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Title: **Delhi, Town of and International Brotherhood of Teamsters (IBT), Local 338 (1996)**

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Union: **International Brotherhood of Teamsters (IBT)**

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Delhi, Town Of And Intl Brotherhood
Of Teamsters Local 338

new 2136
4465
TO
BC

COLLECTIVE BARGAINING AGREEMENT

BETWEEN

THE TOWN OF DELHI

AND

INTERNATIONAL BROTHERHOOD OF

TEAMSTERS, LOCAL 338

NYS PUBLIC EMPLOYMENT
RELATIONS BOARD
RECEIVED

OCT 15 1996

EXECUTIVE DIRECTOR

JANUARY 1, 1996 - DECEMBER 31, 1998

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ARTICLE I - RECOGNITION

The Town recognizes the Union as the sole and exclusive representative for all Highway Department employees excluding the Highway Superintendent.

ARTICLE II - DURATION OF AGREEMENT

This agreement shall be effective from January 1, 1996 until December 31, 1998, inclusive.

ARTICLE III - NEW AGREEMENT

1 - The parties shall commence negotiations for a new agreement not less than ninety (90) days prior to the expiration date of this agreement (December 31, 1998).

2 - If an agreement has not been reached within forty-five (45) days before the expiration of the contract, either party to this agreement may declare an impasse and the procedure provided through PERB will commence

ARTICLE IV - EMPLOYEE/UNION STATUS AND RIGHTS

Dues - Deduction: The Town agrees to deduct from the salaries of employees membership dues or other authorized fees for the Union. Employees shall individually authorize the Town to deduct and transmit the monies to the Union. Dues deduction authorizations shall be in writing upon the Checkoff Authorization and Assignment form provided by the Union and in a manner consistent with the law.

Deductions shall be made uniformly and consistently once per month and sent to the Union by the 15th the following month.

Deductions authorized by an employee shall continue as so authorized unless and until, such employee notifies the Town in writing of their desire to discontinue such authorization. The Union assumes responsibility for the disposition of such funds so deducted once they are turned over to the Union.

Provide that Union dues be taken out each pay period.

Referrals: Whenever additional employees are required, the Union, as well as other sources, will be offered an opportunity to send applicants for the job. However, the final employment decision shall be at the sole discretion of the Town.

Shop Steward:

A - The Town recognizes the right of members of the Union to elect a Shop Steward and to grant to the Shop Steward the responsibility for insuring that employees comply with the provisions of this agreement.

B - The Shop Steward shall not have the authority to alter, amend, violate or otherwise change any part of this agreement.

C - The Shop Steward shall be considered the senior employee by title for lay-off and recall purposes only.

ARTICLE V - UNION TIME

1 - A duly designated Shop Steward shall be permitted to transact official Union business directly related to the administration of this Agreement on Town property during the workday, but only at a reasonable time and in a reasonable manner that shall not interfere with or interrupt the work or individual duties and responsibilities of such representative as a Town employee.

2 - The Union shall certify in writing to the Town the names of the Shop Steward and Staff Field Representatives.

3 - When the Shop Steward meets with a Town representative at the request of said Town representative during the workday, such meeting shall be without loss of pay to the Shop Steward. Any meeting with Town representatives after the completion of the workday shall be without any payment of any kind to the Shop Steward by the Town.

4 - The Shop Steward and any certified Field Representative desiring to conduct

Union business during the work day must obtain prior approval of the Highway Superintendent. Approval of such requests shall be dependent on the work requirements of the department, but shall not be unreasonably denied. In requesting permission to conduct Union business, Union representatives shall specify what employee(s) will be involved and the amount of time required to conduct such business. All such requests shall be made in writing at least twenty-four (24) hours in advance of the date requested. General group Union meetings shall not be conducted on Town property during the normal workday.

5 - The Shop Steward shall have access to time cards and other records that are relevant to determining if this agreement is being administered. To review personnel records, the Shop Steward will provide written permission from the employee.

6 - Bulletin Board: The Town will allow the Union the use of a bulletin board in the Town garage for the purpose of posting legitimate Union notices/communications.

ARTICLE VI - EMPLOYEE STATUS AND RIGHTS

Probationary Period: The probationary period shall be pursuant to Delaware County Civil Service Rules.

Seniority:

1 - There shall be two (2) types of seniority, one (1) for regular full-time employees and one (1) for part-time employees. Unless otherwise provided, the two (2) types of seniority shall be exclusive of each other and part-time seniority shall be subordinate to regular full-time seniority.

2 - Seniority shall be the length of continuous service to the Town as shown in the Town records since the date of permanent appointment as a regular full-time or part-time employee.

3 - Seniority shall be by occupational title.

4 - Temporary and seasonal employees shall not acquire seniority during such employment.

5 - Breaks in service - A resignation or dismissal shall constitute a break in service and result in loss of seniority and all other rights of employment. However, a dismissal which is later reversed by an arbitrator shall not constitute a break in service.

An authorized leave of absence will not constitute a break in service.

A lay-off followed by a re-instatement within nine (9) months will not constitute a break in service.

ARTICLE VII - WORK WEEK-HOURS OF WORK

The regular work week for regular full-time employees will be forty (40) hours per week, eight (8) hours per day exclusive of meal period, five (5) consecutive days per week with a minimum of a one-half (1/2) hour lunch period and a fifteen (15) minute break in the morning and afternoon.

Exception: At the option of the Highway Superintendent, during the months of June, July and August, four (4) ten (10) hour days may be worked for a total of forty (40) hours at regular pay. When four (4) ten (10) hour days are scheduled, personal days, sick days, vacation, etc. will be recorded in eight (8) hour increments to comply with days allowed for benefits.

The scheduling of the hours to be worked, the starting and quitting time, lunch periods and other details of the work week shall be the prerogative of the Highway Superintendent or the Town Board so long as they do not violate any existing Federal or State Law. However, whenever practical, the fifteen (15) minute breaks will be scheduled in mid-morning and mid-afternoon and the lunch period shall be scheduled in the middle of the work day. However, scheduling of breaks and lunch period shall be subject to work requirements.

The regular work schedule shall not be changed without reasonable advance notice to the employee except in an emergency when it is necessary to do so to provide for continuation of Town services.

There shall be no re-scheduling of days off or tours of duty for sole purpose of avoiding the payment of overtime.

This provision shall in no way limit the Highway Superintendent's right to assign overtime as required.

ARTICLE VIII - COMPENSATION

The regular rate of pay for all employees shall be as follows:

	<u>1996</u>	<u>1997</u>	<u>1998</u>
Laborer	\$10.26	\$10.71	\$11.16
Operator	\$10.50	\$10.95	\$11.40
Mechanic	\$10.95	\$11.40	\$11.85

Consistent with past practice, the Deputy Superintendent shall receive an additional One Thousand (\$1,000.00) Dollars per year.

Overtime:

A - Employees shall be paid time and one-half (1 1/2) for all hours worked in excess of forty (40) hours per week and eight (8) hours per day. Except when four (4) ten (10) hour days are scheduled in June, July, and August.

B - Except in emergencies no employee shall work overtime unless said overtime is necessary and has been approved by the Highway Superintendent.

C - Employees will not be paid for any unauthorized overtime.

The following shall not be considered "time worked" for the purpose of computing overtime:

- 1 - Administrative Leave
- 2 - Vacation Days
- 3 - Jury Duty

The following shall be considered "time worked" for the purpose of computing overtime:

- 1 - Personal Time
- 2 - Holidays- Sick Leave
- 3 - Bereavement for the immediate family

Overtime Assignments:

The Highway Superintendent may require overtime work at such time as may be necessary to ensure proper maintenance, including snow removal of the Town highways.

Whenever practical assignment of overtime shall be done on rotation basis, so that overtime is distributed in a relatively equal manner.

Employees will be paid at the rate of time and one-half (1 1/2) for all hours worked in excess of eight (8) hours per day (except when four (4) ten (10) hour days are scheduled in June, July and August) and any employee called back to work after having left for the day, or called to work on Saturday, Sunday or holiday, shall receive a minimum of three (3) hours at overtime rate.

No overtime hours will be accumulated for extra time off with pay.

There shall be no re-scheduling of days off or tours of duty for sole purpose of avoiding the payment of overtime.

Employees are expected to be available for overtime assignments including snow removal as needed.

Minimum Call in Time: Employees who have completed their work day and who have left their work site and who are then called back to work will be paid for a minimum of three (3) hours. Such guaranteed minimum call in pay will not apply to an uninterrupted extension of the normal work day or where an employee is called in prior to the commencement of his or her normal work day and such call in work extends into starting time of his or her next regularly scheduled work day.

Military Reserve Training: Members of the military reserves who are called to active duty for training purposes shall suffer no loss in contractual benefits; but shall not be entitled to pay.

Pay Periods: The current system of twenty-six (26) pay periods per year will continue. The Town shall have the option, at their discretion, of holding an additional payday at the end of a year to pay employees, in full, for all days worked in a calendar year.

New Titles: If a new occupational classification is created, the rate of pay for same shall be negotiated with the Union. However, the Town shall have the right to establish an initial rate of pay pending negotiations.

ARTICLE IX- EMPLOYEE BENEFITS

The following employees are entitled to the benefits delineated in this Article:

1 - Regular full-time employees

2 - Full-time temporary employees who are employed for more than three (3) months. Upon exceeding three (3) months of employment, computation and entitlement to sick leave, personal days and holidays shall be retroactive to the original date of full-time temporary employment.

A day for the purpose of computing sick leave, vacation, bereavement, personal days, etc., shall be eight (8) hours.

Notice of Resignation or Retirement:

1 - Except in an emergency employees are required to give five (5) working days advance written notice of their resignation or retirement. Paid leave time shall not be counted as part of the five (5) days.

2 - Employees who fail to give the required five (5) working days written notice will have their entitlement to any unused paid leave time reduced by one (1) day for each day their notice is deficient.

Retirement Plan: The Town of Delhi will provide a Retirement Plan for full-time paid employees, employed on a permanent basis. This plan is with the New York State Employee's Retirement System (NYSERS). The Town is responsible for the total payment of employees enrolled in said Retirement System, appearing on Tier I or Tier II. Tier III or Tier IV members contribute three (3) percent of their gross wages, which is treated as a payroll deduction. Employees hired after January 1, 1989 must sign an "Awareness of Eligibility" form stating acceptance or rejection of the plan. All employees hired after January 1, 1991, must sign an "Awareness of Employment Form", stating acceptance or rejection of the plan.

Mandatory Physical: All employees who reach the age of seventy (70) shall be required to have a physical examination.

Health Insurance: The Town of Delhi shall continue to provide Blue Cross/Blue Shield, extended Health Care Benefits and Dental Insurance coverage or their equivalent for all full-time hourly employees at no cost to the employees. The employee will pay by payroll deduction, twenty-four (24%) per cent per month, of the cost of dependent coverage.

The Town will pay its share of the cost of health insurance during such time as an employee is working or receiving paid leave.

In addition, for those employees with less than six (6) months of accumulated sick leave who become disabled on or off the job and who file a disability or worker's compensation leave request, the Town will continue to pay the cost of health insurance up to a maximum of six (6) months. The six (6) month limit shall include any time during which an employee is receiving paid sick leave and shall be for any one (1) injury or illness. The Town will continue to provide health insurance at no cost to the employee beyond six (6) months if the Empire Plan waives the premium.

Claim Forms - It is the employee's responsibility to see that all required claim forms are filed promptly with the Insurance Carrier. Forms are available from the Town Clerk's office.

Loss of Benefits - No payments will be made unless the proper claim form is submitted. Failure to promptly complete the proper claim form may result in a loss of benefits because of the expiration of the time period established by the Insurance Company wherein claims will be honored.

Health Insurance After Retirement: Employees who retire from the Town under the New York State Retirement System and/or Social Security shall be eligible to remain on the Town's health insurance plan provided they pay 100% of the cost of such coverage. Retirees must make payment to the Town on or before the 10th of a month, prior to the month of coverage, in order to retain coverage for that month. The Town will provide health insurance coverage to complete the month in which an employee leaves the Town's employment.

During the duration of this agreement, the Town shall have the right to change health insurance plans and/or carriers provided any new plan adopted provides substantially the same benefits as the plan in effect at the time this agreement is executed. Prior to any new plan being adopted, the Union will be given the opportunity to review the proposed plan.

Holidays with Pay:

A - The days prescribed by Law for the observance of New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, Christmas Day, and, commencing June 14, 1998, Flag Day, shall all be observed as paid holidays by all Town employees. In lieu of employees working Lincoln's Birthday and Election Day, the first two days of NYS Deer Hunting Season will be considered Holidays, weather permitting.

B - Employees called in to work on a holiday shall receive time and one-half (1 1/2) plus the holiday pay.

C - Employees called into work on Christmas and/or Thanksgiving shall receive two times (2X) their regular hourly rate plus the holiday pay.

D - When one of the aforementioned holidays falls within the regularly scheduled vacation period of an employee who is eligible to receive such holiday pay and he is absent from work because of such approved vacation, he shall receive a compensatory day off or pay for the day.

E- Except as otherwise herein indicated, holidays will be observed on the dates such holidays are observed by the State of New York.

F - All holidays earned in a calendar year must be used within thirty (30) days of

the end of that calendar year or an employee shall be compensated for such holidays within thirty (30) days of the end of the calendar year.

G - Employees may not accumulate more than two (2) holidays.

Vacations with Pay:

A - All full-time, hourly paid employees will be entitled to annual paid vacations based on the following schedule of completed years of permanent employment:

1 year.....	5 working days
2 to 3 years.....	10 working days
4 to 6 years.....	11 working days
7 to 9 years.....	13 working days
10 years.....	15 working days
15 years.....	20 working days

Vacation credits are not cumulative and must be used during the calendar year for which they apply. Vacations must be scheduled between April 1st and November 1st each year. No more than 1/3 of employees may be on vacation at one time.

Choice of vacation periods shall be by seniority according to date of hire subject to the approval of the Highway Superintendent.

With written approval of the Highway Superintendent, vacations may be scheduled between November 1st through March 31st, weather permitting.

Employees terminated, for any reason, prior to December 31st of their beginning year of employment, shall not be entitled to paid vacation days.

B - Employees shall have no right to carry over unused vacation time to the succeeding year. Vacation time is not cumulative and must be used during the calendar year in which it was earned. Employees will lose unused vacation time they refused to use.

C - Employees who are discharged prior to January 1st of any year shall not be eligible for a pro-rated vacation allowance for the calendar year in which they are discharged. Employees with at least one (1) year of service may take any

unused vacation allowance credited to them as of the previous January 1st.

D - Employees who resign, or retire, or the estates of those employees who die, shall receive a vacation allowance based on the time he is in service at the rate of his applicable vacation pay for each week in which he worked within the year prior to the applicable eligibility date of the particular vacation year.

E - Vacation days may be taken in not less than one-half (1/2) day units except those employees who receive a pro-rated vacation who may use whatever fraction of a day results from such pro-rating.

Sick Leave:

A - The purpose of sick leave is to pay for absences from work, due to illness or injury, for which no other compensation exists. Sick leave for full-time, permanent status employees will be credited at the rate of four (4) hours for each eighty (80) hours of straight time worked and will be cumulative to one hundred and sixty (160) days.

Payment for sick leave will be made at the employee's normal rate of pay.

Sick leave shall be debited and controlled in the following manner:

(a) Sick leave shall be debited on the basis of the exact number of working days an employee is scheduled to work during the period when sick leave is taken, further, sick leave shall be debited in no less than one (1) hour increments.

(b) Proof of illness in the form of a Certificate from a physician may be required when an employee is absent for three (3) days or more in consecutive order.

(c) All extended sick leave must be reported to and approved by the Town Supervisor and employees shall be held to strict accountability for the statements made by them concerning sick leaves of absence. Any misrepresentation shall subject an employee to disciplinary action.

(d) Leave without pay may be granted for sickness which extends beyond an employee's accumulated sick leave.

(e) After six (6) months of continuous service, permanent employees may utilize vacation leave credits after the expiration of their accumulated sick leave.

(f) All employees who are absent from their duties for any of the reasons entitling them to sick leave shall notify the Highway Superintendent or other designated person within one (1) hour after the start of the employee's regular working time. Failure to report within the prescribed time limit may be considered an unauthorized absence (A.W.O.L.) and, therefore, subject the employee to a loss of sick leave benefits.

(g) Conversion of sick leave to vacation leave is strictly prohibited.

Worker's Compensation Leave With Pay

An employee necessarily absent from duty because of occupational injury or disease as defined in the Worker's Compensation may use sick leave credits to supplement workers compensation. The Town will request reimbursement from Worker's Compensation. When reimbursement is received by the Town, the employee will be credited his sick leave. Occupational injury must be reported to Town Clerk's office within 3 days to allow time for completion of forms.

Unauthorized Absence (A.W.O.L.)

An employee who is absent from his or her duties and responsibilities without the prior approval of the Highway Superintendent or his designated representative may be deemed A.W.O.L., shall receive no pay for the period of absence and shall be subject to disciplinary action. Further, the failure of an employee to resume his or her duties and responsibilities at the expiration of any type of authorized leave or a failure to seek and gain approval for an extension of said leave shall be considered an unauthorized absence.

B - Sick Pay Off The Job Illness Policy:

In conjunction with New York Disability Insurance Benefits, the Town of Delhi will continue regular pay for three (3) months after the expiration of time the employee has coming (sick days, personal days, vacation days) or till the end of the NYS Disability payments, whichever comes first. The amount of the DBL checks to be deducted from Town paychecks received.

Personal Leave:

Personal leave for full-time permanent status employees shall be five (5) days, non cumulative, per year and with the permission of the Highway Superintendent. Forty-eight (48) hours prior written notice is required. Personal leave shall not be taken contiguous with vacation.

Exception:

In the event of an emergency, such as death in the family, or an accident, the forty-eight (48) hour prior notice requirement will be waived. Personal days will be credited on January 1st of each year.

Bereavement:

Regular full-time employees shall be entitled to three (3) days paid bereavement leave per calendar year per occurrence for death occurring in the immediate family. Immediate family shall mean spouse, father, mother, sister, brother, children, grandchildren, and grand-parents. Bereavement shall not be accumulative.

Two (2) days per year will be granted to attend funeral services for the following: mother-in-law, father-in-law, sister-in-law and brother-in-law.

Jury Duty:

Regular full-time employees who are summoned for jury duty and who are required to serve as a juror during their regular working hours, will be reimbursed by the Town for the difference between their jury duty pay and their regular straight time hourly pay. In no case will reimbursement be in excess of eight (8) hours pay per day nor will the total reimbursement be in excess of sixty (60) scheduled working days per calendar year.

Employees who report for jury duty and whose jury duty time does not require their absence from work for an entire day, will be expected to return to work for that portion of the day that remains unless such time is less than one (1) hour.

Jury duty served on a voluntary basis is not reimbursable.

Employees must submit evidence from Court as to the days or part days they serve and the amount earned for such service.

This provision does not apply to any legal action or proceeding to which the employee is a party.

State Disability Insurance:

The Town agrees to continue a State Disability Insurance Plan to cover off-the-job disabilities.

Leave of Absence:

Permanent Town employees may be granted leave of absence without pay for a period not to exceed one (1) year at the discretion of the Town Board subject to the following conditions:

A. **Best Interest of the Town** - Leave without pay may be granted when it is in the best interests of the Town to authorize said leave. However, such leave shall not be arbitrarily or capriciously denied.

B. **Cause for Dismissal** - Failure on the part of any employee to report to the Town at the expiration of a leave without pay may be considered a cause for dismissal.

C. **Employment Status** - Leave without pay shall not constitute a break in service with the Town.

D. **Leave Without Pay Expiration** - At the expiration of a leave without pay, the employee shall be reinstated to the position he or she vacated or to another position in the same salary range for which he or she is qualified.

E. **Sick and Annual Leave** - Credit toward annual vacation and sick leave shall not be earned during the period granted for leave without pay.

F. **Sickness or Injury** - A permanent employee who is incapacitated by sickness or injury, excepting those injured during the course of their duties and responsibilities of their position, may be deemed on leave without pay after the expiration of all of said employee's accumulated sick leave and/or vacation leave.

Safety Equipment:

The Town shall provide employees with all safety equipment pertaining to and for the performance of their job as may be required by the Town.

ARTICLE X- SEPARATION

Separation-Upon separation from employment with the Town, employees shall be paid at the then current rate for all unused personal leave, vacation leave, sick leave, and holidays except persons separated under an "unsatisfactory service" status. Separation of any employee from his or her position or employment with the Town of Delhi shall be designated as one of the following types of separation and shall be accomplished/recorded in the manner indicated:

A - **Death**-Separation shall become effective as of the date of the employee's death. All compensation due to the employee, including unused and accumulated personal leave, vacation leave, sick leave, and holidays, shall be paid to the estate of the employee unless otherwise provided by law.

B - **Disability**-An employee may be separated for disability when said employee cannot perform the duties and responsibilities of his or her Position because of a physical or mental impairment. Action of this type of separation may be initiated by the employee, his or her legal representative or the Town; however, this type of separation must be supported by medical evidence acceptable to the Town. The Town may require an examination to be performed by a physician of the Town's choice at no cost to the employee.

Any disability separation shall be reported to the Town Clerk in order that any insurance claim benefits may be explained.

C - **Lay-off**-Lay-off separation is the temporary termination of an employee at the discretion of the Town when conditions warrant this action. An employee in the status of a lay-off separation shall be governed by the following rules and policies:

(1) The employee's employment status with the Town will not be lost, i.e., the lay-off separation will not be considered a break in service for a period of nine(9) months from the date of said employee's lay-off.

(2) Incumbents shall be laid-off or demoted in the inverse order of their seniority by occupational title. The Town shall give written notice to those employees to be laid-off and the Union at least ten (10) days prior to the effective date of the lay-off. Part-time, temporary, and seasonal employees will be laid off first. Whenever practical, part-time, temporary and seasonal employees will be given ten (10) days notice of their lay-off. If requested to do so, the Highway Superintendent shall meet with Union representatives to discuss the lay-offs.

(3) Employees who are notified of an impending lay-off may exercise their seniority rights within their occupational classification by bumping a less senior employee. They may exercise their seniority rights outside their occupational classification by bumping a less senior employee, provided they are qualified to perform the duties of the bumped position. An employee who has received a notice of lay-off and who wishes to bump must notify the Highway Superintendent in writing of his or her intent to bump. An employee who fails to notify the Highway Superintendent of his or her intent to bump within five (5) working days of the effective date of his or her lay-off will lose his or her right to bump.

(4) Recall: Regular full-time employees laid-off shall retain the right to be recalled for a period of nine (9) months from the date of their lay-off. The Highway Superintendent shall notify the Union, in writing, of such recall opportunities and shall meet with Union representatives to discuss same if requested to do so.

(5) Notices of recall opportunities shall be sent to laid-off employees at their last known address by certified mail-return receipt requested. Such notice shall include the title(s) of available position(s) and hourly rate of pay. If an employee fails to respond in writing to the notice within ten (10) working days from the date of the mailing of the notice, he or she shall lose all recall rights and shall be considered to have quit.

(6) Employees will be recalled according to seniority within their occupational classification with the employee with the greatest seniority who meets the qualification and has the ability to perform the duties of the position being recalled first. If unable to return to Town employment, the employee will be terminated. An employee shall be considered permanently terminated after a period of nine (9) months if said employee is not recalled for employment.

D - Resignation-It is the responsibility of an employee who plans to resign from his or her Position with the Town to notify his or her immediate supervisor in writing at least five (5) working days prior to said employee's last day of work. An employee who resigns without sufficient prior notice may have his or her separation classified as an unsatisfactory service separation according to the rules governing this type of separation if, in the opinion of the Highway Superintendent, said employee's failure to give the requested notice has impaired the effectiveness of the operations of the Town.

E - Unsatisfactory Service-An employee may be separated with an unsatisfactory service classification whenever his/her work habits, attitudes, production or personal conduct fall below the desired standards of the Town for the continuation of employment. Employees terminated under this type of separation may not be eligible for re-employment with the Town. Reasons for an unsatisfactory service separation shall include, but are not necessarily limited to the following:

(1) Insufficient advance notice prior to resignation.

(2) Unsatisfactory performance of the duties and responsibilities required by an employee's Position, including the failure to meet the standards of Probationary work performance.

(3) Refusal to meet the prescribed standards of ethics, morality, work, personal conduct or other considerations to an extent that makes an employee unsuitable for any position of employment with the Town. Personal conduct and other considerations as used in this Subsection shall specifically include, but it is not limited to standards of dress, personal appearance and the use of required safety equipment/devices as may be prescribed by the Highway Superintendent or the Town of Delhi.

(4) Any other just and reasonable cause which warrants the unsatisfactory service separation of an employee. However, in no case shall an unsatisfactory service separation be based upon age, race, color, religion, sex, or national origin.

F - Political Affiliation-Political affiliation shall not be a reason for dismissal.

G. Unsatisfactory service separation shall be subject to the grievance procedure.

ARTICLE XI-DISCIPLINARY ACTION

A Town employee may be suspended without pay, reduced in his or her position and/or pay or dismissed for just cause requiring disciplinary action. Just cause includes, but is not limited to the following:

A. - **Abuse**- The act of habitual tardiness, unauthorized or excessive absence or abuse of sick leave.

B. - **Acceptance of a Gift or Fee** - Acceptance of money or other consideration of value given to and received by the employee with the intent of influencing an employee in the performance of his or her duties or responsibilities.

C. - **Discourtesy** - The use of discourteous action or language towards the general public or fellow employees.

D. - **Falsification of Records** - The falsification of Town records including misrepresentation on the Application for Employment Form.

E. - **Improper Use of Authority** - The use by an employee of his/her position and/or authority for personal profit or advantage.

F. - **Insubordination** - A refusal to comply with a proper order by an authorized supervisor.

G. - **Intoxication of Alcohol, Influence of Drugs or Disgraceful Conduct** - The act of disgraceful conduct at any time of day when such act and/or behavior threatens the order, safety, or health of or the public respect for the Town government. Intoxication or disorderly conduct during the course of an employee's performance of his or her duties and responsibilities. Intoxication as defined in this Section is an employee being under the influence of alcohol, drugs, or other substances to such an extent that, in the opinion of the Highway Superintendent, the individual poses a threat to the efficient, safe or orderly functioning of the Town of Delhi.

H. - **Reasonable Effort** - Failure to make a reasonable effort to perform any type of duties and/or responsibilities in any position when requested to do so by a

supervisor.

I. - Theft or Destruction - The act of stealing and the careless or willful destruction of Town property.

J - Unlawful Conduct: The violation of or refusal to comply with pertinent rules and regulations, including Town Personnel Policies, when such action impairs the efficiency of or the public's respect for the Town government or which results in an employee's conviction of a misdemeanor or felony.

K. The above will be subject to the grievance procedure.

ARTICLE XII - GRIEVANCE DEFINITION - GRIEVANCE PROCEDURE

A. - A "contract grievance" is a tenable claim that a specific provision of this agreement has been violated. Other disputes which do not involve a tenable claim that a specific provision of this agreement has been violated, including but not limited to all matters as to which other means of resolution are provided or foreclosed by this agreement, or by statute or administrative procedures applicable to the Town, shall not be considered "contract grievances".

B. - A "non-contract grievance" is any other dispute or grievance concerning a term or condition of employment which may arise between the parties and which is not covered by this agreement and shall be processed up to and including Step Three except for those matters as to which other means of resolution are provided or foreclosed by this agreement, or by statute or administrative procedures applicable to the Town. A decision at Step Three on a non-contract grievance shall be final and binding on the parties and not subject to appeal to arbitration.

Employees shall present grievances according to the following procedure:

C. - Step One- The union or any employee may file a contract or non-contract grievance with the Highway Superintendent, which shall be accomplished by the filing of contract and non-contract grievance forms, respectively, to be supplied by the Town. The Highway Superintendent shall make a careful inquiry into the facts and circumstances of the complaint and attempt to resolve the problem fairly and promptly. The Highway Superintendent shall inform the employee of his or her decision and the reasons, therefore, in writing, within seven (7)

calendar days after receipt of the employee's grievance.

D. - Step Two- If the grievance is not resolved at Step One, the grievant shall file a written appeal with Town Supervisor, not more than ten (10) calendar days after the Step One decision has been served, either by personally handing it to the grievant or mailing it to the grievant at the mailing address specified on the grievance form. The Town Supervisor shall make a separate investigation and inform the employee of his or her decision and the reasons therefore in writing within seven (7) calendar days after receipt of the employee's grievance. If no decision is served by the Step One decisionmaker within twenty-five (25) calendar days after the grievance is filed at Step One, it shall be deemed to have been denied and the decision served on the twenty-fifth day.

E. - Step Three- If the grievance is not resolved at Step Two, the grievant shall file a written appeal with the Town Clerk, not more than ten (10) calendar days after the Step Two decision has been served, either by personally handing it to the grievant or mailing it to the grievant at the mailing address specified on the grievance form. The Town Supervisor shall convene a meeting of the Town Council to review and decide upon an employee's contract or non-contract grievance. Said employee shall receive a written response within seven (7) calendar days after the receipt of his or her contract or non-contract grievance and, as to non-contract grievances, the decision of the Town Council shall be final. If no decision is served by the Step Two decisionmaker within twenty-five (25) calendar days after the grievance is filed at Step Two, it shall be deemed to have been denied and the decision served on the twenty-fifth day.

F. - No Transcript: No transcript shall be kept at any meeting at any step of this grievance procedure prior to arbitration, unless otherwise agreed by the parties.

G. - Arbitrator Selection And Procedures: Arbitrator selection and arbitrator procedures under this Article shall be conducted under the Voluntary Labor Arbitration Rules of the American Arbitration Association, except that the arbitration tribunal shall supply twenty (20) names per list rather than the number specified in the rules of said tribunal.

H. - Conditions Precedent For Relief: If the contract grievance is not resolved at Step Three, the union shall file a written Notice of Intention to Arbitrate with the Town Clerk, not more than ten (10) calendar days after the Step Three decision has been served, either by personally handing it to the grievant or

mailing it to the grievant at the mailing address specified on the grievance form. The filing by the union, within the time limited herein, of a Notice of Intention to Arbitrate, shall be a condition precedent to the right to appeal to arbitration as hereinafter provided. If no decision is served by the Step Three decisionmaker within twenty-five (25) calendar days after the grievance is filed at Step Three, it shall be deemed to have been denied and the decision served on the twenty-fifth day.

I. - Appeal To Arbitration For "Contract Grievances": The union may appeal any contract grievance to final, binding arbitration in accordance with the procedures hereinafter prescribed if it is not satisfied with the decision at Step Three; provided that:

- (1) a matter which is, or could be, the subject of a contract grievance, shall not be litigated by the union or any unit member in any other forum; and
- (2) non-contract grievances and other matters as to which other means of resolution are provided or foreclosed by this agreement or by law, shall not be appealed to arbitration.

J. - Arbitration Procedures-Decision And Award:

- (1) Group grievances, i.e., grievances involving two or more employees may be initiated at Step Three with the consent of the parties.
- (2) No transcript or tape recording of an arbitration hearing shall be kept, except upon mutual consent of the parties. If a transcript or tape recording is kept, each party shall pay one/half of the cost of preparing it. Each party shall bear the cost of preparing and presenting its own case. Each party shall pay one/half the arbitrator's fees and expenses. Each party shall bear its own administrative fee charged it by the American Arbitration Association.
- (3) The time limits contained herein shall be extended only upon the mutual consent of the parties, which shall be expressed in writing.
- (4) In deciding the case, the arbitrator shall render a written award and a reasonably concise opinion, and shall not submit observations or declarations of opinions which are not essential in reaching the decision.
- (5) No decision or settlement of a grievance at any stage of the grievance

procedure, including the arbitration stage, shall constitute a precedent, unless a specific agreement to that effect is made by the Town Supervisor and the union.

(6) The arbitrator's decision and award shall be issued within forty-five (45) calendar days after the hearing is closed by the arbitrator.

(7) The arbitrator shall limit his or her decision strictly to the interpretation or application of the express provision(s) of the agreement submitted to him and he or she shall be without power or authority to make any decision or award:

(a) adding to, subtracting from, contrary to, or inconsistent with, or modifying or varying in any way, the terms of this agreement;

(b) involving Town Council discretion or Town policy under the provisions of this agreement, under Town rules or regulations, under regulations having the force and effect of law, or under applicable law;

(c) limiting or interfering in any way with the powers, duties and responsibilities of the Town Council or the Town Supervisor under the Town's rules or regulations, applicable law, and rules or regulations;

(d) ordering the payment of damages of any kind whatsoever, in addition to any back pay award:

(e) ordering any relief whatever, if the award is made after the time limit prescribed herein, and a party makes a timely objection to the delay pursuant to Section 7507 of the CPLR.

K - All reasonable efforts, shall be made to avoid interruptions of work schedules. Whenever practicable, conferences or hearings shall be scheduled during non-working hours, except as agreed to by the Highway Superintendent or Town Board.

L - The Town and the Union agree to make available any and all materials and relevant documents and records concerning the alleged grievance.

M - The Town clerk shall be responsible for the accumulation and maintenance of an official grievance record which shall consist of a written grievance, all exhibits, transcripts, communications, minutes and/or notes of testimony and all

written decisions at all levels.

N - The official grievance record shall be made available for inspection and/or copying by the aggrieved party, the Union and Town representatives, but shall not be deemed as a public record.

O - The employee or group of employees filing a grievance shall have the right at all stages to proceed personally, or through the Union representative, or through a representative of his own choice. If the employee should not designate the Union to represent him, the Union shall have the right to be present at all stages of the procedures herein set forth and shall be entitled to a written copy of the decision mailed to the appropriate representatives of the Union within five (5) days of such decision.

ARTICLE XIII - COMPATIBILITY WITH LAW

This agreement shall be construed so as to be compatible with all Federal, State and Local Laws and the invalidity of any provisions of this Agreement by reason of any such existing law shall not affect the validity of the surviving provisions. If the enactment of legislation, or a determination by a Court or final jurisdiction (whether in a proceeding between the parties or controlling by reason of the facts) render any portion of the Agreement invalid or unenforceable, such legislation or decision shall not affect the validity of the surviving portion of this agreement, which shall remain in full force and effect as if such invalid portion thereof had not been included therein.

ARTICLE XIV - TOWN'S RIGHTS AS AN EMPLOYER

The Town's entering into this Agreement in no way, either explicitly or implicitly, diminishes its relationship as employer to its employee nor the Town's rights and employee's duties such relationships entails.

The Town retains all of its rights as an employer, including, but not limited to, the right to assign work as required, including that which requires overtime, the right to supervise as required and the right to discipline where necessary, subject to the Civil Service Law of the State of New York and any other Federal, State or Local Law, classification, determining the type and manner and means of services to be provided, determining the size and character of the work force. All

matters not specifically detailed in this agreement shall remain the exclusive province of the Town to maintain or modify.

Subcontracting/Assignment of Unit Work:

The Town shall have the right at its sole discretion to subcontract and/or assign existing or future work outside of the bargaining unit provided no lay-off of unit personnel or reduction of the regular eight (8) hour workday and forty (40) hour work week of unit employees results from such subcontracting and/or assignment of work. This provision shall in no way limit the Town's right to assign work to non-unit personnel or subcontract work in short term emergency situations where it is necessary to do so to ensure that important Town services are provided. Although the Town Highway Superintendent is a non-unit position, there shall be no restrictions whatsoever in the performance of unit work by the Highway Superintendent.

ARTICLE XV- PROHIBITION AGAINST STRIKES

Neither the Union nor the employee it represents shall engage in any strike against the Town, nor shall the Union cause, instigate, encourage or condone such a strike. Resolution of all disputes arising from the employer-employee relationship between the Town and the Union shall be resolved in accordance with the provisions of this Agreement and the Taylor Law of the State of New York.

ARTICLE XVI - NOTICE AS PROVIDED BY SECTION 204-A OF CIVIL SERVICE LAW, AS AMENDED

It is agreed by and between the parties that any provision of this agreement requiring legislative action by the Town Board to permit its implementation by providing the additional funds therefore, shall not become effective until such approval has been given.

ARTICLE XVII - ZIPPER CLAUSE

The parties agree that all negotiable items have been discussed during the negotiation leading to this agreement and therefore agree that neither party will be required to negotiate on any other item whether contained herein or not during the life of this agreement except in the case both parties agree to do so.

APPENDIX A

Time Clock Regulations:

Each employee of the Town of Delhi Highway Department shall be issued a Time Card for each pay period. This card will be put through the time clock each day before starting work and again at the end of the work day. This includes regular work days and overtime. Overtime will begin twenty (20) minutes past eight (8) hours for any regular work day.

Each person is solely responsible for his own time card. Anyone putting another's time card through the time clock, will be in direct violation of this Policy and will be subject to reprimand by the Town Board.

Lunch Time and Break:

Employees will not be required to punch out and back in for the normal lunch and break periods.

Responsibilities:

All hourly employees will be required to punch time clocks.

IN WITNESS HEREOF, the parties hereto have set forth their signature on the dates noted hereafter.

TOWN OF DELHI

TEAMSTERS, LOCAL 338

By: *[Signature]*

By: *[Signature]*

TITLE: *Supervisor*

TITLE: *President*

DATE: *Oct. 8, 1996*

DATE: *9/30/96*

the Collective Bargaining Agreement to be executed simultaneously herewith.

IN WITNESS HEREOF, the parties hereto have set forth their signature on the dates noted hereafter.

TOWN OF DELHI

TEAMSTERS, LOCAL 338

By: *D. C. Cullen*

By: *John DiStasio*

TITLE: *Supervisor*

TITLE: *President*

DATE: *Oct 8, 1996*

DATE: *9/30/96*

LES
pc: file