

Contract

Between

The Town of Tyngsborough

&



Highway Chapter

July 1, 2014 – June 30, 2017

www.seiu888.org

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This Agreement is made and entered into by and between the Town of Tyngsborough, Massachusetts, hereinafter referred to as the "TOWN" and the Service Employees International Union, Local 888, hereinafter referred to as the "UNION."

WITNESSETH

WHEREAS, the well-being of the employees covered by this Agreement and the efficient and economic operation of the Highway Department require that an orderly and constructive relationship be maintained between the parties; and

WHEREAS, the participation of employees in the collective bargaining process contributes to the effective conduct of the public business and highway administration; and

WHEREAS, the parties to this Agreement consider themselves mutually responsible to establish stable and meaningful relations based on this Agreement:

NOW, THEREFORE, in consideration of the mutual promises and agreements herein contained, the parties mutually agree as follows:

The parties will endeavor where applicable to modify the contract with gender/neutral language before a successor contract is executed.

The Term "Town" as used below will be defined as the Board of Selectmen or its designee.

ARTICLE I RECOGNITION AND UNION SECURITY

Section 1. The Town recognized the Service Employees International Union, Local 888 as the sole and exclusive bargaining agent, with respect, to wages, hours, and other conditions of employment, for all employees of the Highway Department excluding: Superintendents, Supervisors, Engineers and all Summer and Temporary Employees.

Custodians: The parties agree that the positions of Council on Aging Custodian and Police Department Custodian will be transferred and included in the Highway Union bargaining unit effective June 30, 2011. It is agreed that so long as the incumbents

remain in the positions of Police custodian and the Director of the Council on Aging that the Police Custodian will not be required to transfer to the Council on Aging. Once the incumbent to either of these positions vacates his/her position, the preceding restriction will become null and void. Other transfers are allowed in accordance with the terms of the collective bargaining agreement.

Section 2. The Town agrees that it will not aid, promote, or finance any other labor group or organization which purports to engage in collective bargaining, or make any agreement with any group or individual for the purposes of undermining the Union or changing any provisions contained in the Agreement.

ARTICLE II EMPLOYEES' RIGHTS AND OBLIGATIONS

Except to the extent that there is contained in this Agreement:

Section 1. Employees shall have and be protected in the exercise of, the right freely and without fear of penalty or reprisal, to join or assist the Union; to act in the capacity of the Union Representative, engage in other lawful Union and concerted activities for the purpose of collective bargaining or other mutual aid or protection; and to refrain from any or all such activities.

In the exercise of such rights, the employees shall be free from any and all interference, restraint, or coercion and from any discrimination in regard to promotion, or other conditions of employment.

Section 2. No representative, department official, or agent of the Town shall:

- A. Interfere with, restrain or coerce employees in the exercise of their right to join or refrain from joining the Union;
- B. Interfere with the formation, existence, operations or administration of the Union;
- C. Discriminate in regard to employment or conditions of employment in order to encourage or discourage membership in the Union;
- D. Discriminate against an employee because he has given testimony or taken part in any grievance procedures, or other hearings, negotiations or conferences for or in behalf of the Union; or

E. Refuse to meet or confer at such times as are set forth in the contract, concerning such matters for which conferences or meetings are required by a specific clause of the contract.

Section 3. The Town and the Union agree not to discriminate against employees covered by this Agreement because of race, color, creed, sex, national origin, or age.

Section 4. Subject to law as sole collective bargaining agent for the employees as described above, the Union agrees to offer membership to all persons covered by this Agreement, upon a tender by any such person of such uniform and non-excessive dues, (if any), and initiation fees, (if any), as are required by the Union. Continued membership in the Union shall be subject to such rules and regulations, by-laws and constitutional provisions as are uniformly applied by the Union to all its members.

Section 5. The Chapter President or his designee may be granted reasonable time off during working hours, without loss of pay or benefits, to investigate, process and settle complaints or grievances provided that they request permission from their supervisor. The Union shall take the necessary actions to eliminate any unnecessary abuses of this section.

Section 6. Duties of the SEIU's Bargaining Committee may be arranged so that they may attend Collective Bargaining Negotiations without loss of pay.

ARTICLE III MUNICIPAL RIGHTS CLAUSE

Nothing in this agreement shall be construed to in any way alter, modify, change, or limit the authority and jurisdiction of the Town and its officers and designees, as provided by the laws of the United States, the Massachusetts General Laws, the Charter of the Town, or the bylaws of the Town, or any law or order pertinent thereto. It is further agreed that the direction of the work force, the right to plan, powers of authority invested in the Town, are hereby retained by the Town except as may be specifically modified by this agreement.

ARTICLE IV
NO STRIKE CLAUSE

Neither the Union nor any employees covered by this Agreement shall engage in, induce or encourage any strike, work stoppage, slow down, or withholding of services.

The Union agrees that neither it nor any of its officers or agents will call, institute, authorize, participate in, sanction or ratify any such strike, work stoppage, slow down or withholding of services.

ARTICLE V
GRIEVANCE PROCEDURE

Section 1. For the purpose of this Agreement, a grievance shall be defined as a complaint between the Town and the Union and/or any employee involving only an alleged specific and direct violation of express language of a specific provision of this Agreement. The Town and the Union agree to use every reasonable effort to prevent grievances from arising and to accomplish just and reasonable settlements.

Section 2. A grievance must be presented within ten (10) working days of the time of the occurrence of the alleged contract violation, and must be processed in accordance with the steps, time limits and conditions set forth below in this article:

A. The employee with a steward or representative, if he desires, shall take up the grievance or dispute in writing to the Highway Superintendent, within ten (10) working days of the occurrence giving rise to the grievance. The Highway Superintendent shall attempt to adjust the matter and shall respond in writing within five (5) working days. If the grievance is not satisfactorily settled at this step;

B. It shall be appealed in writing within five (5) working days after receipt of the written answer of the Highway Superintendent by the Employee, to the Board of Selectmen. The Board of Selectmen or its designated representative, and the Employee, and counsel and/or authorized representative of the Union, shall meet to discuss the grievance as promptly as possible, normally within twenty (20) working days. If any person or persons are to represent or appear with the Employee at this meeting, the Board of Selectmen will be informed in writing, no less than three (3) days before the meeting, of

the names and titles of such persons. The Board of Selectmen shall give its written answer to the grievance within ten (10) days following the conclusion of the meeting. If no satisfactory settlement of the grievance is made;

C. The Union or the Town may submit the grievance to arbitration by written notice of such intention to appeal within ten (10) working days after the receipt of the written answer under Step 2. This appeal to arbitration shall be in accordance with the procedure and conditions set forth in Article V (A).

Section 3. A grievance not initiated within the time specified shall be deemed waived. Failure of the Union to appeal a decision within the time limit specified shall mean that the grievance shall be considered settled on the basis of the decision last made and shall not be eligible for further appeal. Failure of the Town to answer an appeal within the time limit specified shall mean that the appeal may be taken to the next step immediately. The above limitations may be waived by mutual agreement of the parties.

Section 4. No reprisals of any kind will be taken by the Town against any party in interest or any participant in the grievance procedure, by reason of such participation.

ARTICLE V (A) ARBITRATION

Section 1. In the event either party elects to submit a grievance to arbitration, the arbitrator shall be selected according to, and shall be governed by the following procedure.

The arbitrator is to be mutually selected by the Town and the Union. If the Town and the Union cannot agree within seven (7) working days after written notice of intention to arbitrate has been received by either party, then the party demanding arbitration shall, within five (5) working days thereafter, upon written notice of the other, request the American Arbitration Association to provide a panel of arbitrators, said arbitrator then to be selected under the provisions of the Voluntary Labor Arbitration Rules.

Section 2. Each party shall bear the expense of his representatives, participants, witnesses and for the preparation of the arbitrator and the American Arbitration Association shall be shared equally by the

parties provided that the obligation of the Board of Selectmen to pay shall be limited to the obligation which the Board of Selectmen can legally undertake in that connection. In no event shall any present or future member of the Board of Selectmen have any personal obligation for any payment under any provisions of this agreement. If either party desire a verbatim record of the proceeding, it may cause such a record to be made, providing it pays for the record and makes copies available at cost to the other party and the arbitrator. If fees or expenses are incurred and not paid by the Town, neither the Union nor its members shall be responsible to pay.

Section 3. Notwithstanding anything to the contrary, no dispute or controversy shall be subject for arbitration, unless it involves only an alleged specific and direct violation of express language of a specific provision of the Agreement. The Arbitrator shall have no power to add to, subtract from, or modify any of the terms of this Agreement. The parties are agreed that no restriction is intended on the rights and powers of the Town except those specifically and directly set forth in express language in specific of this Agreement. The arbitrator shall arrive at this decision solely upon the facts, evidence, and contentions, as presented by the parties during the arbitration proceedings.

Section 4. The decision of the arbitrator shall be final and binding upon the parties hereto and upon any employee or employees affected thereby.

Section 5. The parties may by mutual agreement submit more than one pending grievance to the same arbitrator.

ARTICLE VI HOURS OF WORK

The regular work week for employees shall consist of five (5) eight hour days, Monday through Friday, to be followed by two (2) consecutive days off. Starting time - 7:00 a.m., stopping time 3:30 p.m., and lunch time 12:00 p.m. to 12:30 p.m.

ARTICLE VII OVERTIME

Section 1. All work in excess of eight (8) hours is one day and/or in excess of forty (40) hours in one week shall be considered overtime

and shall be compensated at time and one-half the employee's regular hourly rate.

Section 2. Double time shall be paid on three holidays: Thanksgiving, Christmas and New Year's Day.

Section 3. Regular hours of work shall not be changed to eliminate the payment of overtime.

Section 4. Overtime is to be divided equally among employees on a rotating seniority basis, and a list is to be posted as to what overtime is available, who filled the time, and the order of call

Section 5.

In the event an employee in the bargaining unit is called back to work after a normal workday has been completed or in the event he is called back to work on a weekend, the employee will receive a "Call Out Stipend" per the following schedule for up to 4 hours worked. If the call out time exceeds 4 hours, the employee will receive pay at time and one-half the employee's regular hourly rate for the amount of time worked in excess of 4 hours that occurs outside of the employee's regular hours of work as defined in Section VI. The "Call Out Stipend" schedule will be increased by an equal percentage to future wage schedule increases. Only hours actually worked will count towards the calculation of consecutive hours worked for double time purposes.

Highway Union "Call Out Stipend"

Position	Call Out Stipend
Senior Foreman	\$175.80
Administrative	
Assistant	\$163.14
Working Foreman	\$163.14
Equipment Operator	\$153.00
Skilled Laborer	\$141.84
Skilled Maintenance	
Craftsman	\$132.66
Asst Superintendent –	
Sewer	\$132.66.

Section 6. All work in excess of eight (8) hours in one day, and/or in excess of forty (40) hours in one week shall be considered overtime, and shall be compensated at time and one-half the employees' regular hourly rate.

All work in excess of sixteen (16) hours in one day, including the regular work day, will be paid at the rate of double time. Effective September 1, 2007, all work in excess of twelve (12) consecutive hours in one day, including the regular work day, will be paid at the rate of double time.

ARTICLE VIII VACATIONS

Section 1. For all employees hired on or after July 1, 2014, upon completion of six (6) months of continuous service to the Town, vacation time may be used by full-time and regular part-time employees. Effective July 1, 2014, employees will accrue vacation time on a monthly basis beginning with their date of hire at the rates set forth below. An employee's length of service is calculated on the basis of the anniversary date which will occur during the month in which the vacation accrual is granted. Accruals will be posted at the beginning of every month and will be prorated for partial months worked.

30 consecutive weeks of employment	10 work days
5 years employment	15 work days
10 years employment	20 work days
20 years employment	25 work days

Effective July 1, 2015, employees hired prior to July 1, 2014 will accrue and be credited with half of their vacation time on July 1st and half of their vacation time on January 1st of each fiscal year once the employee reaches his/her 10th anniversary date and is eligible for at least 20 vacation days per year.

Employees will be allowed to carry over up to a maximum of two (2) weeks of vacation per year.

Section 2. In computing earned vacation leave, credit shall be given for all permanent full time service with the Town, provided that such service was continuous and uninterrupted, except for authorized leaves, up to the date of present employment.

Section 3. Vacations shall be granted by the Department head at such times as in the opinion of this Department Head it will cause the least interference with the regular work of the Department. Vacations must be taken in the fiscal year in which they are due and shall not be accumulated from fiscal year to fiscal year. Employees shall give at least four weeks' notice of desired vacation time.

Section 4. Vacation pay shall be computed at straight time rates for the regular forty (40) hour week.

ARTICLE IX BEREAVEMENT LEAVE

A. Starting with the day of death, each member of the bargaining unit shall be granted five (5) work days off without loss of pay in event of a death in his/her immediate family. Bereavement leave other than the above will be determined by the Town Administrator.

B. Immediate family constitutes and includes the following: spouse, child, mother, father, mother-in-law, father-in-law, grandfather, grandmother, grandchild, sister, brother, brother-in-law, sister-in-law, or any relative residing within said employees household.

A. Bereavement leave of one (1) day excluding days off shall be granted in the event of death of relative not included above to attend the funeral (example, aunt/uncle, niece/nephew).

B. Leave as provided by this section shall not be deducted from any vacation time to which the employees' may be entitled.

ARTICLE X SICK LEAVE PROGRAM

Section 1. Employees receiving workers compensation shall be allowed to use their sick leave on a partial basis to supplement his/her workers' compensation benefits so that he/she will receive the equivalent of 100% of their pay. If such period exceeds thirty (30) days, continued payment beyond such period shall be subject to approval by the Department Head, which may require periodic written testimony from a licensed physician supporting the claim of continued incapacity as a condition precedent to his approval.

All permanent Town Employees shall not accrue sick or vacation leave for the period of their incapacitation while on occupational sick leave.

NON-OCCUPATIONAL

Section 2. Every permanent employee subject to this agreement shall be allowed sick leave with pay for a period of up to seventeen (17) during each fiscal year, provided said leave is caused by sickness or injury, exposure to contagious disease, when an employee is required to undergo medical, optical, or dental treatment, or on account of serious illness or death of members on the employees' family. Failure to notify Department Head/Town Administrator within two hours after starting time, except in extreme circumstances, will result in the employee being charged with leave without pay. Employees hired after July 1, 2014 accrue one (1) sick day per month.

Section 3. Permanent employees shall be allowed to accumulate one hundred twenty (120) sick days leave at the rate set forth in section 2 above.

New employees must work the minimum of 640 working hours to be eligible.

A doctor's certificate may be required after three (3) days of sick leave. The Town also has the right to have an employee at the Town's expense examined by a Town designated physician.

Section 4. Upon retirement or death, an employee or beneficiary shall be paid accumulated sick leave at the rate determined. Such payment will be made in a lump sum.

In the event an employee is laid off, upon recall sick leave would be reinstated at the same level as the last day of employment. The Town's obligation to recall lapses after a period of one (1) year from an employee's last date of employment.

For employees hired prior to January 1, 2008: Upon notification to the Town by the County Retirement Board that an employee has retired, or upon the death of an employee, the employee, or any person designated by the employee as his/her beneficiary in the event of his/her death, shall be reimbursed for the unused accumulated sick leave up to a maximum of one hundred and twenty (120) days. For

the first one hundred and twenty (120) days, each day of sick leave will be equivalent to the hourly rate times eight (8) hours of work at the time of retirement/death. In the event of death, said reimbursement will be made directly to the employees designated beneficiary, and will not be treated as part of his/her estate.

For employees hired on or after January 1, 2008: Upon notification to the Town by the County Retirement Board that an employee has retired, or upon the death of an employee, the employee, or any person designated by the employee as his/her beneficiary in the event of his/her death, shall be reimbursed for the unused accumulated sick leave up to a maximum of one hundred and twenty (120) days. For the first one hundred and twenty (120) days, each day of sick leave will be equivalent to the hourly rate times four (4) hours of work at the time of retirement/death. In the event of death, said reimbursement will be made directly to the employees designated beneficiary, and will not be treated as part of his/her estate.

Employees hired after February 1, 2012 will no longer be eligible for sick leave buyback.

Section 5. Three (3) personal days effective July 1, 1985 not accumulated.

Section 6. An employee may use up to five (5) sick days per year to care for an ill family member.

ARTICLE XI SALARIES

The parties agree that they will change to a bi-weekly payroll concurrent with all other Town and School payrolls.

The parties agree to amend the wage schedule as follows:

July 1, 2014 – 1.5%

July 1, 2015 – 2%

July 1, 2016 – 2%

Effective July 1, 2012, the title of custodian will be added to the salary schedule at an hourly rate of pay of \$16.60.

<u>Class</u>	FY15	FY16	FY17
Senior Foreman	\$29.74	\$30.33	\$30.94
Administrative Assistant	\$27.60	\$28.15	\$28.71
Working Foreman	\$27.60	\$28.15	\$28.71
Equipment Operator	\$25.88	\$26.40	\$26.93
Skilled Laborer	\$23.99	\$24.47	\$24.96
Skilled Maintenance Craftsman	\$22.44	\$22.89	\$23.35
Asst Superintendent Sewer	\$22.44	\$22.89	\$23.35
Custodian	\$17.18	\$17.52	\$17.87

Each permanent member of the bargaining unit who holds and maintains a hoisting license shall receive an annual stipend of \$150.00.

The Town agrees to pay a stipend for employee use of personal cell phones for Town business. The stipend shall be \$30.00 per month per employee. It is recognized by the Town and the Union that the Town intends to consolidate its cellular phone contracts and wishes to provide Town phones to employees effective July 1, 2011. Nothing in this agreement shall require the Town to provide cellular phones to union employees.

Section 1. In the event an employee of the Town has worked in a higher classification on any day of the week, he will continue to be paid at the higher rate of pay for the remainder of the day in which he worked.

ARTICLE XII JURY DUTY

While in Jury Duty, employees shall receive an amount equal to the difference between his normal compensation and the amount, (excluding travel allowance) received from the Court.

ARTICLE XIII INSURANCE

Section 1. Employees covered by this Agreement shall be covered with a Life Insurance Policy to the amount of two thousand dollars (\$2,000.00), with the Town paying 50 percent of the premiums.

Section 2. Effective June 1, 2012, HMO health insurance contribution rates will be a 70/30 employer/employee split.

Section 3. Pre-tax payment of Health Premium, the Town shall make available to union members a so-called section 125 plan under which health insurance premium will be paid in pre-tax dollars.

ARTICLE XIV PAYROLL DEDUCTION OF DUES

The Town agrees to deduct such dues as are designated by the Union from each employee who signs a membership form. Said dues shall be deducted weekly and shall be mailed with a list of employees from whom dues have been deducted to:

Financial Manager
SEIU Local 888
529 Main Street Ste.222
Charlestown, MA 02129

ARTICLE XV HOLIDAYS

Section 1. The following days shall be recognized as paid holidays for permanent Highway Department Employees. Anyone working on these days shall be paid for the holiday plus time and one-half except for Thanksgiving, Christmas and New Year's Day which shall be paid for the holiday plus double time.

- New Year's Day - January 1
- King's Birthday (providing State holiday) - Third (3rd) Monday in January.
- Washington's Birthday - Third (3rd) Monday in February.
- Patriot's Day - Third (3rd) Monday in April.
- Memorial Day - Last Monday in May.
- Independence Day - July 4
- Labor Day - First (1st) Monday in September.
- Columbus Day - Second (2nd) Monday in October.
- Veterans' Day - November 11
- Thanksgiving Day - Fourth (4th) Thursday in November.
- Christmas Day - December 25

Section 2. Employees who work on a designated holiday shall be paid a minimum of four (4) hours at the established rate.

Section 3. The day after Thanksgiving is a day off with pay.

Section 4. Employees must work the working day before and the working day after a holiday to be eligible for the one and one-half time pay. If an employee is absent due to sick leave on the workday immediately preceding or following a holiday, or on the actual holiday itself, the employee may be required to submit a physician's certification prior to receiving any holiday pay.

ARTICLE XVI REIMBURSEMENTS

Section 1. A clothing allowance of \$925.00 on July 1st of each year, administered by the Town on a bill-presented basis, records to be available for inspection by each member and/or management. The clothing allowance for part time employees will be paid on a prorated basis to the total number of hours the employee is regularly scheduled to work as compared to a 40 hour workweek.

Effective July 1, 2012, A uniform service for the Assistant Superintendent of Sewers and Sewer Instrument Technician will be provided at no cost to the employees, and \$200 will be provided to these two employees to purchase safety shoes. The Assistant Superintendent of Sewers and Sewer Instrument Technician will not be eligible for the \$925 clothing allowance provided in this Section. The Assistant Superintendent of Sewers and Sewer Instrument Technician would be required to wear said uniform during working hours and, when feasible, call-outs."

Section 2. All full time employees who have obtained a commercial drivers license and/or a Massachusetts hoisting license will be reimbursed for the fee(s) required to obtain said license(s) upon submitting a receipt showing that said fee(s) have been paid.

ARTICLE XVII BULLETIN BOARD AND MEETING SPACE

The Town agrees to provide a bulletin board for the Union information, and suitable space for Union Meetings.

ARTICLE XVII
STABILITY OF AGREEMENT

Section 1. No amendment, alteration or variation of the terms or provisions of this agreement shall bind the parties hereto unless made and executed in writing by said parties.

Section 2. Any portion of this agreement found to be in conflict with any ordinance or statute now in effect or introduced at a later date, will be null and void. However all other portions of this Agreement will remain in effect.

ARTICLE XIX
FAMILY MEDICAL LEAVE ACT

All full and part-time employees who have been employed by the Town for at least twelve months, not necessarily consecutively, and have worked a minimum of 1,250.00 hours during the immediately preceding twelve months are eligible for a leave of absence under this policy. To the extent there is a conflict between any provision of this Article and the FMLA, the terms of the FMLA will prevail. (This proposal is for clarification purposes only, since the FMLA supersedes the terms of this collective bargaining agreement.)

In accordance with the Family and Medical Leave Act of 1993 (FMLA), the Town will grant eligible employees up to twelve weeks of unpaid leave during any twelve-month period for any of the following reasons: (1) to care for the employee's child within one year of birth, adoption, or the initiation of foster care; (2) to care for a child, spouse, or parent with a serious health condition; or (3) because the employee's own serious health condition makes the employee unable to perform his or her job. Upon the completion of FMLA leave, an employee generally will be reinstated to the position that the employee held when the leave commenced, or to an equivalent position with equivalent pay, benefits and other terms and conditions of employment.

Scheduling of Leave

a. Eligible employees may take a maximum twelve weeks of leave during any twelve month period. In all cases, the twelve month period shall be measured from July 1 to June 30.

b. Family leave, i.e. leave for childbirth, adoption, or foster care must be taken and completed within one year of the birth, adoption, or the initiation of foster care. Such leave ordinarily must be taken all at once unless the Executive Secretary agrees to an alternative leave arrangement that satisfies the operational needs of the Town.

c. Medical Leave, i.e. leave for the serious health condition of an employee or the employee's relative, may be taken whenever medically necessary. Depending on the circumstances, medical leave may be taken all at once, intermittently, or on a reduced leave basis. However, if the employee's need for intermittent leave or leave on a reduced basis is foreseeable based on planned medical treatment, the employee must make a reasonable effort to schedule the treatment in a way that will minimize disruptions to the Town, operations. The Town may, with justifiable cause, ask an employee to modify his or her treatment schedule, with the approval of the medical provider, in order to better accommodate the Town's needs.

Employee Notice Requirements

a. If an employee's need for FMLA leave is foreseeable, the employee must provide his or her supervisor with at least thirty days advance verbal notice before the leave can begin, or as much notice as is practicable under the circumstances. Such notice should include the employee's reason for requesting leave as well as its anticipated timing and duration. (Note: under the Massachusetts Maternity Leave Statute, only two weeks notice is required. If an employee requests eight weeks of leave or less, only two weeks notice may be required).

b. If an employee's need for FMLA leave or its approximate timing is not foreseeable, the employee is expected to give his or her supervisor notice as soon as possible under the circumstances. Ordinarily, such notice should be provided within one to two working days after the employee learns of the need for the leave.

c. Employees will be provided a detailed notice (Attached hereto as Appendix B) at the time they request FMLA leave, which specifies the expectations and obligations of the employee during FM:A leave and the consequences of any failure to meet these obligations.

Medical Certification Requirements

a. Any employee requesting a medical leave, either to care for a sick relative or because of the employee's own medical condition, must provide a doctor's statement supporting the employee's within fifteen days after requesting leave. Employees should contact the Executive

Secretary's office as soon as their need for a medical leave is determined to obtain the Town's Medical Certification form (attached hereto as Appendix C).

b. A doctor's statement must be submitted monthly while an employee is on medical leave in order to certify the employee's continuing need for leave.

A doctor's statement also may be required if an employee requests an extension of leave, or if there is a significant change in circumstances related to the employee's need for leave.

c. As condition of returning to work, an employee who has been on medical leave must present a doctor's statement certifying that the employee is well enough to resume work. A medical certification also will be required in any case where an employee on FMLA leave represents that he or she is unable to return to work for medical reasons. If an employee fails to return from FMLA leave, the Town may seek reimbursement for any health insurance premiums that it paid during leave unless the employee cannot return for medical reasons or other circumstances beyond the employee's control. The Town reserves the right to seek a second and third medical opinion on the need for Family of Medical Leave. Additional opinions will be paid for by the Town.

d. In the event of two disputed opinions on the need for leave, the third opinion of the health care provider shall be final and binding on the Town and the employee.

Status of Compensation and Benefits While on FMLA Leave

a. FMLA leave will be without pay except when an eligible employee uses accrued sick, vacation, or personal time to qualify for compensation during leave. Employees may elect or the Town may require that employees substitute accrued paid benefits for an equivalent amount of unpaid FMLA leave.

b. The Town will maintain an employee's health insurance coverage for the duration of the employee's FMLA leave as though the employee were continuously employed. The Town will continue to pay its portion of the employee's health insurance premiums provided that the employee pays his or her contributory portion of a timely basis. Employees requesting leave should contact the Executive Secretary's Office to arrange an acceptable payment schedule.

c. The Town will maintain and pay its portion of the premiums for other benefits during FMLA leave, including life and disability insurance, provided that the employee pays his or her contributory portion on a timely basis. (Note: The Town is not required to continue any benefits other than medical insurance during FMLA leave unless a lapse in coverage would jeopardize the resumption of such benefits at the conclusion of FMLA leave).

d. Employees will not accrue seniority or any benefits, such as for vacation or sick leave, during any periods of FMLA leave. However, such leave periods will be treated as plan vesting and eligibility.

Return to Work

a. An employee on FMLA leave is expected to report periodically to the employee's supervisor on his or her status and intent to return to work.

b. The Town will make every effort to restore all employees on leave to their original or equivalent positions with equivalent pay, benefits, and other employment terms. However, it may be necessary to deny restoration to certain highly compensated "key employees" in order to avoid substantial and grievous economic injury to the Town's operations. The Executive Secretary will notify any employee who qualifies as a "key employee" and thus might be denied restoration, as soon as possible after the employee requests leave.

ARTICLE XX WEIGHT LIMIT

The maximum weight one individual can lift unassisted is 75 pounds. Weight over this limit requires other personnel and/or mechanical assistance.

ARTICLE XXI WORK SAFETY PROGRAM

The Union agrees to participate in a joint work safety program designed to identify potential health and safety issues and to recommend possible courses of action.

ARTICLE XXIII
DRUG AND ALCOHOL TESTING

Section 1. Scope

All members of the bargaining unit are subject to the provisions of this Article.

Section 2. Definitions

All terms used in this Article shall be construed in accordance with the Definitions published by the United States Department of Transportation.

Section 3. Prohibited Alcohol and Controlled Substance Related Conduct

- a.) Reporting for duty and/or remaining on duty while having a blood alcohol concentration of .02 or greater and/or while testing positive for any controlled substance.
- b.) Possessing alcohol and/or controlled substances while on duty.
- c.) Consuming alcohol or using any controlled substance while on duty, including at lunch, during breaks and/or within four (4) hours of reporting for duty.
- d.) Refusing to submit to an alcohol and/or controlled substance test required by the post-accident, random, reasonable suspicion and/or follow-up testing requirements contained in Federal and/or State regulations, and/or this Article.
- e.) Using alcohol within eight (8) hours of an accident and/or prior to undergoing a post-accident alcohol test, whichever comes first.
- f.) No employee will be disciplined for failure to report when called back to work for a snow or other emergency, if said employee has consumed alcohol during his off duty hours, and believes he would be in violation of this provision if he reported.

Section 4. Required Testing

All bargaining unit members are required to submit to drug and alcohol tests under any of the following circumstances:

- a.) Any employee operating a motor vehicle involved in an accident while on duty which resulted in a fatality and/or a citation being issued to said employee for a moving traffic violation arising out of said accident.
- b.) Any employee directed to take such a test as a result of any Random Testing program mandated by state and/or federal law by regulation.

- c.) Any employee about whom the Highway Superintendent and/or any other person or person(s) designated by the Town has a reasonable suspicion that said employee has and/or is violating the prohibitions set forth in this Article. In the event such a test is ordered, the basis for the alleged reasonable suspicion shall be reduced to writing, and provided to the employee within 48 hours.
- d.) All tests conducted pursuant to this section will be done by a person(s) and/or facilities designated by the Town at the Town's expense.
- e.) Failure by a unit member to submit to an exam required by this section within two (2) hours of being ordered to do so will be deemed to be insubordinate unless said time requirement is waived in writing by the Town. Submission of an adulterated sample by the employee shall also be deemed a refusal; treated as insubordination; and/or treated as a positive result.

Section 5. Results of Prohibited Conduct

- a.) Any member of the bargaining unit may be disciplined, subject to the applications of just cause principles, up to and including discharge for engaging in conduct prohibited by this Article.
- b.) In addition to any discipline which may be imposed, no employee may continue to work if found to have a blood alcohol level of .04 and/or if found to be under the influence of a controlled substance. Any such employee will be immediately relieved of duty without pay until he passes a "return to duty" test for alcohol with a blood alcohol level of .02 or less and/or tests negative for controlled substances.
- c.) "Return to Duty Tests" for alcohol and/or controlled substances will be conducted by a person(s) and/or facility designated by the Town at the expense of the Employee.
- d.) In addition to a "return to duty" test, as a condition of continued employment, any such employee shall also be evaluated by a substance abuse professional designated by the Town and complete any assistance program designated by said professional. The cost of said evaluation and/or program shall be born by the Employee. The Town will make every effort to assist the employee in securing insurance coverage for said evaluation and/or program under the group insurance in effect at the time. Any employee who is evaluated and/or assigned to an employee assistance program will sign a written release authorizing a full and complete disclosure and transmittal of information between the Town, said professional, and/or said program.

- e.) Any employee who has engaged in conduct prohibited by this Article shall be subject to random unannounced drug and/or alcohol tests for twelve (12) to sixty (60) months following such prohibited conduct. Said tests will be conducted by person(s) or facilities designated by the Town at the Town's expense.
- f.) An employee may request a split sample test. In this event, the employee shall pay any extra costs for said procedure.

ARTICLE XXIII POSTING AND VACANCY

A vacancy is an opening caused by promotion, retirement, resignation, death, discharge, or the availability of a new position.

When a position covered by this Agreement becomes vacant, and the Town, in its sole discretion determines that the vacancy should be filled, such vacancy shall be posted in a conspicuous place in all departments covered by this Agreement listing the pay, hours of work, outline of duties and (temporary or permanent) status. The town may also advertise the position vacancy to applicants outside the employment of the Town.

This notice of vacancy shall remain advertised and/or posted for seven (7) days. Employees interested in the posted vacancy shall apply in writing within the specified period. The Town shall award the position to the most qualified applicant. The successful applicant shall be given a one hundred and eighty (180) calendar day trial and training period in the new position at the applicable rate of pay. If, at the end of the trial and training period, the Town determines that the employee is not qualified to perform the work, he shall be returned to his old position and rate as though he had never left said position, if applicable. The review period may be extended by the Town Administrator. An employee filling the temporary position shall be required to sign a waiver supplied by the Town acknowledging the fact that the temporary position may not be a permanent position for said temporary employee in the event that the former employee does not qualify in his new position and reverts to his former position.

ARTICLE XXIV PROBATIONARY EMPLOYEES

Every new employee appointed to a regular position shall be required to successfully complete a one hundred and eighty (180) calendar day probationary period to enable the Town to observe the ability of the employee to perform the various principal functions of the position. During the probationary period, the Town may discipline or discharge the probationary employee without recourse to the grievance and arbitration procedure. The probationary period shall begin immediately upon the appointment of the new employee. The probationary period may be extended by the Town Administrator.

ARTICLE XXV SEASONAL EMPLOYEES

The Town may hire seasonal employees to meet the increased workload during the spring and summer, generally between May 15 and September 15 of each year. Seasonal employees are not covered under the provisions of this agreement and are considered employees at will. Seasonal employees will perform the duties at the "laborer" level of responsibility. Seasonal employees shall not be offered any overtime opportunities until all permanent employees have been offered the overtime. Seasonal employees shall not receive holiday pay nor shall they accrue sick or vacation benefits.

ARTICLE XXVI LAYOFF AND RECALL

In the event that the Town has to reduce the work force covered by this Agreement due to lack of work or lack of resources, a reduction in force shall be accomplished through layoffs. Employees being laid off from a position covered by this Agreement shall be relieved of duty as follows:

The Town will provide the employee and the Union with thirty (30) days notice of the layoff.

The employee affected shall be laid off using the established seniority list on a last-in, first-out basis.

To be eligible for recall, the laid-off employee must first be qualified to perform the duties and responsibilities of the position the Town desires to fill. All laid off employees will be rehired on a last-out, first-in basis,

before any new employees are hired and each employee shall remain on the recall list for eighteen (18) months. Employees who are eligible for recall will be given seven (7) days notice of recall. Notice of recall will be transmitted by first class mail, return receipt requested. It is the obligation of the employee to provide the Town with an accurate mailing address during the period of layoff. The Town will be deemed to have satisfied its obligations under this Article by mailing the recall notice to the last known address of the employee eligible for recall. The employee must notify the Town, through the Town Administrator's office, of his/her acceptance of recall to the position offered not later than seven (7) days after the date on which notice of recall was received. Failure to respond within the seven (7) day period shall be deemed a rejection of recall and the recall will be offered to the next person on the recall list, or if no other persons are on the list, the position shall be filled from outside the bargaining unit. In the event that an employee fails to accept a recall, the employee's recall rights are terminated.

ARTICLE XXVIII COMMITTEE ON POLITICAL EDUCATION

Committee on Political Education (COPE) Fund: The Town agrees to honor and transmit to the Union voluntary contribution deductions to SEIU Local 888 COPE Fund from employees who are Union members and who sign deduction authorization forms, in the amount and frequency indicated on the form.

ARTICLE XXIX
DURATION OF AGREEMENT

This Agreement shall be in full force and effect from July 1, 2014 up to and including June 30, 2017 and shall continue from year to year thereafter unless written notice of desire to cancel or terminate the Agreement is served by either party upon the other at least sixty (60) days prior to date of expiration.

Where no such cancellation or termination notice is served and the parties desire to continue said Agreement, either party may serve upon the other a notice at least sixty (60) days prior to June 30, 2017 advising that such party desires to revise or change terms or conditions of such Agreement. This Agreement shall remain in full force and effect until such changes and revisions have been agreed upon.

Signed this 9th day of March, 2015.

FOR THE TOWN OF TYNGSBOROUGH

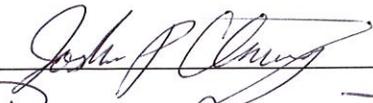
FOR SEIU Local 888



Richard Beaulieu

Karen Breece

William James



Robert V. W. Joerney II

APPENDIX
FAMILY AND MEDICAL LEAVE EMPLOYEE RESPONSIBILITIES

Serious Health Conditions: 1. When the employee is confronted with a serious health condition of either the employee, their spouse, son, daughter or parent, and this health condition requires foreseeable, planned medical treatment, the employee shall: A. Make a reasonable effort to schedule the treatment so as not to unduly disrupt the operation of the Town, subject to the approval of the health care provider. B. Provide the Town with not less than 30 days notice before the leave is to begin. 2. When both spouses entitled to leave under this section are employed by the Town of Tyngsborough the aggregate number of work weeks of leave to which both may be entitled will be limited to 12 work weeks of leave to which both may be entitled will be limited to 12 work weeks during any 12 month period.

Childbirth or Placement: 1. When the employee finds it necessary to seek leave for childbirth or child placement which is foreseeable, the employee shall: A. Provide the Town with not less than 30 days notice before the leave is to begin, excepting that; B. If the leave required must be taken in less than 30 days, the employee shall provide such notice as soon as practicable. 2. When both spouses entitled to leave under this section are employed by the Town of Tyngsborough, the aggregate number of work weeks of leave to which both may be entitled will be limited to 12 work weeks during any 12 month period.

Reporting to the Town: The employee is required to report to the Town on a periodic basis to be determined by the Town. The employee shall advise the Town of the status of the leave, his/her intent to return to work and when return to work is expected.

Monthly Physician's Statement: The employee shall be responsible for obtaining and forwarding to the Town a monthly physician's statement certifying that continued leave is required.

Return to Work: The employee must present to the Town a statement signed by the physician certifying that the employee is able to return to work and to assume all duties required by his position.

Recovery of Insurance Premiums Paid By The Town: If the employee refuses to return to work when able to do so, or has no intent to return to work, the Town as the right to seek reimbursement from the employee for all insurance premiums paid by the Town during the leave preceding the refusal to return to work.

Requirement of Employee Co-Payment of Insurance Benefit Premiums During Leave: The employee is required to pay, in a timely fashion, all premium payments which the employee is obligated to pay prior to the leave period.

No Accrual of Seniority or Benefits During Leave: Although the employee will not lose any seniority or benefits during the leave period, there will be no accrual of additional seniority or benefits during leave.

Reinstatement to Prior Position: The Town will make every effort to return the employee to his pre-leave position and any reinstatement will be in accordance with any existing collective bargaining agreements and existing school policies and practices.

APPENDIX
TOWN OF TYNGSBOROUGH MEDICAL CERTIFICATION FORM

Employee's Name: _____

Address: _____

Telephone Number: _____

Employer: _____ Supervisor: _____

Physician: _____

Address: _____

Telephone Number: _____

Dear Physician:

This form must be completed in order for the above-named employee to become or remain eligible for leave under the Family and Medical Leave Policy of the Town of Tyngsborough. Please provide the following information:

1. The date on which the serious health condition commenced: _____
2. The probable duration of the health condition: _____
3. A brief factual explanation regarding the health condition: _____

Please complete the appropriate certification below:

** I certify that the above-named employee is needed to care for _____, who is the (circle one: spouse, son, daughter, parent) of the above-named employee. I estimate that leave of _____ (enter number of weeks) will be required to care for this person.

Date Physician

**I certify that the above-named employee is unable to perform the functions of _____, (position of employee) for the Town.

The planned medical treatment(s) for the employee or his family member's health condition is/are scheduled for the following dates: _____

I expect that the duration of these medical treatments will be _____ per treatment.

As a result of the above schedule for medical treatment(s), I expect that this employee will be on leave for the following period of time: _____ (enter number of weeks).

Date Physician