrued is guided by the Fair Labor Standards Act. For Department Heads, who are considered "exempted employees" under the act, the City agrees that the Department Heads may take their earned compensatory time within two hundred days (200) of the actual earned date, after which that amount of compensatory time is lost.

Section 3.

For the purposes of this agreement, the City will acknowledge any accrued compensatory time effective 7/1/94.

Section 4.

Any Department head who has severed their employment with the City shall be eligible for payment of their compensatory time on the record for the previous two hundred calendar days, at their then current rate of pay, provided they submit their documentation to the City Manager. This shall include resignation with at least three weeks notice, retirement, or layoff. In cases of the death of a Department Head, the City will make the payment above, to the Spouse of the Department Head, provided the City can document the Compensatory Time accumulated. These will be the only situations that permit a cash buy out for compensatory time accumulated.

## ARTICLE 17 - JOB POSTING

Section 1.

When a vacancy occurs as a result of the establishment of a new position or retirement or termination of a current employee, the City, if it determines to go forward to refill the position, shall post a notice indicating the position and the qualifications required.

Section 2.

The job posting shall be left on the bulletin board for five (5) days and all employees in the bargaining unit shall be eligible to sign up to indicate their interest in filling the position. Nothing in this posting procedure shall be deemed to limit the City's rights to seek applicants for the position from outside the Department.

## ARTICLE 18 - PROMOTIONS AND TRANSFERS

Promotions and transfers to fill vacancies in those positions covered by this contract with the City of Berlin, shall be based on the bargaining unit member's abilities, qualifications and relevant certifications and licenses, past work performances, tenure and achievements. These considerations shall be acknowledged prior to the posting for these open positions, by the City of Berlin.

## ARTICLE 19 - LAY-OFF AND RECALL

Section 1.

In the event of a lay-off, employees shall be laid off in the order of their seniority beginning with the least senior in each departmental job classification. It is understood that an employee retained must be qualified to perform the available work, or the least senior employee in the job classification shall not be laid off.

Section 2 .

In the event of a recall the City will make a reasonable effort to assure that the employees shall be recalled in the reverse order of lay-off, in each departmental job classification, provided the employee(s) is qualified to perform the job available. Notification of Recall shall be made by certified mail to the employee's last known address on the City's personnel records. It shall be the employee's responsibility to update such mailing address as necessary. An employee who fails to return to work within fourteen (14) calendar days of the mailing of the recall notice shall lose all recall rights and seniority. Recall rights shall continue for twenty four (24) months after the date of lay-off of the employee.

Section 3.

During the life of this contract, should the City of Berlin determine that a re-organization plan of the government structure is necessary, the City will meet with all Department Heads who are affected by the plan to consider their input before the completion of the drafting of the plan. Upon approval of the governing body and a 30 day waiting period, the implementation of the re-organization may be initiated.

When the City Council makes their final decision to reorganize a particular department, the affected department head(s) will be provided a written notification before the thirty (30) day implementation waiting period begins. In no case shall the thirty (30) day implementation wait period start until the written notice is given to the employee.

Section 4.

Should the City of Berlin permanently lay-off a City Department Head due to the implementation of a re-organizational plan, the laid off Department Head shall be offered the opportunity to fill other vacancies within those areas of government under the City Manager, for a period of twenty four months from the date of lay-off, providing they are qualified and have or can obtain within six months of a recall the necessary certifications and licenses if needed. Employees on lay off shall retain their city seniority. In those cases where a required certification and/or licensing has a built in time frame that extends beyond the six month period the parties have agreed to above, the City shall allow the employee to continue to obtain the required license or certification through the extended period provided the certification or license and the time frame is City/State/professional association required and the individual is demonstrating active pursuit of the license or certification. Should this employee fail the testing for the required license or certification, they shall have an additional six months within which time frame they must successfully complete said requirements. If they are unsuccessful in obtaining the required license(s) or certification(s), they shall be terminated.

## ARTICLE 20 - CAREER INCENTIVES

Section 1.

The following educational reimbursement policy will apply to members of the bargaining unit after one (1) year of service. The City agrees to provide reimbursement for one hundred (100%) if all of the following conditions are met:

1. The course is approved in advance by the City Manager.
2. The course is related to the employee's job and/or is part of a career development program and approved by the City Manager.
3. Budgeted funds are available in the Department's tuition reimbursement or training account.
4. Reimbursement is for no more than two (2) courses per semester per employee so long as the courses taken do not interfere with the employee's regular duties.
5. Reimbursement for 100% of the course costs only (no transportation nor time involved), upon completion of the course with an 80% or better grade (or PASSING in the case of a pass/fail grading system) and satisfactory proof of attainment.
6. Once a course has been approved as meeting the requirements set forth above, an advance will be made to the Department Head of one-half (½) the cost of tuition and books. The final balance shall be paid only upon successful completion as outlined in Section 5. Failure to attain a passing grade and/or failure to complete the course will result in a member reimbursing the City for the total amount paid to date.

Section 2.

The City shall pay for course work required for certification or minimum education mandated by Federal, State or Local regulations. Courses taken during working hours and required by the City shall not be subject to the restrictions in section 1 of this article.

## ARTICLE 21 - HEALTH INSURANCE

Section 1.

Effective with this contract, the City will pay 80% of the premium for the MTB10IPDED $10/20/45 $250/750 plan provided through LGC or such other plan as is mutually agreed upon. Employees will pay 20% of the premium for said plan through payroll deduction. An eligible bargaining unit member desiring coverage beyond the above stated plan level must pay the additional costs beyond the City provided level.

The City will allow its employees to participate in a section 125 Contributory Plan as provided by the City of Berlin. If the health insurance vendor is to be changed, it will be done so only if the new plan is comparable to the current coverage. If there is interest in changing the health insurance plan, proposals will be evaluated by representatives of the City and the Union.

Section 2.

Both parties agree that the City may, at their discretion, change health insurance plans to comparable plans if it is determined to be a cost savings to the City.

Section 3.

All Federal laws prevail regarding the continuation of health insurance for any employee who resigns, retires or is terminated.

Section 4.

Except as provided below, Department Heads having a minimum of ten (10) years of service with the City and who have attained the age of sixty-two (62), upon retirement in the NHRS, will have their health insurance paid at 100% by the City until their sixty-fifth (65th) birthday.
Department Heads having a minimum of ten (10) years of service with the City and who have attained the age of sixty-one (61) but retire under the NHRS on or before July 1, 2008 and who qualify for the NHRS medical subsidy, will have their health insurance paid as follows until their sixty-fifth ($65^{th}$) birthday: During the up to two year period from the age of 61 to 63, the employee and the City will split 50/50 the City's cost (total less NHRS health subsidy). During the up to two year period from the age of 63 to 65, the City will be responsible for 100% of the City's cost in providing the health insurance. The City will have no responsibility for retiree health insurance after the retiree's sixty-fifth ($65^{th}$) birthday.

Section 5.

In the event that a Department Head should die while actively employed by the City, their health insurance shall continue to be made available to their immediate family or dependent(s) at the City's group rate and at the family's expense in accordance with prevailing Federal laws. In such arrangements, payments by the immediate family/dependent must be received by the City in advance of each months coverage period or the coverage will cease automatically.

Section 6.

Retirees may choose which NHMA Health Trust insurance plan they wish to maintain as long as they pay the City the full cost of such plan maintenance in accordance with the requirements of the city and the law.

Section 7. Buyout

Any employee covered by the medical insurance may elect annually in the preceding November to waive their right in writing to any City provided medical insurance coverage providing they demonstrate having other medical/health insurance. For the purposes of this section, "other medical/health insurance" shall mean medical/health insurance not provided or paid for in any way by the City of Berlin. When so elected in writing, the City shall make a payment equivalent to 50% of the premium of a single plan in two installments, January and July, so long as they remain a regular full time employee. If an employee leaves City employment for any reason within six months of this installment payment, it is agreed that a pro-rated portion of this payment representing the period of time not worked in the six month period from the date of the paid installment, will be deducted by the City from any final pay due the employee.

Section 8 Dental Plan

The City agrees to make available dental insurance for individual full time employees during the term of this agreement. The plan will be the Delta Dental 5073 PPO Plus Premier Network Plan or equivalent. The City will pay 100% of the premium cost for full time individual employees. The City agrees to extend dental coverage at the current levels to family members with the cost of the additional premium to be borne by the employee as long as the required participation percentage is achieved to allow for such coverage.

## ARTICLE 22 - GROUP INSURANCE

Section 1.

The City of Berlin shall pay 100% of its share of the premium for the Department Heads group insurance plan that covers life insurance up to a level of $30,000, accident and sickness up to a weekly maximum of $400 at 2/3 regular salary for 52 weeks and accidental death and dismemberment insurance.

The City further agrees to offer each Department Head the option of purchasing an additional $30,000 of life insurance at their own personal expense and at the City's group rate. Additional life insurance offered shall be at the group rate as quoted to the City for additional life insurance.

## ARTICLE 23 - VACATIONS

Section 1.

Department Heads shall be granted a vacation in each calendar year without loss of pay. Such vacations shall be computed in the following manner:

| YEARS OF SERVICE | PAID VACATION WEEKS |
|---|---|
| 1 year to 6 completed years | 2 weeks |
| 7 years to 11 completed years | 3 weeks |
| 12 years to 16 completed years | 4 weeks |
| 17 years to 22 completed years | 5 weeks |
| 23 years to 29 completed years | 6 weeks |

Vacation accrual shall be capped at a maximum of six (6) weeks and any member having additional accruals beyond six weeks shall be frozen at their higher level until they leave the employ of the City after which the capped maximum shall exist.

Vacations must be taken during the 12 months following the accruing year, based on the employee's anniversary date of employment with the City and cannot be accumulated from one year into the next. Any exceptions to this must be approved by the City Manager.

Working Vacations Disallowed.

Vacations with pay are intended as a period or rest and relaxation, and no employee shall be allowed to work for the City during his vacation to receive extra pay.

Section 2.

Department Heads shall be compensated all unused and accrued vacation pay due him/her for the calendar year upon death, retirement, resignation, layoff or termination of employment with the City of Berlin.

List of Accrued Vacations.

1 week = 5 vacation days

## ARTICLE 24 - HOLIDAYS

Section 1.

The Members of this Bargaining Unit shall be entitled to receive pay for the official legal holidays as herein established and computed on the regular base pay rate of the employees.

Section 2.

If an employee takes his earned vacation during a period which included an official legal holiday, the employee shall receive an extra day of vacation.

Section 3.

A Department Head may receive approval of the City Manager for alternative holidays than those scheduled below.

Section 4.

If a legal holiday occurs on a Saturday, the holiday shall be observed on the previous Friday and if the holiday occurs on a Sunday, the holiday shall be observed on a Monday.

Section 5.

The Department Heads shall be paid at a rate of time and one half for all hours worked on said holiday. Payment shall be for a minimum of four hours for any hours worked.

Section 6.

The following shall be considered the legal holidays for this agreement and its members:

| | | |
|---|---|---|
| New Year's Day | Labor Day | Christmas Eve - PM only |
| President's Day | Columbus Day | Christmas Day |
| Good Friday | Veteran's Day | New Year's Eve Day, PM only |
| Memorial Day | Thanksgiving Day | Presidential Election Day |
| Independence Day | Day After Thanksgiving | Civil Rights Day |

## ARTICLE 25 - SICK LEAVE

Section 1. Sick Leave for Family Purpose

The granting of up to ½ day of sick leave with pay shall be authorized when there is illness, or an emergency situation involving a member of the Employee's immediate family, which requires the Employee's attendance. Any additional time requested by the Employee for immediate family emergency purposes must be authorized by the City Manager. Any such leave time that falls under the Family Medical Leave Act shall be so authorized accordingly.

Section 2. Sick Leave Earned and Accrued

Each Department Head shall earn one (1) working day per full month of employment which shall be used as sick leave. Said accrual shall continue during the period of time the employee may be absent due to a medically documented illness. Such accrual by Department Heads shall be considered unlimited except for the purposes of being paid out in cases of the Department Head's death, resignation, layoff or retirement in which case the maximum amount of sick leave shall be one hundred and ten (110) days of actual accrual. An employee who does not utilize any sick leave during any twelve (12) month consecutive period and has the maximum sick days accumulated will be paid $120.00. This amount shall be paid during the first half of the month following the twelve month period in which it is earned.

Section 3. Vacation Time as Sick Leave

The covered employees may elect to use vacation time as sick leave upon the exhaustion of all accrued sick leave due the employee.
Accrued sick leave shall not be used as vacation time.

Section 4. Sick Leave in Conjunction with other City Benefits

Department Heads who go on work related or non-work related injury or sick leave, disability or maternity leave will not be able to receive in excess of 100% of their regular weekly salary by collecting sick leave or vacation leave in conjunction with other City provided benefits and/or insurances.

Section 5. Sick Leave and Personal Days

Department Heads who go five(5) months without the use of a sick day will earn one (1) personal day which must be used by prior authorization within twelve (12) months of the accrual or it shall be lost.

Section 6. Sick Leave Review

The Department Head who is out on any sick leave or personal injury leave longer than twenty five (25) days shall notify the City Manager and provide a Doctor's estimated time frame for return to their regular duties.

Section 7. Abuse of Sick Leave

The City of Berlin views sick leave as a privilege granted to the employees and not a right of the employees. All Employees are advised of this. Abuse of sick leave may lead to its being withheld pending further review and medical documentation by the employee.

Section 8. Donation of Sick Leave

In cases where an employee because of illness or injury has used up or is about to use up all of his/her accumulated sick leave, the City Manager may, where he/she determines that said employee has kept a good attendance record and a good work record, invoke this paragraph and authorize the start of the procedure for the donation by other interested City employees of sick days to said employee. The following provisions and restrictions shall be incorporated into any such restrictions or requirements he/she deems appropriate at the time.

1. In order to be eligible to donate sick days, employees will have to have accrued at least (24) days of accumulated sick time as of the donation.

2. Employees who have accumulated the minimum of twenty four (24) days may donate no more than five (5%) percent (rounded off to the nearest day) of their total sick leave accumulation in any one instance.

3. All sick days donated will be deducted from the accumulated sick leave of the donor.

4. All sick days donated but not used for the purpose of the original donation will be returned to the donor(s) on a prorated basis rounded up to the nearest half day.

When sick leave is donated to an employee, such donated leave time may not be utilized until all of the employee's available paid leave (sick leave, vacation time, etc.) has been expended.

## ARTICLE 26 - BEREAVEMENT LEAVE

Section 1.

Bereavement leave shall be provided for employees who experience a death in the family to allow for arrangements. The schedule below indicates the numbers of days with pay to be granted which shall be inclusive of any holidays and weekends which may occur during the funeral leave period. Employees must notify the City Manager as soon as possible when they expect to incur bereavement leave.

Section 2.

| RELATIONSHIP | DAYS GRANTED |
|---|---|

| | |
|---|---|
| SPOUSE | FIVE DAYS |
| CHILD/STEP CHILD | FIVE DAYS |
| FATHER/MOTHER | FIVE DAYS |
| STEP FATHER/MOTHER | FIVE DAYS |
| RELATIVE DOMICILED IN EMPLOYEES HOUSEHOLD | FIVE DAYS |
| BROTHER/SISTER | FIVE DAYS |
| MOTHER/FATHER IN LAW | FIVE DAYS |
| BROTHER-SISTER IN LAW | THREE DAYS |
| GRANDFATHER/GRANDMOTHER | THREE DAYS |
| GRANDSON/GRANDDAUGHTER | THREE DAYS |
| AUNT/UNCLE | DAY OF FUNERAL |
| SPOUSE'S GRANDPARENTS | DAY OF FUNERAL |

## ARTICLE 27 - COURT AND MILITARY LEAVE

Section 1. Court Leave

Employees who are called for jury duty or as a witness shall be granted leave with pay. If the jury fees or the witness fees amount to less than the employee's regular weekly rate of compensation, the employee shall be paid by the City in an amount equal to the difference between them. If the employee receives fees of any kind while on this leave then the employee shall turn over to the City of Berlin said fees, and the City will pay the employee's regular weekly rate of compensation during the leave period. Notice of service shall be filed with the Department Head upon receipt of summons.

Section 2. Military Leave

Any employee, who is a member of a reserve force of the United States, or the State of New Hampshire and who is ordered by the appropriate authorities to attend a training program or perform other duties under the supervision of the United States, or of the State of New Hampshire, shall be granted a leave of absence during the period of such activity. During such absence, the employee shall receive as pay, the difference between the employee's regular weekly straight time pay and any pay received as a member of the reserve force of the United States or State of New Hampshire. Payment of the above stated differentials shall not apply to regular monthly meetings or when the employee enters full-time active duty.

## ARTICLE 28 – MATERNITY/PATERNITY LEAVE

An employee who is pregnant will not be denied the use of any existing paid leaves for the purpose of having a baby if she meets the requirements for those leaves. Expectant mothers should notify the City as far in advance as possible of the expected delivery date of the child and when they would expect to

have to leave work for the birth of the child. To be eligible to use their accumulated sick leave, mothers must provide the City with the date of birth of the child and a written statement from an MD indicating the period of time that the mother was disabled due to the birth and a reasonable time for recovery and bonding with the new born, typically 30-60 days.

In addition, an expectant mother or father are eligible for FMLA unpaid leave which can be used in conjunction with the birth of a child. The process for the use of FMLA is outlined in Article 29 of this Agreement. Both parents may utilize other paid leaves they have accumulated for the birth of a child in accordance with the policies for scheduling in advance each of those leaves.

## ARTICLE 29 - FAMILY AND MEDICAL LEAVE

In 1993, the United States Congress passed the Family and Medical Leave Act to permit qualified and entitled employees up to twelve weeks of unpaid leave during any twelve month period for qualified reasons.

Section 1. Purpose of Leave

The FMLA may be used for one or more of the following reasons:
- A birth of the employee's child.
- The placement of a child with the employee for adoption or foster care.
- Caring for a spouse, child or parent in the event of a serious health condition.
- Inability of the employee to perform the functions of this or her job because of a serious health condition.

Section 2. Eligibility

Any employee of the City who was employed by the City at least twelve months and has worked at least twelve hundred fifty (1,250) hours during the twelve month period preceding the commencement of the leave.

Section 3. Application for Leave

Any Employee eligible for FMLA must make a written request through the City Manager accompanied by a medical certificate verifying the reason(s) for the leave. The City may also require additional medical proof from a health care provider of the City's choice, at the City's expense, if so requested. The written request must be made at least four (4) weeks in advance or in case of emergencies as soon as it becomes evident that a Leave will be necessary.

The employee must also include in the request the type and duration of the leave. In cases where an employee is treating a personal health condition that requires that they receive periodic treatments, the employee must make reasonable efforts to schedule any treatment so as not to unduly disrupt the operations of the City.

Additionally, if the employee expects to use accrued and available vacation leave or personal days, it

must be so noted in the request. The employee in consultation with the City Manager, will arrange for the use of these leaves in the order below:

1) Personal time and compensatory time accrued
2) Then the employee's choice of Vacation Leave or leave without pay.

Section 4. Benefits While on Leave

The City shall maintain any insurance coverage in effect at the time of the leave, subject to the City's agreed to level of participation. Employees will not be able to accrue any additional employment benefits while out on Family and Medical Leave. During the FMLA leave, the individual will not be accruing any sick leave, personal days nor holidays. For the purpose of Vacation accrual, the employee's anniversary date will not change.

Upon return from this leave, the employee shall be restored to the position he or she held when the leave began OR shall be restored to an equivalent position with equivalent employment benefits, at the City's sole discretion. If the employee does not return to work at the end of the 12 week leave period nor have they provided an appropriate medical certification requiring the leave be extended, the employee will be thought to have resigned their employment with the City of Berlin. The City will then send notification to the employee confirming their possible separation from employment with the City and if after five (5) calendar days from the receipt of said notification, if the employee has not provided the City with the medical certification or made contact with the City Manager to provide justification for not returning, the Manager will make the final decision to terminate the employee and provide said individual with written notification of the decision.

## ARTICLE 30 - LEAVE FOR UNION BUSINESS

The Union Shop Steward or his representative shall be entitled to five (5) days per contract year without pay for official union business exclusive of contract negotiations. No more than two (2) unused days may be carried over to the next contract year, and in no case shall the carry over result in a total of more than seven (7) days being available on July 1 for use in any single contract year. Said leave shall pertain to the City of Berlin and be related seminars and labor conferences.

## ARTICLE 31 - LEAVES OF ABSENCE

Section 1.

Leaves of absence without pay or benefits may be granted by the City Manager for a period not to exceed one (1) year providing the employee meets certain conditions as defined in Section 3.

Upon expiration of the leave, the employee shall be reinstated to the position held before the leave was granted, or an equivalent position if the original position is no longer available.

Failure of the employee to report promptly at the expiration of the leave shall be cause for dismissal.

Section 2.

Medical leaves shall conform with the FMLA leave clause of this agreement.

Section 3.

An employee who has been employed by the City for a minimum of five (5) years may seek a leave of absence for up to one (1) year for the pursuit of his or her career development so long as the employee commits to working for the City for at least twenty four (24) months after their return to their employment with the City. Employees on this type of leave may retain their various insurances so long as they pay 100% of the monthly premium while on the approved leave. Failure to make the payment by the first of each month automatically constitutes a forfeiture of this benefit until such time as the employee returns and reinstates said insurances.

## ARTICLE 32 - PENSION PLAN

All positions covered by this contract shall be covered by the New Hampshire Retirement System plans group I or II or their successor.

## ARTICLE 33 - DISCIPLINARY ACTION

Section 1.

All disciplinary actions shall be applied in a fair manner and shall be consistent with the infraction for which disciplinary action is being taken. Disciplinary actions shall normally follow this order:

A. a counseling report
B. a verbal/written warning
C. a written warning
D. suspension without pay
E. discharge

Section 2.

All suspensions and discharges must be stated in writing with reasons stated and a copy given to the employee and a courtesy copy will be provided to the Union representative, within five (5) work days after the date of suspension or discharge.

Section 3.

No employee shall be disciplined, suspended or discharged without just cause. However, just cause as used herein includes unsatisfactory performance as determined by the City Manager. If unsatisfactory performance is the issue requiring discipline, then progressive discipline shall be used as described in Section 1.

Section 4.

Just cause for immediate suspension or discharge without prior discipline shall include but not be limited to:

a. Insubordination.
b. Intoxication or under the influence of alcohol while on duty.
c. Using, selling or being in possession of alcohol or illegal drugs or drug paraphernalia while on duty or being under the influence of illegal drugs while on duty.
d. Fighting.
e. Unauthorized absence for three (3) days without calling the Department.
f. Stealing.
g. Commission of a felony.
h. Dishonesty.
I. Immoral conduct.
j. Falsification of Records.
k. Disregard or disobeying directive of the City Manager.
l. Violations of City Ordinances or State Laws
m. Accepting cash gifts or other valuable items for performing special favors through any municipal service.
n. Uncivil or discourteous attitude including harassment and discrimination.
o. Other serious offenses justifying discharge.

Section 5.

All employees shall have the right to review their personnel records upon at least 24 hours notice to the appropriate City Office. The employee may receive a copy of the file at the employee's expense.

Section 6.

The service record of an employee shall not be used for progressive discipline after the following time frame:

Verbal written warning - 15 mos.
Written warning - 15 mos.

Suspension - 18 mos.

## ARTICLE 34 - GRIEVANCE PROCEDURE

Section 1.

A grievance is defined as a dispute, claim or complaint raised by an employee covered by this Agreement involving the meaning, interpretation or application of the express provisions of this Agreement. A grievance must be in writing and must state the specific provision(s) in this Agreement which allegedly has or have been violated, the date of the alleged violation, and the specific relief sought.

Section 2.

Prior to the institution of the formal grievance procedure, it is the intent to have the grievance informally resolved with the City Manager. Therefore, an individual member of the bargaining unit may present an oral grievance to the City Manager with or without the assistance of the exclusive representative.

Section 3.

The following are excluded from the grievance procedure. Any matter which, according to law is beyond the scope of the authority of the City Manager or limited to the unilateral action as prescribed to cities by State Statute.

Section 4.

Furthermore, in such cases where the grievant or the organization representing said grievant or grievance submits the issue to any other administrative or judicial venue for a decision, the grievance before the parties under the grievance shall be automatically stayed until the remaining venue(s) have rendered a decision. In such situations of a stayed grievance, the City will not be liable for any accrued liabilities that may occur during the stayed period.

Section 5.

Step 1: A grievance to be considered under this procedure must be initiated by the employee in writing to the City Manager within ten (10) business days after cause for complain arises. The written grievance must also specify the remedy sought. The City Manager shall hold a hearing within seven (7) business days of receipt of the written grievance and shall respond to the grievance within seven (7) business days after the date of the hearing.

Step 2. If the aggrieved employee and/or Union is not satisfied with the decision of the City Manager or if no decision has been rendered within the seven (7) business day period as defined above, said employee and/or Union may appeal the grievance to the first phase of Arbitration. Both parties agree to mutually select an arbitrator from a list of qualified arbitrators as provided by the Public Employees Labor Relations Board (PELRB) or other mutually agreed upon body. The aggrieved party agrees to submit the issue to the Arbitrator stipulating the specific reasons for such an appeal, the same as presented to the City Manager. The Arbitrator shall decide the grievance based upon the information supplied and any further information the Arbitrator may request during the hearing. The Arbitrator shall render a decision, in writing, within twenty (20) business days after the date of the Hearing.

Step 3. The parties agree that if the Union so requests, a clarification meeting (absent of the Arbitrator) may be held with the City Manager and the Business Agent to investigate one (1) more time, any avenues of settlement. The cost of filing for arbitration shall be borne equally by the parties after which each side shall bear their own costs for the arbitration process.

In General:

The Arbitrator shall have no power to add to, subtract from, alter, or modify any terms of this agreement or the vested functions and responsibilities of the parties to this agreement. The Arbitrator shall have no power to change any practice, policy, or rule of the City unless such practice, policy, or rule is in violation of a specific Article and Section of this agreement. His power shall be limited to deciding whether either party has violated the express Article and sections of the Agreement.

The Arbitrator shall not imply obligations and conditions binding upon the City from this agreement, it being further understood that no matter not specifically set forth herein remains the reserved rights of the City nor shall the Arbitrator have the power to substitute his discretion for the City's discretion in cases where the City is given discretion by the Agreement or State or Federal Law.

The parties to this agreement further agree to abide by the application of RSA 542 with regards to the Arbitration of Disputes. The Arbitrator shall only have the authority to pass on a grievance referred to him as prescribed herein based upon the evidence presented to him at the hearing.

Each grievance shall be separately processed at any Arbitration proceeding hereunder unless the parties otherwise agree.

The Arbitrator shall furnish a written decision within twenty (20) days specifying the reasons for the decision. The decision of the Arbitrator, if within the scope of authority and power within this Agreement, shall be final and binding upon the Union, the City and the aggrieved employee who initiated the grievance.

If the grievance is not reported and or processed by the employee or Union within the time limits set forth in this Article, the matter shall be dismissed and no further action shall be taken with respect to such grievance unless otherwise mutually agreed by the parties. If the grievance is not processed by the City within the time limits set forth in this Article, the matter will be considered denied at that step and may be appealed to the next step within the required time limits.

## ARTICLE 35 - PROFESSIONAL DUES AND MEMBERSHIPS

The City of Berlin shall pay or reimburse all members of this bargaining unit, all necessary dues and membership fees as they relate to their professional duties and responsibilities.

## ARTICLE 36 - MILEAGE

Section 1.

Employees required or requested to use their personal vehicles in the course of their duty for City business, shall be reimbursed at the mileage rate established by the City Council. Upon requesting reimbursement, the employee shall provide a documented mileage report.

The mileage rate for the City of Berlin shall be linked to that of the State of New Hampshire as set by the NH Department of Administration for State employees for each calendar year.

## ARTICLE 37 - SEVERANCE PAY

Section 1.

Refer to Pay for Sick Leave per Article 25, Section 2.

Section 1.

In addition to Section 1 above, the City will pay the Department Head a one time longevity payment based upon the completed years of service by the employee at a rate of $325 per year. To be eligible the Department Head must have completed at least ten (10) years of continuous service to the City.

Section 2.

In cases where the Department Head is deceased and would have been eligible for any of the above severance payments including compensatory time on record, the City shall make those payments to the employee's spouse or designated beneficiary.

## ARTICLE 38 - TECHNOLOGICAL CHANGES

Should there be a Federal, City or State requirement that a particular Department Head(s) obtain a particular certification(s) as a condition of continued employment, the City will within any imposed statutory requirements, give such Department Head a reasonable opportunity and time period to comply with such imposed requirements.

## ARTICLE 39 - SUBCONTRACTING

At those times that the City determines that it will contract work to outside vendors and contractors that is considered work performed by a bargaining unit member, the City agrees to notify the bargaining unit fourteen (14) days prior to the posting of the advertisement for such contract work. This notification shall not apply to work which must be done on short notice because of emergencies, extenuating circumstances, and where the City does not retain the resources to complete the task such as a revaluation. Said notice shall include a description of the contract work and expected impacts if any.

Upon request by the Union, the City agrees to meet at a mutually agreeable time and place to further discuss and explain the impacts to the Bargaining unit personnel. Said meeting shall be during the normal work day.

## ARTICLE 40 - COMPENSATION

Section 1.

Upon the execution of this collective bargaining agreement the following compensation shall be authorized and paid to all covered employees:

| Eff. 7/1/14 | Eff. 7/1/15 | Eff. 7/1/16 |
|---|---|---|
| 1% | 1% | 1% |

The old pay-step plan shall be eliminated simultaneously and a four level compensation system shall be instituted for all new employees hired after the date of execution.

| | |
|---|---|
| LEVEL 1 | Probationary rate of pay = "X" |
| LEVEL 2 | Upon successful completion of the Probationary period 1% added to "X" = "Y" |
| LEVEL 3 | After 30 completed months from date of hire 1% added to "Y" = "Z" |
| LEVEL 4 | After 48 completed months from date of hire 1% added to "Z" = New Base |

Note: Any CBA compensation improvements to positions salaries shall also be applied to the position and levels above.

Section 2.

Department Heads shall receive, in addition to their regular remuneration, a stipend equal to the following schedule upon written notification to the City Manager of his/her intent to retire under the New Hampshire Retirement System; $2,000 for the first year of notification and $1,000 for the second year of notification. If an individual gives a two year notice, they will receive a total of $3,000 over the two year period. If an individual gives a one year notice, they will receive a total of $2,000 for the one year period. The notification shall take place one month before the last two years, as applicable, prior to the anticipated retirement date. Payment for the first year of notification will be made between 60 and 90 days after the notification given by eligible employees. Payment for the second year of notification will be on or about one year after the first payment is made. A person who intends to take advantage of this section shall have a minimum of ten (10) years of service with the City of Berlin to be eligible for this incentive. The notification to the City Manager of the intended retirement date will be final and binding upon the Department Head. A notice is measured by taking the date of the stated retirement and counting back twelve (12) months, or twenty-four (24) months, as applicable.

Section 3. -- Longevity

Effective 7/1/09, the City will make longevity payments to bargaining unit members based on the following schedule in which the applicable index is multiplied by the annual salary of the member to obtain the longevity payment:

| Years of Service Completed | Index |
|---|---|
| 5-9 | .0175 |
| 10-14 | .0180 |
| 15-19 | .0185 |
| 20-24 | .0190 |
| 25-29 | .0195 |
| 30 or more | .0200 |

## ARTICLE 41 - TERM OF AGREEMENT

This collective bargaining agreement shall be in full force and effect from the period of July 1, 2014 through June 30, 2017.

## ARTICLE 42 - SEPARABILITY CLAUSE

If any Article of this Agreement or any application of any portion of any Article of this Agreement to any employee or group of employees is held to be contrary to State or Federal law, then such Article

## ARTICLE 42 - SEPARABILITY CLAUSE

If any Article of this Agreement or any application of any portion of any Article of this Agreement to any employee or group of employees is held to be contrary to State or Federal law, then such Article shall be deemed invalid, but all other Articles shall continue in full force and effect. This contract is governed by New Hampshire Law and Federal Law.

Both parties, having reviewed this collective bargaining agreement do hereby execute this agreement in good faith.

**For Teamsters Local 633**

Kevin Foley, Business Agent
Teamsters Local 633

David Laughton, Secretary Treasurer
Teamsters Local 633

Henry Noel
WWTP Supervisor

Michael Perreault
Public Works Director

Angela Martin-Giroux
Administrator of Welfare and Health Officer

**For the City of Berlin**

James A. Wheeler
City Manager

Date: June 30, 2014