

COLLECTIVE BARGAINING AGREEMENT

BETWEEN

TOWN OF FAIRHAVEN BOARD  
OF PUBLIC WORKS

And

COUNCIL 93, AMERICAN FEDERATION OF  
STATE, COUNTY AND MUNICIPAL  
EMPLOYEES AFL/CIO

Covering

HIGHWAY DIVISION EMPLOYEES

JULY 1, 2022 - JUNE 30, 2025

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## AGREEMENT

This agreement entered into by and between the Town of Fairhaven, Massachusetts, hereinafter sometimes referred to as the EMPLOYER or TOWN, and COUNCIL 93 AMERICAN FEDERATION OF STATE COUNTY AND MUNICIPAL EMPLOYEES AFL/CIO, hereinafter sometimes referred to as the UNION, has as its purpose the promotion of harmonious relations between the EMPLOYER and the UNION, the establishment of an equitable and peaceful procedure for the resolution of differences and the establishment of rates of pay, hours of work and other conditions of employment.

### ARTICLE 1 - RECOGNITION

Section 1 In accordance with the certification of the Massachusetts Labor Relations Commission, the EMPLOYER recognizes the UNION as the exclusive bargaining representative with respect to wages, hours, and other conditions of employment for all employees in the Highway Department, including Working Foreman, but excluding the Department Head, Superintendent of Highways, Clerical, and further excluding all other employees of the Town.

Section 2 The EMPLOYER will not aid, promote or finance any other labor group or organization which purports to engage in collective bargaining, or make any agreement with such group concerning wages, hours, or conditions of employment for the employees in this unit for the duration of the certification by the Massachusetts Labor Relations Commission.

### ARTICLE II

#### CHECK OFF OF UNION DUES - AGENCY SERVICE FEE

##### Section 1 - Check Off of Union Dues

If, during the term of this Agreement, any employee covered by this Agreement files with the EMPLOYER an authorization of check off of Union Dues and/or voluntary Agency Fee in the form attached hereto and marked "Attachment A" the EMPLOYER agrees to deduct union leveled in accordance with the contribution of the Union from the compensation of such employee.

The EMPLOYER further agrees to remit by the tenth day of each month the aggregate amount of such

deductions made during the preceding month to the Treasurer of the UNION along with a list of the employees from whom said dues have been deducted.

The EMPLOYER agrees to notify the UNION whenever deductions are not made in accordance with an authorization of check off due to the fact that an employee is not on the payroll during any payroll period.

### Section 2 - Agency Service Fee

An Agency Service Fee in accordance with the provisions of Chapter 150E of the General Laws shall be in effect for this bargaining unit as of the date of the signing of this Agreement. All employees in the bargaining unit may pay to the Union, the exclusive bargaining agent and representative, an amount equal to the Union's regular and usual membership dues. Every new employee shall be advised of this before he/she is hired and that he/she has knowledge of same.

In consideration of the Employer's entering into this Collective Bargaining Agreement, which Agreement includes an Agency Service Fee provision, the Union hereby agrees to indemnify the said Employer and hold it harmless from any and all claims, liabilities or costs of the Employer which arises out of entering into or enforcement of said provision or which arise out of the payroll deduction of Agency Service Fees, including any and all legal fees and costs incurred by the Town.

### Section 3 - Orientation

The Union shall be allotted one half hour with new unit employees at which time a Union representative may discuss the Union with the employee.

Whenever a new employee is hired, the town shall notify the Union and allow the Union to meet with the new employee within the first ten (10) days of employment either during new employee orientation or for a period of not less than thirty (30) minutes without loss of pay. (This is in accordance with the law, Chapter 73 of the Acts of 2019).

### ARTICLE III - MANAGEMENT RIGHTS

Except as otherwise noted in this Agreement, the Town retains all rights of management, including the right to direct employees, to hire, classify, promote, train, transfer, assign and retain employees and to suspend, demote, discharge or take other disciplinary action against employees for just cause, to relieve employees from duty because of lack of work, lack of funds, or for causes beyond the Town's control, to determine organization and budget, to maintain the efficiency of the operations entrusted to the Town and to determine the methods, technology, means and personnel by which such operations are to be conducted, including contracting and subcontracting; similarly, to take whatever action may be necessary regardless of prior commitments to carry out the responsibilities of the Town in an emergency. The Employer reserves and retains exclusive right to issue rules and regulations governing the conduct of his/her department provided that such rules and regulations are not inconsistent with the express provisions of this Agreement.

### ARTICLE IV - WORKER'S COMPENSATION

All employees covered by this agreement shall be covered under Workers' Compensation Law. Each such employee shall be entitled to the benefits and be subject to the provisions of General Laws, Chapter 152. Whenever a person is out on workers' compensation, the first five (5) sick days charged to them by law will not count against the sick leave bonus.

An employee receiving workers' compensation shall be entitled to sick pay or vacation pay only in the amount equal to the deficiency, if any, between the employee's regular weekly pay and the workers' compensation payment.

Employee will accumulate sick leave, vacation, and longevity while receiving workers' compensation.

Employee will be compensated for their license renewal, longevity, or unused vacation, if applicable, at designated dates according to this Agreement. The sick leave bonus will be prorated.

Employees who are absent from work due to an approved workers compensation accident, may at their option, draw upon their sick leave to make up for the difference in the gross weekly amount paid to employee by the insurance company. Use of sick leave in conjunction with workers compensation shall not

affect the sick leave incentive for the first five (5) days of injury only.

## ARTICLE V - EMPLOYEE'S RIGHTS AND OBLIGATIONS

### Section 1 – Organizational Activities

Except to the extent that there is contained in this Agreement an express and specific provision to the contrary, employees shall have, and be protected in the exercise of, the rights, freely and without fear of penalty of reprisal; to form, join or assist employee organization; to act in the capacity of the Union Representative; to 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 coercing from any discrimination and without regard to whether or not an employee is a member of the Union.

### Section 2 - Union Membership

The employer will advise the Union in writing of the name, address and classification of each new employee. The Employer recognizes the right of any employee to become a member of the Union and will not discourage or encourage or discriminate or in any other way interfere with the right of any employee to become and remain a member of the Union or refrain from becoming a member of the Union.

### Section 3 - Stewards and Union Officers, Appointments and Duties

The Town recognizes the right of the Union to have a Shop Steward who will represent the employees covered by this Agreement. The Union agrees to furnish the Town with a list of Union Officers and the Steward immediately after their designation and to notify the Town of any changes.

The Shop Steward shall be granted reasonable time off without loss of pay during the working hours sufficient to seek to settle grievances. Such time off shall be limited to the attendance at meetings or hearings with Town and/or Union Representatives for purposes of carrying out grievance procedures.

Section 4 - Access to Premises

The Town agrees to permit representatives of the Union to enter the premises at any reasonable time for an individual discussion of working conditions with employees.

Section 5 - Signed Contracts

Employees will receive a signed contract within thirty (30) days after signature by both parties and approval of Town Meeting.

**ARTICLE VI - GROUP INSURANCE PLAN**

- i. The UNION hereby recognizes and agrees that as long as the Town/Board continues to purchase health insurance, the Town shall be under no obligation with the UNION with respect to any changes which may be made from year-to-year by any insurance carrier or carriers in any plan, program, or contract(s) of insurance provided to members of the bargaining unit by the Town of Fairhaven with respect to the eligibility for, or payment of benefits thereunder, or co-payments or any other fees or charges required to be paid by members of the bargaining unit as a condition or receipt of any benefits provided pursuant to any such plans, programs or contract(s), no matter however denominated or described, including without limiting the generality of the foregoing, any changes in payments or co-payments associated with office visits, physicals, emergency room care or prescription drugs.
- ii. The premiums for such health insurance plans offered by the Town shall continue to be 60% Town (EMPLOYER) share and 40% EMPLOYEE share.

**ARTICLE VII - DISCRIMINATION**

Neither the EMPLOYER nor the UNION will discriminate against any employee or applicant for employment because of race, color, creed, sex or national origin.



## ARTICLE VIII - OVERTIME

Section 1 Employees covered by this Agreement shall be paid overtime at the rate of one and one-half their regular rate of pay for work in excess of eight (8) hours in one day and forty (40) hours in one week. No employee shall be entitled to be paid more than one and one-half times his hourly rate of pay for any hours worked, except those worked on a holiday. On Thanksgiving, Christmas, New Years, Labor Day and Memorial Day an employee will be paid overtime at double time for the first three (3) hours. All additional hours worked will be paid at double time provided the employee has worked the entire shift or to the completion of the emergency work. If the employee is unable to work the entire shift they will be compensated at time and one-half for the hours worked.

In emergencies employees may be required to perform overtime work. Employees will be given as much advance notice as possible of overtime work. Scheduled overtime will be posted according to classification and distributed to employees within the Division on an equitable and fair basis. A record of overtime hours worked by each employee shall be posted on the Division bulletin board monthly.

Employees shall have the option of declining offered overtime on a voluntary basis except in emergencies. Subject to the foregoing, there shall be no retaliatory action taken against any employee who declines to work such overtime. Employees declining such overtime shall be charged with the time for purposes of future overtime assignments.

Employees refusing to work during emergencies, including but not limited to snowstorms, hurricanes, earthquakes, floods and other situations of an emergency nature as determined by the Superintendent of the Department, Superintendent of Public Works or the Board of Public Works could be subject to dismissal after appropriate hearings.

The EMPLOYER shall keep records of the overtime work. In case of a grievance involving such records, they shall be subject to examination by the Union Representative or the Shop Steward with the Superintendent of the Division.

Approved leave with pay shall be synonymous with work time for purposes of computing overtime, provided, however, that sick leave shall always be paid at regular wage rates.

Time paid for but not worked, e.g., holiday time, shall be considered as time worked for weekly overtime computations.

An employee or employees who are working on a crew that requires working overtime will have first option to continue working. If employee does not choose to work overtime, Employer will follow procedures for call-out on the emergency list.

Section 2 Any employee called back to work on the same day after having completed his assigned work and left his place of employment, and before his next regular scheduled starting time, shall be paid at the rate of time and one-half (1 ½) for all hours worked on recall. He will be guaranteed a minimum of three (3) hours pay at time and one-half (1 ½). Any employee so recalled shall remain on call for the full three (3) hours without additional pay but need not remain on the job during the entire period unless there is actual work to be performed.

Section 3 When in extreme emergencies it is necessary to call in personnel from other areas to aid and assist, the personnel from areas other than the area which normally performs such related work shall be released from their duties first when the workload lessens.

Section 4 All Highway employees shall have a primary telephone at which they can be reached in case of an emergency call out. If you have more than one telephone number you are to notify the office of the preference of which number you wish to be listed as the primary number. If that number is called and the employee is not available or employee does not respond, the Town will call the next person on the overtime list to handle the emergency.

Section 5 - Overtime Lists

There shall be two (2) overtime lists employees will adhere to:

a. Emergency List

This list is compiled yearly beginning on July 1. All permanent employees will be on this list. Personnel will be listed by job description first and seniority in position second. Personnel called will be by position and order on list required to perform the duty requested. If an employee refuses

overtime, the next person on the list will be called and the employee refusing overtime will be charged the following person's overtime hours. If an employee is absent from work (sick, vacation, comp, workers' compensation) and is not available for overtime, employee will be charged hours of the employee who worked in similar position. List will be updated after each call-out. If an employee is absent from work (sick, vacation, comp, worker's compensation) on a day when overtime is offered at the end of regular working hours, employee will not be charged hours worked by employee who has worked in filling that position. If an employee refuses to work extra hours at the end of the regular work shift by the list, employee will be charged hours worked by employee in the same position. Employees who, after working eight emergency hours, going into regular shift, stay to sand/plow shall not have these hours charged to any list.

b. Voluntary List

This list is a voluntary list compiled yearly beginning January 1. Employee must notify the Highway Superintendent if employee wants to be on this list. This list will begin yearly with employees in the same order as ended December 31<sup>st</sup> with the first employee's hours starting at zero. If an employee is scheduled to work and refuses, employee will be charged with the next listed employee's hours. If employee is on vacation, and declines to work, the employee will not be charged hours. An employee, at his/her discretion may work during their vacation. If employee who is on vacation states that he/she will be available for overtime, but later refuses, or cannot be reached by phone, employee will be charged hours. If an employee is out of work because of sick leave or Worker's Compensation, employee will be charged hours. In certain instances, personnel may be bypassed because of a particular job that may be required. Example: a person possessing a hoisting license may be needed. Employees bypassed will not be charged hours in this circumstance. Employees are eligible to be on this list after six (6) months of being employed in the Highway Department. Anyone added to the list during the year will placed at the end with the most amount of hours.

The voluntary list (scheduled overtime) shall supersede the emergency list.

Any non-emergency or non-voluntary overtime shall be posted on the Emergency Overtime List.

Section 6 - Garage Foreman

During off-hours, when a call requesting (garage) mechanical repair(s) is needed, and if in the opinion of the Superintendent, the required work requires the skill of the garage foreman, The Superintendent may call in the garage foreman regardless of who heads the overtime call-in list at the time.

ARTICLE IX - HOLIDAYS

All employees covered by this agreement who are regularly employed shall receive regular compensation on or for the following holidays:

New Year's Day	Memorial Day	Veterans Day
Martin Luther King Day	Independence Day	Thanksgiving Day
President's Day	Labor Day	Day after Thanksgiving
Patriot's Day	Columbus Day	Christmas Day
Juneteenth		

Part day prior to Christmas, New Year's and on Good Friday, starting at 12:00 noon with no time off for lunch.

Payment under provisions of this section shall be made provided the eligible employee shall have worked his last full regularly scheduled working day prior to and his next full regularly scheduled working day following such holiday or was in full pay status on such prior and following day in accordance with other provisions of this Agreement.

Whenever one of the holidays sets forth on a Sunday, the following day shall be a legal holiday. Whenever such a holiday falls on a Saturday, the preceding Friday or the following Monday may be considered the holiday at the option of the Town. When Christmas and New Year's are on a Thursday, Friday will be a full day off. When Christmas and New Year's fall on a Tuesday, the Monday before would

also be a full day off.

(a) Any employee covered by this Agreement who is required to work on a holiday shall receive in addition to the regular holiday pay an amount equal to time and one-half (1 ½) the regular rate of pay for all hours worked, but in no case shall this be less than an amount equal to three (3) hours at the above rate. Any employee called to work on a holiday shall remain on call for the full three (3) hours without additional pay but need not remain on the job during the entire period unless there is actual work to be performed. (Exception: Thanksgiving, Christmas and New Years) See Article VIII, Section 1 - Overtime.

(b) If conditions are such as to require any employee to work during any part holiday referred to above, overtime will be paid as if a holiday.

(c) If an employee is required to work on a holiday, the employee can elect to either be paid in accordance with subsection b) of article VIII section 1 (if applicable) or; the employee can elect to receive a "floating holiday" which the employee can utilize per the standards for vacation leave, and will receive straight time compensation for working the holiday

#### ARTICLE X - CIVIL SERVICE

The UNION and the EMPLOYER agree and recognize the employees covered by this Agreement, prior to June 30, 2008, are Civil Service Employees and are covered by Chapter 31 of the Massachusetts General Laws. It is agreed that all rules and Civil Service Law Chapter 31 shall be adhered to. It is also agreed that if any provisions of this Agreement is in contravention of the laws or regulations of the United States or the Commonwealth of Massachusetts, such provision shall be superseded by the appropriate provisions of such law or regulation so long as the same is in full force and effect; but all other provisions of this Agreement shall continue in full force and effect.

The parties agree that the continuation of the civil service hiring system for the department and divisions under the Board of Public Works is not in the Town's best interest. The Union acknowledges that the Town plans on submitting a request to the Town Meeting, and the Union agrees to support actions necessary to repeal Civil Service. Revocation will include a provision "grandfathering" all current

employees, thereby allowing them to maintain their civil service status.

To the extent permissible by law, the Board of Public Works will give hiring preference to equally qualified veterans. For this purpose, the Board will use the same definition of veteran as defined by Civil Service labor service, or other approved in the Board Rules and Regulations.

### **ARTICLE XI - VACATIONS**

#### **Section 1 - Eligibility and Amounts**

The following annual vacations with pay will be granted after the following periods of continuous full-time employment:

<u>Time of Employment</u>	<u>Length of Vacation</u>
After one year	Two weeks
After five years	Three weeks
After ten years	Four weeks
After fifteen years	Five weeks

Preference of vacation dates shall be given on the basis of seniority according to classification with the understanding that the Superintendent may exercise his reasonable discretion in the assignment of vacation dates with proper functioning of the division in mind.

Section 2 Upon the death of an employee who is eligible for vacation under this contract, payment shall be made to the estate of the deceased in an amount equal to the vacation allowance earned in the vacation year during which the employee died up to the time of employee's separation from the payroll.

Section 3 Employees who are eligible for vacation under these rules and whose services are terminated by dismissal through no fault or delinquency of their own, or by retirement, or by entrance into the armed forces, shall be paid an amount equal to the vacation allowance as earned, and not granted, in the vacation year during which such dismissal, retirement, or entrance into armed forces occurred up to the time of the employees separation from the payroll.

Section 4

- (a) Absences on account of sickness in excess of that authorized hereby may be charged to vacation leave outstanding if any, at the option of the employee.
- (b) Absences for "personal reasons" may at the discretion and with the approval of the Division Superintendent and subject to the provisions of Section 8 of this Article, be charged to vacation leave outstanding if requested by the employee.

Section 5 An employee shall be granted an additional day of day of vacation if, while on vacation leave, a designated holiday occurs which falls on or is legally observed on Monday, Tuesday, Wednesday, Thursday, Friday or Saturday.

Section 6 Vacation allowances provided under the terms of this section shall not be permitted to accumulate and shall be granted by the head of the Division according to the provisions of Article XI, Section 4, hereof.

Section 7 Normally an employee shall be allowed to work during his vacation leave and be compensated with extra pay therefore. When an employee is called in for any emergency while on vacation, the employee will be paid time and one-half (1 ½) for all hours worked. Under unusual circumstances where an employee is unable to take his vacation leave during the current vacation year by reason of Town requirements for his services and through no fault of his own, the Superintendent may upon timely request, authorize regular compensation in lieu of vacation leave. In any event, the option to furnish compensation in lieu of vacation leave shall be with the Town.

Section 8 Once the vacation schedule has been approved by the Superintendent, an employee's allotted vacation period shall not ordinarily be changed by the Town without the assent of the employee affected. In the event of an emergency arising requiring the presence and services of an employee during his scheduled vacation period, that period may be changed by the Town provided the employee is given the greatest reasonable notice of such change under the circumstances.

Section 9 Leave of absence without pay will be granted upon written request at the discretion

of the Town as has been past practice.

Section 10 Employees may split five days vacation. Employee may take a minimum of two (2) consecutive days off during any week and three (3) consecutive days off during any week or visa-versa with a minimum of two days notice and approval of the Highway Superintendent and is not to interfere with the Highway Department operations.

#### ARTICLE XII - FUNERAL LEAVE

Three (3) calendar days leave of absence preceding and including the day of the funeral shall be granted to an employee on request when a death occurs to a member of an employee's immediate family. The immediate family is to be considered father, mother, child, spouse, brother, sister, grandparent, grandchild, mother-in-law, father-in-law, adopted children and any stepchildren. For the death of a brother-in-law, sister-in-law, niece or nephew; son-in-law and daughter-in-law in a current marriage, two (2) days of funeral leave will be granted. One (1) day leave granted for aunt or uncle. However, the Superintendent may at his reasonable discretion allow time off for the death of other relatives or members of an employee's household. No payment shall be made for any days absent during the bereavement period in which the employee is not regularly scheduled to work, e.g. Saturday, Sundays or holidays. No employee shall lose pay to which he is normally entitled while on leave of absence for death in the family nor will it be charged to sick leave or vacation pay. NOTE: Portion of unused funeral leave (days falling on Saturday, Sunday or holidays) may be used for Probate Court Hearings or Will Readings as long as two (2) days advanced notice is given to the Highway Superintendent.

#### ARTICLE XIII - JURY DUTY LEAVE

An employee in full time employment required to serve on a jury and thus having to be absent from regular duty may upon application be paid the difference between the compensation received from jury duty and his regular compensation from the EMPLOYER upon presentation of an affidavit of jury pay granted.



## ARTICLE XIV – SICK LEAVE

Section 1 Each employee shall be credited with sick leave after six (6) months of continuous service with pay at the rate of one and one-quarter ( $1 \frac{1}{4}$ ) days for each month of service starting after the date of this agreement. Sick leave credit will begin the first (1st) day of the month following the month in which a new employee is employed. Sick leave may be accumulated up to one hundred twenty (120) days.

A full time employee shall accumulate sick leave credit with pay at the rate of one and one-quarter ( $1 \frac{1}{4}$ ) for each full calendar month of employment. An employee on any leave with pay or industrial accident leave shall accumulate sick leave credits. A full time employee shall not accrue sick leave credit for any month in which he or she was on leave without pay, or absent without pay for the entire month.

Regular employees of the Town of Fairhaven who are employed on a part time basis having a minimum of twenty (20) hours per week shall be entitled to one and one-quarter ( $1 \frac{1}{4}$ ) days of sick leave per month based on a regular part time day.

A list of accumulated sick leave shall be posted in each department for all employees within the department by July 31 for the previous fiscal year ending June 30. No transfer within the service of the Town of Fairhaven shall affect the amount of earned sick leave credit and accumulations to which an employee is entitled under this article.

Section 2 An employee who is reinstated or reemployed after an absence of less than one (1) year shall be credited with his/her sick leave credit at the termination of his/her prior employment because of illness or layoffs.

Section 3 Notification of absences under this article must be given to the designated representative of the appointing authority at least ten (10) minutes before starting time. Each department shall post in a conspicuous place the procedure and person to notify of an illness so those employees will be clearly informed of the procedures to follow.

Section 4 The employer may require any employee to produce medical proof if he/she absents himself/herself the day before or the day after a holiday, or if he/she is absent because of a sickness for any period in

excess of three (3) days the employer may require the employee to be examined by a physician selected and paid for by the employer. In addition, the employer reserves the right to require medical evidence for less than four (4) sick days if sick leave abuse is suspected as long as this right is not exercised arbitrarily or capriciously. If so required, such evidence is to be acquired at the employee's expense unless resulting from examination by a physician selected and designated by the Town. This abuse of sick leave will be enforced, when, during any sixty (60) day period, when three incidents of sick leave are taken. Subsequent sick days taken during that sixty (60) day period will require a medical certificate.

Section 5 It is agreed that whenever a female employee shall become pregnant, she shall furnish her department head or appointing authority with a certificate from her physician stating the approximate date of delivery. She may continue to work as long as her physician certifies that she is able to do so, provided that the department head does not find her work performance is impaired. Childbirth and recovery therefrom are, for all job related purposes temporary disabilities and should be treated as such under the sick leave provision of this agreement. Sick leave policy shall be applied to disability due to pregnancy or childbirth on the same terms and conditions as they are applied to other disabilities, provided that nothing in this article shall restrict a female employee from requesting a leave of absence without pay under the provisions of general laws. A female employee must give department head thirty (30) days notice of approximate delivery date that she is able to work.

Section 6 Employees will be provided an incentive for attendance as of June 30th of each year. The amounts are as follows:

\$400/year if absent 0 days during year (July-June)	
\$325/year if absent 1 day during year	“ ”
\$250/year if absent 2 days during year	“ ”
\$175/year if absent 3 days during year	“ ”
\$125/year if absent 4 days during year	“ ”
\$75/year if absent 5 days during year	“ ”
\$0/year if absent more than 5 days during the year.	

Payment will be made as of the week ending June 30th of each year. Use of sick leave pending a determination of

Workers Compensation will not be considered sick leave use if the Workers Compensation claim has been approved for payment and the employee has been reccredited with his/her sick leave. An employee will have to be employed one full fiscal year to collect the sick leave incentive.

#### Section 7 - Snow and Ice Removal

An employee who has worked a minimum of four (4) hours between the hours of 4:00 p.m. and 7:30 a.m. shall be granted four (4) hours of sick leave after 11:30 a.m. of the next regularly scheduled shift with sick leave not to be counted against the sick leave incentive. An employee who has worked a minimum of eight (8) hours between the between the hours of 4:00 p.m. and 7:30 a.m., shall be granted eight (8) hours of sick leave, which shall be taken beginning at 7:30 a.m. of the next regularly scheduled shift with sick leave not to be counted against the sick leave incentive.

If, in the opinion of the Highway Superintendent, or the BPW Superintendent, the employee(s) cannot end the overtime shift prior to 7:30 a.m., the employee will be paid at the overtime rate for all hours worked between the hours of 7:30 a.m. to 11:30 a.m. and 12:00 p.m. to 4:00 p.m. To receive continued overtime, an employee must have worked a minimum of seven (7) hours prior to 7:30 am.

Upon completion of the shift, the employee shall be granted up to eight (8) hours of excused sick leave for the hours worked, not to be counted against the sick leave incentive. This leave may be used at a future date at the employee's discretion. Unused leave will be added to compensatory time.

If in the opinion of the Highway Superintendent or the BPW Superintendent, two (2) employees are necessary to perform work to complete snow plow operations after a snow event, the Superintendent shall solicit volunteers in order of seniority from (most senior to least senior) to perform the work. If no employees volunteer then the work shall be performed by the two highway employees with the least seniority. Any employee who stays will be permitted to use leave time as described in the first paragraph of this article on their next shift.

If plow operations are terminated before 6:00 p.m. on Sunday, employee will not receive the sick bonus exclusion and will report to work on the Monday scheduled shift.

#### Section 8

Employees who are absent from work due to an industrial accident, may at their option, draw upon their

sick leave, day by day, until they exhaust their sick leave or upon receipt of their first Workers Compensation claim. The employee will reimburse the Town for that portion of the sick leave, which was used during the period in which the employee was waiting for the Workers Compensation approval. The employee shall then be reccredited with the sick leave, which was used during this same period. Compensation checks will be mailed to the Town. Use of sick leave in conjunction with Workers Compensation shall not affect the sick leave incentive for the first five (5) days of injury only.

An Employee may use his/her sick time to supplement his/her workers compensation and this time will not be counted against the sick leave bonus. Supplementing workers compensation means that the employee may only use the difference between his/her weekly rate and his/her workers compensation rate. All other use of sick leave in conjunction with Workers Compensation shall not affect the sick leave incentive for the first five (5) days of injury only.

Section 9 As of June 30th of each year, employees hired before July 1, 2022, will be compensated for all unused sick leave in excess of 120 days at the rate of one-half (1/2) of all such sick leave.

An employee upon retirement, is laid off or dies, will be paid one-half (1/2) the number of all unused days. This payment will be considered a bonus and should not be eligible for any retirement delay. An employee may buy back his/her sick leave for up to one year after separation of payroll.

employees hired before July 1, 2022, who resign after completion of ten (10) years of service will be paid sick leave at one-half (1/2) the number of all unused sick days. An employee who resigns after completion of five (5) to ten (10) years of service will be paid sick leave at twenty-five percent (25%) the number of all unused sick days. An employee who is terminated shall not be paid sick leave after termination for just cause.

#### Section 10 - Family Leave

Sick leave may be used only for the following purposes: a maximum of ten ( 10) days in any one (1) fiscal year may be used for the illness in the immediate family N.B. for the purpose of leave for the illness in the immediate family; immediate family is considered father, mother, child, spouse, brother, sister, grandparents, grandchildren, mother-in-law, father-in-law, adopted children, step children or any other person actually domiciled with member of the union. The union member shall submit a certificate from the attending physician after the third day to the employer and

request approval from the employer. This shall affect the sick leave bonus.

Section 11 - Emergency Sick Leave Bank

- (a) Purpose - The purpose of the Emergency Sick Leave Bank is to make additional sick leave days available to employees of the Board of Public Works in the event of a personal unexpected critical illness, surgery, or a temporary disability due to an injury. Days may be requested from the Bank only after the member has exhausted all accumulated sick leave, vacation and personal days.
- (b) Membership - Employees must sign and complete a Donation Record Form.
- (c) Regulations Concerning Contribution of Days
  - Days donated will be subtracted from the employee's sick leave, vacation leave or personal days.
  - Employees will be allowed to donate one (1) day at a time.
  - Sick days donated will not affect the Sick Leave Bonus (example: same as snow days). Recipient will be charged for sick days if applicable.
- (d) Guidelines
  - A posting will be placed at the Board of Public Works Building and Treatment Plant.
  - Applicants must sign the Donation Record within the time frame listed on the posting.
  - Once the posting has expired, no other applicants may join.
  - Within 5 days of exhausted leave granted to the employee, an additional posting will be announced and applicants may sign another donation record.
  - If the recipient returns to work before the received days have been expended, the recipient retains those days.

ARTICLE XV - PERSONAL DAYS

Employees may take three (3) personal days for personal use during the fiscal year. It is understood and agreed that personal days may be taken only with the approval of the Superintendent of the Highway Division, which approval shall not be unreasonably withheld. Except in cases of emergency, requests for such leave shall be made two (2) days in advance. A person will not be paid for any personal days upon resignation. New employees: Personal days may be used after six months of continuous employment and

will be prorated to the amount of time worked.

**ARTICLE XVI - WORK WEEK; SHIFTS; HOURS**

**Section 1 – Hours**

(a) Unless otherwise provided herein; regular working hours and the normal work week shall be as follows:

Work Week: Monday through Friday

Working Hours: 7:30 a.m. to 11:30 a.m. and 12:00 p.m. noon to 4:00 p.m.

except on the days before Christmas and New Year's when working hours are from 7:30 a.m. to 11:30 a.m.

(b) Present and past practices with regard to work outside or different from normal working hours or days shall be continued. This would include, but not necessarily be limited to, assigned hours for sweepers and the work schedule for an employee assigned to work at the Recycle Center.

(c) In the absence of an emergency, the normal working hours shall be changed only after reasonable notice and consultation with the UNION.

(d) An employee scheduled to work before or after the normal working hours shall be paid for such time at overtime rate only for hours worked in excess of eight (8) hours on the shift so scheduled, or if the work so scheduled and performed is in excess of forty (40) hours within the work week.

**Section 2 – Meal Periods**

All employees shall be granted a meal period of one-half (1/2) hour duration during each work shift. Whenever possible, the meal period shall be scheduled at the middle of the shift. The meal period will begin at the end of a 5 minute clean up period allowed by Section 4 of this Article, and will not exceed one-half (1/2) hour from start to finish, including within the 30 minutes any time for employees leaving the job site to travel to locations for meals. Meal breaks commence at the time the employee leaves the job site, or, if remaining at the job site, when the employee stops their assigned tasks. For employees leaving the job site, meal breaks end when the employee returns to the job site, after 30 minutes. If remaining on site, meal breaks end when the employee commences their assigned task again, after 30 minutes. Time cards will be

docked one-half (1/2) hour without employees punching out.

Use of a Town vehicle is permitted, providing:

- Use is minimized, with crews using the minimum number of vehicles and most fuel efficient vehicles to leave the job site, and minimize the distance traveled;
- There will be no congregating of BPW vehicles at the same site other than the work site;
- A crew working together will take the same meal period;
- Town vehicles will not leave the boundaries of the Town of Fairhaven;
- Town vehicles will not be taken to any bar rooms

Employees may leave the job site by other means, providing they leave and return during the one-half hour meal period allowed. In the case where a crew of three or more are working at the same job site or office location, an employee may be dispatched on a run to pick up food for the employees, providing they leave and return in less than 15 minutes. Meal break then will commence at the time of return of this employee, to end within 30 minutes of the employee's return. The start and end may be required to be radioed in to the office at the superintendent's discretion, and the Town reserves the right to utilize other communications and other methods to enforce adherence to lunch and other break periods and reporting times'.

Employees who are requested to and work during emergencies shall be granted time off to eat. Employees shall be allowed one-half (1/2) hour without loss of pay every four hours for meals. If work conditions are such, that a meal break is not possible, employees shall be paid an additional one half hour of overtime to compensate them for the lost break, at the discretion or directive by the Superintendent.

#### Section 3 – Rest Periods

All employees' work schedules shall provide for a fifteen (15) minute rest period during each one-half (1/2) shift. Whenever possible, the rest period shall be scheduled in the middle of the half shift. The fifteen (15) minute period shall start when the employee leaves the job and end when he returns to the job with the following exception. In the case where a crew of three or more are working at the same job site, a truck driver may be dispatched on a run away from the job site to the closest location for coffee immediately prior to the rest period, and his and the crew's rest period shall start when he returns to the job site and end

fifteen (15) minutes thereafter. All personnel and vehicles, whether three (3) or less, will obtain their coffee, etc. and return to the work site immediately. There will be no congregating of BPW vehicles at the coffee establishment. Other than the exception above regarding the dispatching of one driver to pick up coffee for a crew of three (3) or more, the time commuting from job sites by all others to pick up the coffee, etc. is included in the 15 minute break period. Use of Town vehicles for rest periods will comply with the restrictions and conditions under the lunch period.

#### Section 4 - Cleanup Time

Employees shall be granted a five (5) minute personal cleanup period prior to the end of each ½ shift. Work schedules shall be arranged so employees may take advantage of this provision; when practicable, the EMPLOYER shall make the required facilities available.

#### Section 5 - Reporting at the End of the Day

Employees will work until 3:45 p.m. and punch out at 4:00 p.m. following the 15 minute cleanup period. There will be no gathering, playing cards, etc. It is understood certain vehicles and jobs will require an earlier return due to the specific job performed. Each supervisor will set a target return time for the day, on the trip ticket, through verbal orders or other means. Exceptions may be made to the return time by the supervisor. Employees who have finished fueling, cleaning and putting away their vehicle, etc., prior to 3:45 p.m. are expected to continue to work as directed by their superintendent. If the 3:45 p.m. cleanup period is being abused the Superintendent maintains the discretion to change the time of the clean up period to 3:55 p.m.

#### Section 6 - Miscellaneous Provisions - Bulletin Board

Announcements shall be posted in conspicuous places where employees enter or leave the premises. Parties to this Agreement, both of whom may use the bulletin boards for notices of routine nature, agree that it would be improper to post denunciatory or inflammatory written material on such bulletin boards.

#### Section 7 - Invalidity of a Provision

Should any provision of this Agreement be found to be in violation of any Federal or State Law of Civil Service Rule by a court of competent jurisdiction, all other provisions of this Agreement shall remain in



full force and effect for the duration of this Agreement, and any benefits, privileges, or working conditions existing prior to this Agreement not specifically covered by this Agreement shall remain in full force and effect.

Section 8 - Negotiations Meetings

Joint meetings between representatives of the Town and the UNION for the purposes of collective bargaining shall normally be held outside of regular working hours. When both parties agree extraordinary circumstances make it necessary to hold such meetings during regular working hours, employee representatives of the UNION, not to exceed two (2) in number, may be compensated at their regular rates of pay for attendance at the meeting.

**ARTICLE XVII – SENIORITY**

Section 1 There shall be a dual seniority system; division seniority (Water, Highway, Sewer, and Park Divisions) and department seniority. Department seniority shall begin when an employee was or shall first be employed by the Public Works Department except that where an employee has been dismissed and rehired or has voluntarily left the employ of the town and has been rehired; seniority shall begin when the employee was last hired.

Division seniority shall begin when an employee was or shall first be employed by the Division except that where an employee has transferred into another division of the Department and remained in said division for a period in excess of thirty days, said employees seniority in the division he leaves shall remain as of the date he left the division and his seniority in the division he transfers into, shall begin as of the date he commenced work in the division. In the event an employee retransfers to a division, he shall be credited with his old seniority in said division; except in the case where an employee loses his department seniority in which event he will lose all division seniority.

Section 2 New employees shall be deemed to be on a probationary period for six (6) months from the date of hiring subject to Civil Service Regulation. Seniority does not accrue during probationary period but on completion thereof shall be computed to date of hire.

Section 3 The Town shall have the right in its discretion to employ emergency personnel or

temporary personnel in accordance with Civil Service Regulations and seniority shall not apply to such temporary or emergency personnel.

Section 4 It is the intent of the parties to protect insofar as possible the divisional seniority of employees covered by this contract with respect to hiring, transfer, promotions or layoffs within the Highway Division. Hiring, transfers and promotions will be awarded to the qualified employee within the Division having greatest seniority. Such jobs will be posted and will be filled by employees outside the Highway Division only if no qualified employee with seniority within the Division claims the job. Layoffs to reduce the force will be made in inverse order of seniority to the extent that this procedure may be followed and the Division at the same time retains on its active force employees qualified to effectively perform all of the duties and responsibilities of the Division. A two week notice shall be given to those full time civil service employees who will be laid off.

The parties acknowledge that the seniority provisions of this contract may be subject to Massachusetts General Laws, Chapter 31, and the regulations of the Civil Service Commission and their interpretation by the Commission and the courts of the Commonwealth.

#### ARTICLE XVIII – PROTECTION

Insofar as is required (as distinguished from permitted) by Massachusetts General Laws, the Town shall hold the employee harmless from any loss or liability arising out of acts resulting in accidental bodily injury to or the death of any person or accidental damage to or destruction of property. The employee is expected to exercise all reasonable care and precaution to prevent undesirable consequences from arising as a result of the performance of his duties.

#### ARTICLE XIX – GRIEVANCES

A grievance is a dispute between the parties over the interpretation or application of the terms of this written Agreement and shall be handled in accordance with the following grievance procedures.

Step 1. The UNION submits in writing its grievance to the Highway Division Superintendent within five (5) days after the grievance arises. The Highway Superintendent has three (3) days (exclusive of Saturday, Sunday and Holidays) to act upon the same. In the event that the aggrieved party is unable by

reason of physical or mental incapacity to file the grievance within said time, then he is entitled to file it within five (5) days after the removal of the disability.

Step 2. Within five (5) days (exclusive of Saturdays, Sundays and Holidays), or transmittal of an answer by the Highway Superintendent, either party may request that the grievance be presented to the Board of Public Works Superintendent which has five (5) days to act upon the same.

Step 3. If no settlement is reached within five (5) days after the grievance is submitted to the Board of Public Works Superintendent, the matter shall go to the Board of Public Works who will have ten (10) days to act upon exclusive of Saturdays, Sundays or Holidays.

Step 4. If no settlement is reached within ten (10) days after the grievance is submitted to the Board of Public Works, the matter shall go to arbitration in the following manner at request of either party in writing, said request to be made within thirty (30) days exclusive of Saturdays, Sundays or Holidays. Unless the parties agree otherwise, arbitration shall be conducted by the Labor Relations of East Sandwich, MA under its applicable rules, before a single arbitrator.

a. Cost of arbitration, including fees of arbitrators, cost of record and incidental expenses, shall be borne equally by the parties. Each party shall be responsible for all costs of preparation, presentation and appeal, if any, of its own case.

Step 5. If the Town of Fairhaven has a grievance, either the Board of Public Works or the Highway Division Superintendent shall notify the Union Steward within five (5) days who shall meet with the person or Board requesting meeting within ten (10) days thereafter. If said matter is not resolved within five (5) days of said meeting, it may, at the discretion of the Town, be processed through the appropriate steps as set forth above.

Any grievance not processed through the UNION through Steps 1-4 above, shall be waived.

Grievance Procedure: Notification

The above steps that require written notification will be delivered in hand or by U.S. Certified Mail. Notice to the Highway Division Superintendent and Union Steward is notice to the parties respectively.

No Strike Clause

It shall be in violation of this Agreement for any employee, the UNION, or any representative thereof, to engage in, induce, or encourage any strike, work stoppage, slowing down or withholding of services as provided by General Laws Chapter 150E, Section 9A.

Grievance Procedure: Disciplinary Action

Notwithstanding any of the provisions of this Agreement, dismissal, suspension or other disciplinary action shall be governed by the provisions of General Laws Chapter 150E, Section 8.

Grievance Procedure: Questionable Orders

In the event an order is given to an employee, the carrying out of which he feels might involve some action contrary to the terms of the Agreement, the employee shall carry out the order and thereafter seek redress through the grievance procedure herein set forth.

All correspondence concerning rebutting warning or disciplinary letters should proceed through normal grievance procedure.

Function of the Arbitrator:

The Arbitrator shall be without power or authorities to alter, amend, add to, and/or detract from the language of this Agreement. The decision of the Arbitrator shall be final and binding on the Parties to the extent permitted by law.

**ARTICLE XX – LONGEVITY**

Longevity payments shall be made to employees covered by this Agreement according to the following schedule:

After 5 years of service	500.00
After 6 years of service	500.00
After 7 years of service	500.00
After 8 years of service	500.00
After 9 years of service	500.00
After 10 years of service	700.00

After 11 years of service	700.00
After 12 years of service	700.00
After 13 years of service	700.00
After 14 years of service	800.00
After 15 years of service	850.00
After 16 years of service	900.00
After 17 years of service	950.00
After 18 years of service	1000.00
After 19 years of service	1050.00
After 20 years of service	1100.00
After 21 years of service	1150.00
After 22 years of service	1200.00
After 23 years of service	1250.00
After 24 years of service	1300.00
After 25 years of service	1350.00
After 26 years of service	1400.00
After 27 years of service	1450.00
After 28 years of service	1500.00
After 29 years of service	1550.00
After 30 years of service	1600.00
After 31 years of service	1650.00
After 32 years of service	1700.00
After 33 years of service	1750.00
After 34 years of service	1800.00
After 35 years of service	1850.00
After 36 years of service	1900.00
After 37 years of service	1950.00
After 38 years of service	2000.00
After 39 years of service	2050.00
After 40 years of service	2100.00

Longevity shall be paid between December 1 and December 15 of each year to those employees entitled thereto as of December 1. Any employee retiring, quitting fired or an estate in the case of death will be entitled to a percentage of year completed from anniversary date to terminated

date. An employee upon his or her reinstatement who pays back his or her retirement in its entirety will be credited with his or her longevity previously earned upon their resignation.

## ARTICLE XXI -

### HAZARDOUS WORK; PROTECTIVE EQUIPMENT; INCLEMENT WEATHER

#### Section 1 - Hazardous Work

Employees shall not be required or assigned to engage in any activity involving dangerous conditions of work or danger to person or property as determined by the Foreman or the Superintendent of the Highway Division or in violation of any law relating to safety of person or equipment.

#### Section 2 - Protective Equipment and Gear

The Town will make available for use by employees protective equipment and gear as required by law and as necessary and convenient for such operation as welding, grinding, trenching and "hard hat" operation. Equipment and gear may be issued to individuals as determined by the Superintendent on an accountability basis as required for particular jobs and may include but not necessarily be limited to the following: boots, gloves, hard hats, safety goggles, foul weather gear, welding protective gear, etc. For those needing prescription safety glasses, the Town will reimburse the employee up to five hundred (\$500.00) dollars every three (3) years, with proof of a paid receipt. The employee will select the vendor.

The Town will supply the Union a vendor for the purchase of boots and for outerwear - maximum allowance per person per fiscal year is four hundred (\$400.00) dollars total for any of the combinations: coveralls, bib overalls, hats, gloves, thermals, high visibility t-shirts or safety jacket; employee choice.

#### Section 3 - Inclement Weather

At the discretion of the Town acting through the Highway Division Superintendent, employees shall not unnecessarily be exposed to excessive extremes of hot (95 degrees F.) or cold (10 degrees F.) weather except in the case of emergencies or a heat index of 100 degrees or more and wind chill of 0 degrees or below. Such discretion shall be exercised in a reasonable manner, subject to the grievance and arbitration provisions of this Agreement.

## ARTICLE XXII - LICENSE FEES AND MATERIALS

Section 1 The Town agrees to continue providing as in the past all material, equipment and tools required to perform the duties assigned to the employees covered by this Agreement. Further,

the Town agrees to reimburse license fees to special heavy motor equipment operators and mechanics that require and procure special licenses for operating special heavy equipment essential to their employment with the Highway Division. It does not include truck drivers but it does include "Truck Driver/Equipment Operator" and "Laborer/Equipment Operator" as provided in the following Section 2 of this Article. The Town will provide safety courses to the employees that will consist of trench safety, OSHA 10/40 hour training and certificate of completion.

The Town will pay for license fee only if the test is passed. The Town will also pay the difference between the cost of a CDL Class B license and a Class C driver's license and the difference between a Class C license and a Class A license and any required endorsements such as air brakes, etc.

For those holding or applying for a hoisting license, the Town will reimburse the employee for physical exams, as long as required by the regulatory agency.

#### Section 2 - Truck Driver/Equipment Operator; Laborer/Equipment Operator

There is established within the Highway Division the position of Truck Driver/Equipment Operator. This classification is open to all employees licensed and qualified as equipment operators with a hoisting license. Classification shall be at the 6 Compensation Level, which shall be paid regardless of the nature of the duties actually being performed, i.e., driving truck or other equipment. When the Truck a Driver/Equipment Operator operates a piece of heavy equipment then that person shall be compensated for all hours worked out of classification.

There is also established within the Highway Division the position of Laborer/Equipment Operator. This classification is open to all employees' licenses and classified as heavy equipment operators. Wage scale in this classification shall be at the 4 Compensation Level which shall be paid regardless of the nature of the duties actually being performed, i.e. laborer or operating equipment. Detailed job descriptions are on file with the Board of Public Works and available to the Union Representative.

An employee in "Laborer" classification (3), who obtains and retains a valid "Special Motor Equipment Operator's" license shall be elevated to the classification of "Laborer/Special Motor Equipment Operator" (4), and paid accordingly.

The Fairhaven Board of Public Works will allow a Highway employee to attend a training school (if available) for the purpose of obtaining Heavy Motor Equipment Operator (Truck Drivers License) or a Special Motor Equipment Operator (Hoisting License) during the work week as long as the absences of the employee does not affect the operation of the Highway Department.

Section 3 - Pesticide License

The Town will pay for one exam seventy-five dollars (\$75.00) to obtain the Applicator License and the annual renewal fee of one-hundred dollars (\$100.00) for employee to sustain such license. The Town will also pay for the contact hours for the upkeep of license. In addition, the Town will pay the employee on the first pay date in July a stipend in the amount of one-hundred dollars (\$100.00) to hold such license. If exam or renewal fees change, the Town agrees to pay the new fee. In addition, the Town will pay the employee in the amount of on the first pay date in July a stipend in the amount of two hundred and fifty (\$250.00) dollars. In addition an annual stipend of one hundred (\$100.00) shall be paid to employees who are assigned to perform mosquito spraying functions and hold a mosquito license.

Section 4 - Welding Certification

The Town will pay employee on the first pay date in July a stipend if employee holds in their possession a Certified Welding Certificate: four hundred (\$400.00) dollars.

**ARTICLE XXIII - JOB POSTING AND BIDDING**

When a position covered by this Agreement becomes vacant, such vacancy shall be posted in a conspicuous place, listing the pay, duties and qualifications, area, shift and days off. This notice of vacancy shall remain posted for seven (7) days. Employees interested shall apply in writing within the seven (7) day period. Within fourteen (14) days of expiration of the posting period, the employer will award the position to the most senior qualified applicant. The successful candidate shall receive a minimum of 25 cents per hour increase when an employee has been promoted to the next level.

The successful applicant shall be given a ninety (90) working day trial period in the new position at the applicable rate of pay. If at the end of the trial and training period it is determined that employee is not qualified to perform the work, he shall be returned to his old position and rate.

Subject to the provisions of Article X and Article XVI, Sections 1 and 4, hereof, it is mutually agreed between the parties that if no applicant is qualified, the Town may fill the position from outside the Highway Division.

**ARTICLE XXIV - WORKING OUT OF CLASSIFICATION**

Employees required to work in higher classification shall be paid at the prevailing rate for the higher classification. Employee shall receive a minimum differential in pay of 50 cents per hour.

No employee shall be required to work in a lower classification without his consent, if such



work in a lower classification shall require the salary of such employee to be established on the basis of such lower position.

An employee who works in the unit who works overtime in a higher classification shall be paid the overtime rate for that position during the time he works such overtime in the higher classification.

In the absence of the Highway Superintendent, for vacation, sick time, personal time, comp time, or leave of absence, the most senior Working Foreman Highway Maintenance Man shall perform most of the duties of the Highway Superintendent, and for such services he shall receive additional pay in the amount of \$12 per hour for all hours worked. Hours worked beyond the normal work day will be compensated in the amount of \$12 per hour additionally.

#### **ARTICLE XXV - UNION REPRESENTATION**

The Town agrees to notify the Union President on memos and postings regarding union members and shop steward.

The above shall be granted reasonable time off during working hours to investigate and settle grievances arising under the provisions of this Agreement.

During the term of this Agreement, as many as one (1) employee who is a union steward or union official or elected delegate shall be granted time off, without loss of pay, at any time for the purpose of attending meetings of State or National bodies with which the Union is affiliated.

No more than one (1) employee from one (1) department may be permitted to attend such meetings. Employee may be granted leave without loss of pay for no more than three (3) conventions or meetings per calendar year.

#### **ARTICLE XXVI - UNIFORMS**

(a) The Town shall provide uniforms and pay 100% of all costs. The Town shall supply 11 Hi-Vis shirts, 11 pants, 2 jackets and will be cleaned weekly. Should an employee choose not to receive all or a portion of the 11 Hi-Vis Shirts, said employee will be offered the ability to purchase Hi-Vis T Shirts (example: if rented 6 would be allowed to purchase 5), with the total number of offered shirts not exceeding 11. The number of Hi-Vis T-Shirts will be reimbursed, with an original receipt, of up to \$20 per shirt in a fiscal year. Said employee will be responsible for washing these shirts as this clothing will be outside the scope of our laundry contract. The option to purchase Hi-Vis T-Shirts, for reimbursement, will be offered to all new employees at his/her hire and to every current employee at

the start of a new laundry service contract.

Employees shall be held responsible for the condition and be held accountable for the garments. Any garment intentionally destroyed or lost by the employee shall be the employee's responsibility to reimburse the Town at the prevailing rate set by the supplier of the uniforms.

Employees must wear uniforms. Shirts that may be worn by employee may be the current safety color t-shirts as allowed as is the current practice. Employees who fail to wear the uniform will not be permitted to work, and the absence from work will be unauthorized leave, subject to further disciplinary action, including loss of pay.

#### ARTICLE XXVII – DRUG AND ALCOHOL SCREENING

- (a) The Chairman of the Board of Public Works or his Appointee (for purposes of this article referred to as "Supervisors") upon reasonable cause based upon an employee's conduct, may require that employee to submit a test sample for drug and alcohol screening by means of the required testing procedures approved by the Department of Transportation/Federal Highway Administration (D.O.T.) and published in the Federal Register 49 CFR, Parts 382, et al to detect the presence of non-prescribed drugs or controlled substances. A test sample must thereafter be provided upon the request of the "Supervisors".
- (b) The affected employee may initiate a review of the Supervisor's directive. If requested, the Supervisor's directive shall be reviewed by a special panel. The panel shall consist of one Board of Public Works member, one Department Head, appointed by the Supervisor(s), and one employee appointed by the Union with no individual to serve on consecutive panels for review of drug testing and alcohol directives. The purpose of review is to decide only whether the Supervisor(s) has information, which establishes probable cause to request a screening. The panel will meet and have the right to request corroborating information, if any, from the Supervisor(s) in order to assist their review. Such special review shall be conducted and concluded within twenty-four (24) hours of the time the Supervisor(s) required the test sample, or as soon thereafter as is practicable.
- (c) If the special review panel concludes that the drug or alcohol screening is warranted, such testing shall be conducted. If the panel finds that the test is not warranted, the sample shall not be tested and shall be destroyed.
- (d) At the time the test sample is provided by the employee, an original non-tested sample will be given to the employee upon request whether or not testing is conducted by the Town.
- (e) The results of the drug or alcohol screening test shall be given to the Supervisor(s) and the

employee. In order for any test results to be accepted, the Town must demonstrate that the chain of custody of any samples has been preserved.

- (f) The Town retains the right to impose discipline based upon the results of the screening test. An employee retains Civil Service right as provided in M.G.L. Chapter 31. However, the first instance of obtaining a positive screening test as provided in this Article will not alone be grounds for discharge; such results will result in a program of counseling; assistance and/or clinical treatment for first offenders. Any discipline imposed shall be stayed for first offenders during any period of rehabilitation. This shall not cause loss of seniority.
- (g) It is agreed that the parties will make every effort to protect privacy and confidentiality, and that there is no intention to waive any employee's constitutional rights in the establishment of these procedures.
- (h) Random Testing: The Board of Public Works has the authority to conduct random testing for non-prescription drugs, controlled substances and alcohol. The testing procedure shall conform to the D.O.T. regulations. The Town shall hire an outside firm to determine the random testing of personnel. The firm shall provide random selection and testing services to insure employees are selected objectively and fairly by computer for random testing. Services for testing shall be certified laboratory services NIDA. (National Inst. Of Drug Abuse). Any language in Article 29 which does not conform to U.S. Department of Transportation Federal Highway Administration Regulations.

#### **ARTICLE XXVIII – FAMILY AND MEDICAL LEAVE ACT**

The Town and the Union shall adhere to the regulations of the United States Department of Labor - Family and Medical Leave Act of 1993.

The following is a brief summary of the law:

The Family and Medical Leave Act provides certain employees with up to 12 work weeks of unpaid, job-protected leave a year, and requires group health benefits to be maintained during the leave as if employees continued to work instead of taking leave.

To be eligible for FMLA leave, an employee must have worked for at least 12 months; and have worked at least 1,250 hours during the 12 month period to the start of the FMLA leave. Family and Medical Leave will be granted for one or more of the following reasons:

- for the birth of a son or daughter, and to care for the newborn child;
- for the placement with the employee of a child for adoption or foster care, and to care for the newly placed child;

- to care for an immediate family member (spouse, child, or parent-but not a parent "in-law") with a serious health condition; and
- when an employee is unable to work because of a serious health condition.

The FMLA permits employees to take leave on an intermittent basis or to work a reduced schedule under certain circumstances, CFR Section 203.

- Intermittent/reduced schedule leave may be taken when medically necessary to care for a seriously ill family member or because of the employee's serious health condition.
- Intermittent/reduced schedule leave may be taken to care for a newborn or newly placed adopted or foster care child only with the employer's approval.

The Town will allow the employee to use accumulated time in lieu of being unpaid in this order: Sick Leave, Vacation, Personal Days and Compensatory Time.

#### **ARTICLE XXIX - COMPENSATORY TIME**

Compensatory time within the same work period may be chosen by the employee in lieu of payment provided the employee has forty (40) hours pay. Compensatory time given as overtime shall be at a rate one and one half (1 ½) times the hours worked. Compensatory time may be accumulated up to forty (40) hours. Once any portion has been used it may be replenished back to forty (40) hours. A maximum of forty (40) hours may be carried over to the next fiscal year. An employee requesting to use accrued compensatory time shall make such request forty-eight (48) hours in advance of the date they are requesting to use such compensatory time, and it shall be approved by the supervisor in charge. All requests for compensatory time to be used shall be in a minimum of one (1) hour increments. All emergencies will require approval but are not to be unreasonably withheld.

#### **ARTICLE XXX - EMPLOYEE EVALUATIONS**

Every employee will receive an annual appraisal written by either the BPW or Highway Superintendent. The categories that will comprise the reviews are:

- Job Knowledge
- Quality of Work
- Quantity of Work
- Dependability
- Communication

- Adaptability
- Overall Review

In each of the above listed categories, the Supervisor will write one or two sentences concerning the employee's performance in that specific category. The interview process, which will follow the appraisal, is intended to generate dialog and goals between the employee and the supervisor. (See attached form.)

### **ARTICLE XXXI – GPS**

The Union agrees that the Board of Public Works, in its sole discretion, has the right to implement Global Positioning System (GPS) technology, on any and all Board of Public Works owned vehicles. The primary purpose is enhancing operational efficiency, quality of delivery of services to residents, snow and ice operations, and ensuring the safety of employees.

It is understood that disciplinary actions against employees is not a primary purpose of implementation. If the Superintendent of the Board of Public Works or designees has cause to believe there is reason to question or consider discipline for an employee based on personal observation or actions reported by named individuals, data from the GPS system may be reviewed and used.

The parties agree that no disciplinary action will result from the monitoring of the GPS and that the GPS data alone will not initiate or be the sole basis for any disciplinary action. The parties agree that the GPS data can be used as evidence to support disciplinary action.

In the event of a disciplinary issue, the assigned Staff Representative and steward shall have access to any related data.

The parties agree that monitoring of GPS information will only be performed within the Board of Public Works offices. The monitoring will only be performed by the Superintendent of the Board of Public Works or their designee.

The parties agree that tampering with or disabling the GPS system may be grounds for discipline.

### **ARTICLE XXXII - EARLY RETIREMENT INCENTIVE**

Upon written notice of intent to retire, an employee, who has or will have at least twenty (20) years of service with the Board on the effective date of retirement, will receive additional

compensation added to the base salary according to the following:

w/3 years advance notice	w/2 years advance notice	w/1 year advance notice
\$2,500.00 each year	\$2,500.00 each year	\$2,500.00 each year

Written notice of intent to retire must be accepted by the Board of Public works and Retirement Board no later than February 1st of the first, second, or third year preceding retirement. Payment will become effective in July of the fiscal year following notification and will be added to the regular base pay in the number of paychecks for that specified fiscal year.

If the employee fails to retire on the specified date, the stipend will be returned to the Board of Public Works by withholding amount of money from regular paychecks until the total amount of monies advanced are repaid.

**ARTICLE XXXIII - DURATION OF AGREEMENT - REOPENING**

This agreement will become effective for a period of three (3) years from July 1, 2022 and shall continue in full force and effective until June 30, 2025. This agreement shall remain in full force and effect thereafter, until a new agreement is executed and implemented.

Not later than January 15th in the year preceding June 30, 2025, the parties to this agreement will enter into negotiations for a successor agreement to become effective for amendments to this agreement as the parties hereby specifically agree to consider.

**ARTICLE XXXIV – WAGE REOPENER**

Should any Town of Fairhaven non-school bargaining unit receive a higher cost of living adjustment ("COLA") greater than the total percentage increase contained in the collective bargaining agreement for the period of July 1, 2022 - June 30, 2025, the Board agrees to reopen the COLA portion of the collective bargaining agreement.

**ARTICLE XXXV – REASONABLE ACCOMODATION/LIGHT DUTY**

The Town of Fairhaven ("Town") will comply with Family Medical Leave Act FMLA the Americans with Disabilities Act (ADA), the Massachusetts Fair Employment Practices Law (MFEPL), and

all other applicable state and local laws, and is committed to providing equal employment opportunities to qualified individuals with disabilities. Consistent with this commitment, the Town will engage in an interactive process with employees or applicants in order to provide "light duty/reasonable accommodations" to employees who are receiving Worker's Compensation or who are otherwise eligible under the ADA.

"Reasonable accommodations" are limited accommodations which allow the employee to perform the essential functions of his/her position. In accordance with the ADA, accommodations that impose an undue hardship on the Town are not considered reasonable and will not be granted. A permanent reassignment or transfer of an employee will not be considered a reasonable accommodation.

Employees who believe they are in need of an accommodation should contact the Human Resources Director or their immediate supervisor. Upon receiving a request for an accommodation from the employee or prospective employee capable of performing the essential functions of the position involved, the Town will engage in a timely, good faith and interactive process with the employee or applicant to determine an effective, reasonable accommodation to enable the employee or applicant to perform the essential functions of the position.

The Town may require the employee or applicant to provide documentation from an appropriate health care or rehabilitation professional about the need for a light duty/reasonable accommodation or the extension of a previously agreed upon accommodation, including a timeframe by which the Town may expect the employee to return to duty, including regular updates if necessary.

In the event of a worker's compensation injury leave, these light duty/reasonable accommodations policy may extend for six (6) months; an additional six (6) month extension is at the BPW Superintendent's discretion. Management reserves the right to deny light duty/reasonable accommodation in response to staffing levels and departmental need.

The Town prohibits any form of retaliation, discipline, reprisal or intimidation against any employee or applicant who has made a good faith basis for an accommodation or who has been granted an accommodation under this policy.

### ARTICLE XXXVI – REIMBURSEMENT FOR EDUCATION/TRAINING

With prior approval of the Town, the Town will reimburse the employee for classes, education, and training not otherwise covered by the collective bargaining agreement, for topics the Town deems to be reasonably related to the employee's job. Requests for classes must be made in writing to the BPW Superintendent, who will indicate whether or not the training is approved.

The Town may reimburse a permanent full-time employee for tuition expenses for approved course work up to a maximum amount of \$2,500.00 (permanent part time employees who work twenty (20) hours or more are eligible on a pro-rata basis) in one fiscal year, provided the following conditions are met:

1. The employees secure written advance approval from the Town Manager;
2. The Town Manager determines that the course work is related to the employee's job;
3. The employee successfully completes the course with a grade of "C" or better or equivalent, or better;
4. Upon completion of the course, the employee is still employed by the Town of Fairhaven; and
5. The employee furnishes appropriate documentation to the Town Manager after successful completion of the course.
6. An employee who successfully completes an approved course with a passing grade will be reimbursed 100% of the cost of tuition, subject to the above limits and requirements. An employee who fails to complete or pass an approved course shall not be entitled to reimbursement.
7. The employee shall repay the Town for any stipend amount paid pursuant to this section if they voluntarily resign within one (1) year of receiving said reimbursement.

### ARTICLE XXXVII – HEALTH AND SAFETY

The Parties agree to work together to make sure all bargaining unit employees receive first aid training.

### ARTICLE XXXVIII – MERGER CLAUSE


This Agreement supersedes and cancels all prior practices and agreements, whether written or oral,

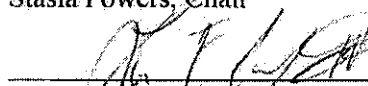


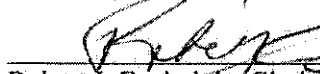
unless expressly stated to the contrary herein, and together with any letters of understanding executed concurrently or after the Agreement, constitutes the complete and entire Agreement between the parties and concludes collective bargaining except as provided in the grievance procedure for its term.

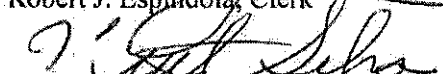
IN WITNESS WHEREOF, the parties hereto have caused these present to be signed by their duly authorized representatives this 19 day of Dec 2022.


For TOWN OF FAIRHAVEN

  
Stasia Powers, Chair

  
Leon E. Correy III, Vice-Chair

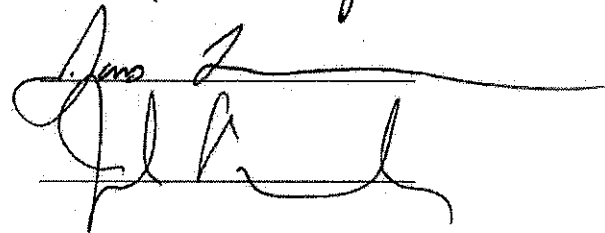
  
Robert J. Espindola, Clerk

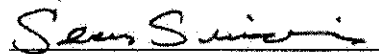
  
Keith Silvia, Member

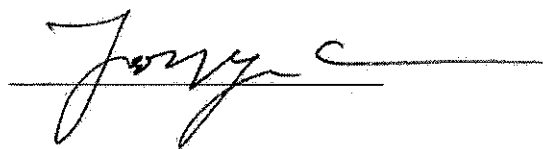
  
Charles K. Murphy, Sr., Member

For AFSCME COUNCIL 93 LOCAL 851





  
Sean Scivino



# SCHEDULE A

MER 21-22	1	2	3	4	5	6	7 (Phantom Step for Calculation Purposes)	
1	15.59	16.07	16.59	17.09	17.6	18.13	18.67	19.23
2	16.3	16.85	17.41	17.96	18.51	19.06	19.63	20.22
3	17.13	17.73	18.3	19.29	19.87	20.46	21.07	21.70
4	17.95	18.59	19.24	19.88	20.47	21.08	21.71	22.36
5	19.08	19.78	20.41	21.1	21.74	22.39	23.06	23.75
5A	19.59	20.29	20.92	21.6	22.25	22.91	23.6	24.31
6	20.1	20.74	21.47	22.24	22.91	23.59	24.3	25.03
6A	21.86	21.23	21.94	22.76	23.42	24.12	24.84	25.59
7	21.86	22.63	23.37	24.5	25.26	26.01	26.79	27.59
7A	22.5	23.15	23.86	24.99	25.73	26.51	27.31	28.13
8	23.83	24.63	25.42	27.51	28.32	29.16	30.03	30.93
8A	24.33	25.14	25.91	28	28.84	29.7	30.59	31.51
9	24.56	25.39	26.14	28.23	29.08	29.96	30.86	31.79
9A	24.8	25.63	26.39	28.49	29.34	30.21	31.12	32.05

### July 1, 2022 Drop Step Add Step

2% COLA	1	2	3	4	5	6	7
1	18.39	16.92	17.43	17.95	18.49	19.04	19.61
2	17.19	17.76	18.32	18.88	19.44	20.02	20.62
3	18.08	18.67	19.68	20.27	20.87	21.49	22.14
4	18.96	19.62	20.28	20.88	21.50	22.14	22.81
5	20.18	20.82	21.52	22.17	22.84	23.52	24.23
5A	20.70	21.34	22.03	22.70	23.37	24.07	24.79
6	21.15	21.90	22.68	23.37	24.06	24.79	25.53
6A	21.65	22.38	23.22	23.89	24.60	25.34	26.10
7	23.08	23.84	24.99	25.77	26.53	27.33	28.15
7A	23.61	24.34	25.49	26.24	27.04	27.86	28.69
8	25.12	25.93	28.06	28.89	29.74	30.63	31.55
8A	25.64	26.43	28.56	29.42	30.29	31.20	32.14
9	25.90	26.66	28.79	29.66	30.56	31.48	32.42
9A	26.14	26.92	29.06	29.93	30.81	31.74	32.69

### July 1, 2023

2% COLA	1	2	3	4	5	6	7 (Phantom)	
1	16.72	17.26	17.78	18.31	18.86	19.42	20.01	20.61
2	17.53	18.11	18.69	19.26	19.83	20.42	21.04	21.67
3	18.45	19.04	20.07	20.67	21.29	21.92	22.58	23.26
4	19.34	20.02	20.68	21.30	21.93	22.59	23.26	23.96
5	20.58	21.23	21.95	22.62	23.29	23.99	24.71	25.45
5A	21.11	21.77	22.47	23.15	23.84	24.55	25.29	26.05
6	21.58	22.34	23.14	23.84	24.54	25.28	26.04	26.82
6A	22.09	22.83	23.68	24.37	25.09	25.84	26.62	27.42
7	23.54	24.31	25.49	26.28	27.06	27.87	28.71	29.57
7A	24.09	24.82	26.00	26.77	27.58	28.41	29.27	30.14
8	25.63	26.45	28.62	29.46	30.34	31.24	32.16	33.15
8A	26.16	26.96	29.13	30.01	30.90	31.83	32.78	33.76
9	26.42	27.20	29.37	30.25	31.17	32.11	33.07	34.06
9A	26.67	27.46	29.64	30.53	31.43	32.38	33.35	34.35

### July 1, 2024 Drop Step Add Step

2% COLA	1	2	3	4	5	6	7
1	17.61	18.14	18.68	19.24	19.81	20.41	21.02
2	18.48	19.06	19.64	20.23	20.83	21.46	22.10
3	19.42	20.47	21.09	21.71	22.36	23.03	23.72
4	20.42	21.10	21.72	22.37	23.04	23.73	24.44
5	21.66	22.39	23.07	23.76	24.47	25.21	25.96
5A	22.20	22.92	23.61	24.31	25.04	25.80	26.57
6	22.78	23.60	24.31	25.03	25.79	26.56	27.36
6A	23.28	24.15	24.85	25.60	26.36	27.15	27.97
7	24.80	26.00	26.81	27.60	28.43	29.28	30.16

7A	25.32	26.52	27.30	28.13	28.98	29.85	30.75
8	26.98	29.19	30.05	30.94	31.87	32.82	33.81
8A	27.50	29.71	30.61	31.52	32.46	33.44	34.44
9	27.74	29.96	30.86	31.79	32.75	33.73	34.74
9A	28.01	30.23	31.14	32.08	33.02	34.02	35.04

Starting July 1, 2022, a temporary/phantom 8th step shall be created reflecting a 3% increase from step 7. No employee shall be eligible to rise to this temporary/phantom 8th step. As of July 1, 2022, the bottom step (step 1) shall be deleted/dropped, and the remaining steps shall be renumbered so as to reflect seven (7) total steps (i.e. old step 2 shall become New Step 1, old step 3 shall become New Step 2, and so forth until the temporary 8th step becomes New Step 7). Employees that were in Step 1 on June 30, 2022, shall be retroactively placed in New Step 1 on July 1, 2022. Retroactively to July 1, 2022, all other employees shall be placed and paid at one (1) step lower than the step that they held on June 30, 2022, in order to reflect the New Step shift. All employees shall rise to the next step in the wage chart upon their employment anniversary with the Town.

For example: an employee with an anniversary of December 15 and who was on Step 5 on June 30, 2022, shall be retroactively placed onto New Step 4 as of July 1, 2022, and paid accordingly. On December 15, 2022, said employee shall then be placed into the New Step 5 and be paid accordingly. This reduction in step number shall not result in a loss of remuneration to any employee as the New Step is at the same rate of pay as the previous higher step with the addition of the corresponding COLA increase detailed above (i.e. New Step 4 as of July 1, 2022 is the same rate of pay of old step 5 as of June 30, 2021 with the corresponding 2% COLA increase).

This process shall again repeat on July 1, 2024, so that a temporary/phantom 8th step shall be created reflecting a 3% increase from Step 7. On July 1, 2024, the bottom step (step 1) shall be removed all other steps shall be reduced by one (1) so that step 2 becomes New Step 1 and so forth until the temporary/phantom step 8 becomes the New Step 7. All employees in Step 1 on June 30, 2023, shall be placed in New Step 1 on July 1, 2024. On July 1, 2024, all other employees shall be placed in one step lower than the step that they held on June 30, 2024, and shall be paid accordingly. This reduction in step number shall not result in a loss of remuneration to any employee as the New Step is at the same rate of pay as the previous higher step with the addition of the corresponding COLA increase detailed above.

**SCHEDULE "B"**

**COMPENSATION LEVELS**

Laborer (part time)	1
Laborer	4
Highway Maintenance Man	4
Laborer/Special Motor Equipment Operator	4
Heavy Motor Equipment Operator – Class B	5
Heavy Motor Equipment Operator – Class A	5A
Heavy Motor Equipment Operator/SMEO – Class B	6
Heavy Motor Equipment Operator/SMEO – Class A	6A
Special Motor Equipment Operator – Class B	7
Special Motor Equipment Operator – Class A	7A
Motor Equipment Repairman – Class A	7A
Working Foreman Highway Maintenance Man – Class B	9
Working Foreman Highway Maintenance Man – Class A	9A
Working Foreman Motor Equipment Repairman – Class A	9A
Park Maintenance Craftsman – Class B	7

Special Motor Equipment Operators with restrictions on hoisting license will be paid .32 less per hour. All SMEO's shall be able to operate all Town equipment.

EMPLOYEE EVALUATION FORM



NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
ANNIVERSARY DATE: \_\_\_\_\_  
DATE: \_\_\_\_\_

1. Job Knowledge

2. Quality of Work

3. Quantity of Work

4. Dependability

5. Communication Skills

6. Adapability to Various Assignments

7. Overall Review

8. Employee Comments

Supervisor's Signature / Date:

Employee's Signature / Date: