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Teamsters Local 338 (2003)**

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

Local: **Teamsters Local 338**

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NYS PUBLIC EMPLOYMENT
RELATIONS BOARD
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BC/7330

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COUNSEL

AGREEMENT
BETWEEN
THE TOWN OF DAVENPORT
AND
TEAMSTERS, LOCAL 338



JANUARY 1, 2003 - DECEMBER 31, 2005

RECEIVED

JUN 20 2005

NYS PUBLIC EMPLOYMENT
RELATIONS BOARD



TEAMSTERS LOCAL UNION 338
26 PAXTON AVENUE
BRONXVILLE, NEW YORK 10708
TEL: (914) 793-1198
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JOHN DIGIULIO.....PRESIDENT
DIANNE LAMOUREUX.....SECRETARY-TREASURER
ROBERT MOODY.....VICE-PRESIDENT
GAYLE HOFFMAN.....RECORDING-SECRETARY
MARK ROE.....TRUSTEE
LOUIS FULLER.....TRUSTEE
MARILYN TORRIERI.....TRUSTEE

NOTICE TO MEMBERS

THIS AGREEMENT PROVIDES THAT ELIGIBLE EMPLOYEES, MEMBERS OF LOCAL 338, BE COVERED BY THE INDUSTRY AND LOCAL 338 PENSION AND WELFARE FUND. FOR INFORMATION OR CLAIM FORMS, CALL OR WRITE TO INDUSTRY AND LOCAL 338, PENSION AND WELFARE FUNDS, ONE EXECUTIVE BOULEVARD, YONKERS, NEW YORK 10701, OR TELEPHONE (914) 375-0591.

UPON TERMINATION OF EMPLOYMENT FOR ANY REASON, PLEASE CALL THE UNION OFFICE IMMEDIATELY TO RECEIVE A WITHDRAWAL CARD.
THE COST OF A WITHDRAWAL CARD IS .50c.

MEMBERS ARE RESPONSIBLE FOR NOTIFYING THE UNION AND THE FUND OFFICE IMMEDIATELY OF ANY CHANGE OF ADDRESS.

PAYMENT OF DUES IS THE MEMBERS RESPONSIBILITY, TO BE SUBMITTED TO THE UNION OFFICE WHEN OUT FOR ANY EXTENDED ILLNESS, LEAVE OF ABSENCE, DISABILITY OR COMPENSATION, FOR WHICH SAME HAS NOT BEEN DEDUCTED BY THE EMPLOYER.

THIS WILL KEEP YOU IN GOOD STANDING WITH THE UNION.

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ARTICLE 1 -- PREAMBLE

A. This agreement is made between the TOWN OF DAVENPORT, a municipal corporation of the State of New York, located in the County of Delaware, hereinafter designated as the EMPLOYER; and TEAMSTERS, LOCAL 338 for the employees, hereinafter referred to as the Union.

B. Whereas, the parties hereto desire to promote harmonious and cooperative relations between them, in accordance with the policy expressed in the Taylor Law, therefore in consideration of the promises, it is mutually agreed between the parties as follows:

ARTICLE 2 -- RECOGNITION

A. By order of the Public Employment Relations Board, January 8, 1987, it is certified that UNION LOCAL 338, International Brotherhood of Teamsters, has been designated and selected by a majority of the employees of the EMPLOYER, in the unit agreed upon by the parties and described below, as their exclusive representative for the purpose of collective negotiations and administration of grievances.

B. Bargaining Unit

Included - All Highway Department employees in the following titles: Deputy Supervisor, Mechanic and Truck Driver/Laborer.

Excluded - All other employees.

C. Upon receipt of proper written authorization, the EMPLOYER shall deduct UNION dues, on a monthly basis and shall remit monies collected to LOCAL UNION 338. The UNION agrees to indemnify and hold harmless the EMPLOYER from any causes of action, claim or damages incurred as a result of this clause.

All deductions under this Article shall be subject to revocation under Section 93-b of the General Municipal Law and pursuant to Taylor Law Section 208.1(b) by those employees who execute such agreements, upon giving written notice to that effect. Such notice shall be given to the UNION and the EMPLOYER. The EMPLOYER shall thereafter cease withholding any monies whatever under check off authorization.

The assignees shall have no right or interest whatsoever in any money authorized to be withheld until such money is actually paid over to the UNION. The EMPLOYER or any of its officers and employees shall not be liable for any unavoidable delay in carrying out such deductions and upon forwarding a check in payment of such deductions by mail to the assignee's last known address. The EMPLOYER agrees to make every reasonable effort to forward the check for

dues to the UNION in a timely and consistent manner. The EMPLOYER and its officers and employees shall be released from any liability to the employee/assignor, and to assignees under such assignments.

D. Individual UNION representatives shall be allowed to confer with individual EMPLOYER employees on one-to-one basis during regular working hours, provided the representatives gives prior notice to the Superintendent of Highways and provided there is time available without disrupting work duties. Visitations for this purpose shall not include group meetings.

E. The EMPLOYER also recognizes that the UNION may appoint a Shop Steward to provide a management/employee liaison in contract work matters. Such designation, however, does not relieve the Shop Steward of his EMPLOYER assigned job duties.

F. The Union shall be entitled to request access to work schedules and records and personnel files, pertaining to bargaining unit members, with demonstrable relevance to negotiations.

ARTICLE 3 -- CONDITIONS FOR RENEWAL

A. Upon signing, this contract shall be effective until December 31, 2005, inclusive; and from year to year thereafter, unless either party serves a termination notice on the other party postmarked by July 15th of the final contract year. Termination may be whole or in part, if so specified.

B. Should a new agreement be reached, covering a sequential term, it is appropriate to construct a replacement contract document. The EMPLOYER shall produce the contract, subject to proofreading by both sides. Each party shall distribute to their respective constituency.

ARTICLE 4 - GENERAL PRECEPTS

A. Right of Organization: Employees shall have the right to join and participate in the UNION for the purpose of this contract.

B. Right of Representation: Employees shall have the right to be represented by the UNION to negotiate collectively with the EMPLOYER in the determination of their wages, hours and terms and conditions of employment and the administration of grievances.

C. Non-discrimination: The EMPLOYER and the UNION will not discriminate against any employee with respect to wages, hours or terms and conditions of employment by reason of race, creed, color, national origin, age, sex or marital status, except as such conditions may constitute a bona fide occupational or assignment qualification.

D. Job Descriptions: It is understood that every duty and aspect connected with each person or assignment or job description is not specifically set forth in writing. The assignment of responsibilities is subject to direction and adjustment by management.

E. Alternate Procedure to Article 75: Parties mutually acknowledge that under this negotiated agreement, the application of Civil Service Law, Article 75, shall not be required for disciplinary instances not involving termination of employment. Where a lesser disciplinary penalty is under consideration, the provisions of this collective bargaining agreement, may constitute the alternative procedural and substantive process, to that of Article 75.

F. Testing: No unit member shall be directed to submit to a polygraph test, or any other test or procedure which would violate his/her rights under the United States or New York State Constitutions. Such test may be given if requested by the member.

ARTICLE 5 – WORKWEEK – WORKDAY

A. The scheduling of the hours to be worked, the starting and quitting time, lunch periods, compensatory time and other details of the workweek shall be the prerogative of the governing body of the EMPLOYER or the Superintendent of Highways, so long as they do not violate any existing Federal or State Law. The normal workday shall be eight (8) hours and the normal workweek shall be five (5) days. The Superintendent of Highways may require overtime work at such times as may be necessary to insure the proper maintenance, including snow removal, of the EMPLOYER highways.

B. Overtime:

1 – Overtime work, that is hours worked in excess of forty (40) hours per week, shall be compensated at one and one-half (1 ½) times the employee's normal hourly rate. This is, time and one-half (1 ½), for all overtime work. Overtime shall be assigned on a rotating system. Hours taken as sick leave and personal leave shall be calculated as hours worked for the purpose of computing overtime.

2 -- compensatory time is time off, credited to an employee in lieu of overtime pay. It accrues on the basis of 1 ½ comp hours for each hour worked over forty (40) hours per week.

- a. Up to one (1) week, forty (40) hours of compensatory time may be accumulated by a unit member, but must be expended before December 15th of each year, or be paid off, at that year's rate.
- b. The scheduling for an employee's use of compensatory time must be approved by both the employee and the Highway Superintendent. No more than one (1) person may be out on comp time at once.
- c. An employee recalled for work after his/her regular work day shall receive a minimum of three (3) hours at his present straight time rate, if under forty (40) hours. All hours paid for after forty (40) hours will be paid at the rate of time and one-half (1 ½).

For the following holidays only – Thanksgiving, Christmas and New Year's Day – an employee recalled for work after his/her regular work day, shall receive a minimum of four (4) hours at his present straight time rate, if under forty (40) hours. All hours paid for after forty (40) hours will be paid at the rate of time and one-half (1 ½).

- d. Part-time employment is authorized within EMPLOYER employment. Benefits apply to non-probationers regularly assigned over twenty (20) hours per week. Part-timers will not be hired for the purpose of displacing full-time employees.
- e. Tardiness and Unauthorized Absence:
 - 1 – Indiscriminate attendance must be avoided whenever possible. Absences taken without approval of management, or without adhering to proper procedure are unauthorized. Even if an absence is intended to be without pay, management approval is still a necessary prior condition.
 - 2 – Reliance on a relative, acquaintance, or co-worker to relay the message concerning absence to the EMPLOYER, is not authorized, unless a specific medical condition permits no alternative. The employee must phone or contact the Highway Superintendent personally. (Deputy, if Superintendent is unavailable).

3 -- Tardiness and/or unauthorized absences may be considered neglect of duty and constitute the basis of valid charges under law. Extended periods of absence without authorization can be considered a resignation. Employees charged with tardiness and/or unauthorized absence may also be acted upon, under this contract, without recourse to the statutory procedures, by management's application of progressive discipline, in which case the Employer will utilize the following remedies:

- 1st tardiness or absence offense – Oral warning to employee;
- 2nd tardiness or absence offense – Written warning to employee (copy to UNION steward and in file);
- 3rd offense, if tardiness – Two (2) day unpaid suspension (copy to Steward in file);
- 3rd offense, if absence -- Two (2) day forfeiture of pay (copy to Steward and in file);
- 4th tardiness or absence offense -- One (1) week suspension without pay (copy to TEAMSTERS and in file);
- 5th tardiness or absence offense – Notice to offender and Steward of further disciplinary action and/or termination as a result.

- a. Charges are cumulative, up to the point of one (1) week suspension. However, any employee who has received a one (1) week suspension under this provision and thereafter improves performance to the extent that he/she has no further offenses for a six (6) month period, shall return to the point of first offense. In such situations, then any further offenses are then treated as proceeding again to the second, third, fourth, etc.
- b. Employees who are written up primarily for absenteeism (as against tardiness), shall be returned to the point of first offense, no more than once.

ARTICLE 6 -- COMPENSATION

A. Prevailing Rate: All regular full-time employees who have achieved the prevailing hourly rate shall be compensated at \$12.65 per hour as of January 1, 2003, \$13.30 per hour as of January 1, 2004, \$14.00 per hour as of January 1, 2005. (The mechanic position receives \$.75 per hour over the established rate.)

5%

13.25

13.91 5%

B -- Entry Level: Any employee with less than three (3) months, unbroken service since last date of hire, shall be considered probationary, without full contractual salary or contract benefits; and the EMPLOYER shall not be required to show cause for termination. The salary level for probationary employees shall be fifty cents (\$.50) below the prevailing hourly wage for non-probationers. Upon successful completion of their assigned probationary period, employees shall be advanced to the Davenport prevailing wage.

C - Overtime: Overtime (see Article 5 B) shall be assigned on a rotation system.

D. It is understood that the differential for the position of Deputy Superintendent of Highways accrues continuously during payroll status while the position is held, not merely on days when the Superintendent is absent. This is to be reflected in a check, once a month, in the amount of one hundred dollars (\$100.00), commencing January 1, 2003 and ending December 31, 2005.

ARTICLE 7 – FRINGE BENEFITS

A. The EMPLOYER will provide paid hospitalization, with major medical, vision Care and prescription rider, for active full-time regular employees; coverage including individual and dependent. The full-time qualification requires being scheduled full-time (see Article 5 D) regularly.

Any employee (as defined in Article 5 D) hired after October 1, 1996, will be Allowed to select an HMO (approved by mutual agreement of the UNION and The EMPLOYER) whose premium will be paid by the EMPLOYER, provided that it is less than the existing premium of the current basic health insurance plan presently in effect.

If the HMO premium exceeds the current basic plan cost, then the employee Will pay the difference in the premium. If the employee elects to participate in the current basic plan, then said employee will pay the difference in the premium between the basic plan and the HMO. Note: *See tentative agreement dated 11/20/96 for conditions which affect a new employee regarding the HMO plan to be selected.*

The Town will provide to self insure for an optical benefit in the amount of six hundred dollars (\$600.00) per family, for the life of the agreement. 3 yrs.

Further, the Town will provide a three hundred dollar (\$300.00) optical benefit per individual, for the life of the agreement.

If this benefit is not used, it cannot be carried over into the next agreement.

- B. The EMPLOYER will continue to pay for the rate for single employee coverage.

Employees wishing to pick up family coverage will be required to pay five percent (5%) of said family coverage, effective January 1, 2003.

Effective January 1, 2004, including January 1, 2005, his/her contribution will be ten percent (10%) towards family coverage.

In the event that an employee elects to opt out completely of the Town's medical benefits, the Town will pay the employee the cost of a single premium monthly, under Blue Cross Blue Shield or CDPHP, whichever is lower for as long as an employee chooses this option.

An employee may opt out at any time during the contract year, but in the event he/she wishes to be re-instated for medical benefits, he/she must wait for the enrollment period.

- C. Disability insurance will be provided by the EMPLOYER at no expense to the employee.
- D. All employees shall be entitled to the necessary benefits under New York State's 1/60th Employees Retirement Plan and shall be non-contributory for tier one (1) personnel.

ARTICLE 8 - LEAVES

A. Paid Holidays: The following days shall be considered holidays with pay: New Years Day, Memorial Day, Flag Day, Independence Day, Labor Day, Columbus Day, Election Day, Veteran's Day, Thanksgiving and Christmas. In the event that said holiday falls on a Saturday or Sunday, the same shall be celebrated on the following Monday or the previous Friday, at the discretion of the Superintendent of Highways. Should such day happen to be an emergency day for such purpose as snow removal, washouts, etc., another day shall be chosen by the Superintendent of Highways.

10 days

B. Paid Vacations:

- 1- After the completion of one (1) year of full-time Davenport service, a full-time employee shall be eligible for ten (10) paid days (two weeks) vacation the following year.

- 2 – After the completion of eleven (11) years of full-time Davenport service, a full-time employee shall be eligible for eleven (11) days vacation in the following year.
- 3 – After the completion of twelve (12) years of full-time Davenport service, a full-time employee shall be eligible for twelve (12) paid days vacation the following year.
- 4 – After the completion of thirteen (13) years of full-time Davenport service, a full-time employee shall be eligible for thirteen (13) paid days vacation in the following year.
- 5 – After the completion of fourteen (14) years of full-time Davenport service, a full-time employee shall be eligible for fourteen (14) paid days vacation in the following year.
- 6 – After the completion of fifteen (15) years of full-time Davenport service, a full-time employee shall be eligible for fifteen (15) paid days (3 weeks) vacation in the following year.
- 7 – After the completion of sixteen (16) years of full-time Davenport service, a full-time employee shall be eligible for sixteen (16) paid days vacation in the following year.
- 8 – After the completion of seventeen (17) years of full-time Davenport service, a full-time employee shall be eligible for seventeen (17) paid days vacation in the following year.
- 9 – After the completion of eighteen (18) years of full-time Davenport service, a full-time employee shall be eligible for eighteen (18) paid days vacation in the following year.
- 10- After the completion of nineteen (19) years of full-time Davenport service, a full-time employee shall be eligible for nineteen (19) paid days vacation in the following year.
- 11- After the completion of twenty (20) years of full-time Davenport service, a full-time employee shall be eligible for twenty (20) paid days (4 weeks) vacation in the following year.

12- Vacation time must be used within the year, however, one (1) week vacation may be carried over into the next year's vacation entitlement. In no case shall employee vacations exceed a maximum of twenty (20) days annually. The time of vacations shall be at the discretion of the Superintendent of Highways.

C. Sick Days: Employees shall be granted one (1) day sick leave for each month of employment, accumulative to a maximum of one hundred and fifty (150) days.

1200 HRS.

An employee will be permitted to bank not less than one hundred (100) sick days. He/she then will be eligible to cash in any unused sick days or continue to bank them, to a maximum of one hundred and fifty (150) sick days and be able to cash in said sick days in the first (1st) pay period in December of each contract year.

Example: If an employee has banked a minimum of one hundred (100) sick days and has not taken any sick days in the year, he/she may bank six (6) unused sick days and get paid for six (6) sick days in the month of December, of each contract year. In no event will a pyramid of these clauses be allowed.

Employees are required to call in to notify the Superintendent of Highways of illness and absence, before the workday commences, if physically possible. Unit members may be required to furnish a physician's certificate for absences in excess of three (3) days.

If an employee dies, while in the service of the EMPLOYER, said employees beneficiary and/or estate will receive the value of the employees accumulated vacation and also seventy-five (75) percent of the employee's sick leave, earned at the time of death, in cash at the applicable hourly rate.

Employees who retire or resign, in good standing, will receive the full dollar value of their earned vacation, up to the maximum level.

Every employee who does not take more than three (3) sick days during the twelve (12) month period, beginning December 1st and ending November 30th, of each contract year, will receive a lump sum bonus of one hundred dollars (\$100.00), effective November 30th, 2003, a lump sum bonus of one hundred and fifty dollars (\$150.00), effective November 30th, 2004, a lump sum bonus of two hundred and twenty-five dollars (\$225.00), effective November 30, 2005. This payment shall be paid in the first (1st) pay period of December.

The above provision is only applicable to employees who have not banked at least one hundred (100) sick days.

The Town will allow an employee, upon his/her retirement, to apply his/her (banked) cumulative sick days to a maximum of one hundred and fifty (150) days towards payment for health insurance coverage (a minimum of one {1} month's coverage) at the then applicable hourly rate.

The pay out maximum for the above provision will be seventy-five percent (75%) of the employees banked sick days.

D. Personal Business Leave:

1 – Each employee shall be entitled to five (5) days per year. Personal days consist of leave days with pay, for personal business and shall apply only to top full-time employees with at least one (1) year of satisfactory Davenport service. Personal leave will not be accumulative from year to year, nor is it intended for use in conjunction with vacation, holidays or supplemental time. Personal Business Leave is to be taken with the approval of the Superintendent of Highways, so as not to interfere with the proper operation of the EMPLOYER. 40 HRS.

2 – This leave is available for use for religious observance, attendance at funerals, necessary absence due to extraordinary weather conditions, personal or family business and other similar appointments, including medical, optical and dental appointments.

ARTICLE 9 -- RIGHTS OF THE PUBLIC EMPLOYER

A. The EMPLOYER'S entering into this agreement in no way (either explicitly or implicitly) diminish its relationship as EMPLOYER to its employees; nor diminishes the EMPLOYER'S rights and employee's duties, which such relationship entails.

B. The EMPLOYER retains all if 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 provisions of this agreement and Federal, State or Local Laws.

- C. The Highway Superintendent, with the approval of a majority of the Town of Davenport Board, reserves the right to grant up to six (6) years of credit for experience to any new employee.
- D. The UNION recognizes the rights of the EMPLOYER including managing the staff, hiring, assigning, promoting, classification, initial allocation, transferring, suspending, disciplining, discharging, determining the manner and means of achieving public policy, determining services to be provided by outside organizations, directing the work force, evaluating the staff, determining the size and character of the work force.
- E. Failure of the EMPLOYER to exercise any authority reserved to it contractually, by statute or inherently (or the exercise in a particular manner), shall not restrict the future exercise of that authority by the EMPLOYER.
- F. The collective bargaining agreement shall not be construed to guarantee job security in part or whole.

ARTICLE 10 – PROHIBITION AGAINST STRIKES

Neither the UNION, or the employees it represents, shall engage in any strikes against the EMPLOYER, nor shall the UNION cause, instigate, encourage or condone a strike.

ARTICLE 11 – SUBCONTRACTING

- A. The Parties understand and agree that it is especially important, because of the relatively small size of the EMPLOYER and its highway force, that the EMPLOYER and its management retain the right to subcontract existing or future work outside the bargaining unit at the sole option of the EMPLOYER.
- B. Parties also note that the Davenport Superintendent of Highways though a managerial exemption from the unit) may nonetheless be in a working position, without restriction on assisting with bargaining unit work.
- C. For new, modified, expanded or improved services, the option to contract-out is unrestricted. For positions identical to former exclusive unit work positions, the contract-out option must be for legitimate business purpose and is not to be used merely to replace layoff personnel. Subcontracting may also be used during emergency situations.

ARTICLE 12 – LAYOFFS

- A. In the event of layoff, full-time employees to be laid off shall receive one (1) weeks prior notice, or one (1) weeks pay in lieu of notice. Layoffs will occur in order of least seniority, within the title area.
- B. In the event that a full-time bargaining unit position is re-opened in the same title area, full-timers formerly laid off within the preceding twelve (12) months shall be recalled in preference of seniority.
- C. It is the former employee's responsibility to keep the EMPLOYER informed of current address. It is the EMPLOYER'S responsibility to send recall notice, registered or certified mail, to the last EMPLOYER recorded address. Lack of receipt of an employee's response in ten (10) days shall constitute forfeiture of recall.

ARTICLE 13 – PRIOR MANDATORY SUBJECTS

Both parties agree to honor past practice in terms and conditions of employment as defined under the Taylor Law, with the understanding that such prior standard shall be determined, as those terms and conditions of employment practices as of the fixed date of January 1986 (which date is not intended to successively change with contract dates).

ARTICLE 14 – ADMINISTRATION OF THE GRIEVANCE PROCEDURE

Grievance Definition: To be valid, a grievance must be shown to establish a violation of a specific term in the express written language of this contract document and be forwarded in compliance with the Davenport Grievance Procedure.

Understandings:

- A. Conferences and hearings shall be during non-working hours, unless the EMPLOYER makes specific exceptions.
- B. Management directives (even if grieved) still must be followed until final resolution by the procedure; unless threatening to life or safety).
- C. Grieving parties may be required to supply further clarification of their claims, so that lower levels of the procedure have meaning and effect.

- D. Should no appeal be received by management within contract limits, no further ruling or reinstatement shall be allowed by the grievant or the UNION.

Appellate Levels:

- A. *Highway Superintendent:* The aggrieved party must present his/her grievance on the contract grievance form within eight (8) work days after the first occurrence of any act or situation alleged to be improper, including the first occurrence of a set of recurring events. Waiver of rights will result from failure to meet this timeline.

Initial presentation is made to the Highway Superintendent, who may hold a hearing and/or request further clarifying information within eight (8) work days. The Superintendent shall respond in writing within eight (8) work days of the information receipt or hearing.

If the grievant wishes to appeal the Highway Superintendent's determination, the grievant must do so in writing within eight (8) work days of the Superintendent's answer. Appeal is to the EMPLOYER Supervisor.

- B. *EMPLOYER Supervisor:* Upon receipt of a grievance appeal, the EMPLOYER Supervisor may hold a hearing and/or request further clarifying information within eight (8) work days. The EMPLOYER Supervisor shall respond in writing within eight (8) work days of the information receipt or hearing.

If the grievant wishes to appeal the EMPLOYER Supervisor's determination, the grievant must so indicate in writing to the EMPLOYER Supervisor within eight (8) work days of the Supervisor's answer.

- C. *EMPLOYER Board:* Upon notice of a grievance appeal, the governing Board may hold a hearing and/or request further clarifying information within ten (10) work days. The Board shall respond in writing within eight (8) work days of the information receipt or hearing.

If the grievant wishes to appeal the Board's determination, the grievant must so indicate in writing to the EMPLOYER Supervisor and the UNION within eight (8) work days of the Board's answer.

- D. *Arbitration:* Whether a grievance is appealed forward, is at the discretion of the UNION (recommendation of the UNION'S Chief Principal Officer), rather than at the grievant's discretion; and must be file at PERB within eight (8) work days. All other conditions precedent still need to be met.

If so, a neutral arbitrator may be selected through the Public Employment Relations Board (PERB), to hear the grievance. No arbitrator may serve who is serving in another case during the generally same time proximity, involving as representative from either side in the current dispute. The EMPLOYER and the UNION will share the arbiter's cost.

Evidence: In all cases, the burden of proof shall rest with the grievant, whose case shall proceed first. The grievant's case shall have the last closing address at the arbitration hearing. No claims shall be included in the framing of the arbitration, which were not clearly written on the initial grievance form. The grievance arbitration rules of PERB shall apply, only where not at variance with those stated in the EMPLOYER'S procedure.

Principles: The following are certain essential principles of the EMPLOYER'S Grievance procedure, which must be adhered to and defined the limitations of authority for both parties and for the arbiter:

- A. The reserved rights doctrine (All matters not specifically detailed in contract language remain the exclusive province of management to maintain or modify).
- B. Employment at will doctrine (Employees hold their position, in good performance and conduct, at will and judgment of the EMPLOYER).
- C. Doctrine of timelessness (The first occurrence of the condition under which question must have fallen within contract time limits).
- D. The collective bargaining agreement must not have passed its stated expiration date. (The parties agree to a sunset clause, terminating the availability of contract interpretation by any forum during the hiatus between negotiated contracts, thus waiving the effect of the Taylor Law Triborough Amendment with respect to continuation of terms). Employee grievances are deferred during this time.

E. If a position is not defined as part of the bargaining unit as the time of the position's creation, arbitration cannot include the position in the bargaining unit.

ARTICLE 15 – SAFE DRIVING AWARD

The EMPLOYER shall award, on an annual basis, a Safe Driving Award as follows:

Effective November 30, 2003 - \$200.00;
Effective November 30, 2004 - \$250.00;
Effective November 30, 2005 - \$300.00.

This award will be given in recognition of those employees who have not had a chargeable accident, with the EMPLOYER'S vehicle, within the twelve (12) month period, beginning December 1st and ending November 30th of each year covered by this agreement. It is understood that when earned, this award will be paid in a lump sum, included in the first (1st) pay period of December, in each year of this agreement.

ARTICLE 16 – ZIPPER CLAUSE

Once the contract is resolved, during the term of the contract, the parties waive all rights to initiate further negotiations, whether it be with regard to former issues, new issues, or impact of outside changes. The only exception shall be the regular contract reopening procedure, at the proper time under **CONDITIONS FOR RENEWAL, ARTICLE 3.**

ARTICLE 17 – SIGNATURES

It is agreed by and between the parties that any provision of this agreement requiring legislative action by the EMPLOYER to permit its implementation, by appropriation of funds therefore or amendment of bylaws; shall not become effective until such approval has been given.

TEAMSTERS, LOCAL 338

BY: John DiSantis
TITLE: President
DATE: 7/14/03

TOWN OF DAVENPORT

BY: Todd Lutz
TITLE: Supervisor
DATE: 10/16/03