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BC | 8359

AGREEMENT

BY AND BETWEEN

TOWN OF BRISTOL, NEW YORK

AND

BRISTOL HIGHWAY DEPARTMENT ASSOCIATION,

AFFILIATED WITH LOCAL 1170 C.W.A.

JANUARY 1, 2006 - DECEMBER 31, 2009

**RECEIVED**

MAY 31 2006

**NYS PUBLIC EMPLOYMENT  
RELATIONS BOARD**

EMPLOYEES

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## AGREEMENT

AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_, by and between the Town of Bristol , herein designated as "Employer", and the Bristol Highway Department Association, Affiliated with Local 1170 Communications Workers of America, AFL-CIO, herein designated as "Association." This contract shall cover the period of January 1, 2003 through December 31, 2005.

### ARTICLE 1 - UNIT

This Agreement shall apply to full-time employees of the Highway Department paid an hourly rate. The term "employee" shall mean members of the Association as covered by this Agreement. A full-time employee shall be as defined by the Civil Service in terms of hours worked per week.

### ARTICLE 2 - RECOGNITION

The Employer recognizes the Association as the bargaining agent for all full-time hourly employees in all matters pertaining to salaries, benefits, and other conditions of employment.

### ARTICLE 3 - PURPOSE

3.1 It is the purpose of this Agreement to effectuate the provisions of Chapter 392 of the Laws of 1967 (The Public Employees' Fair Employment Act), to provide orderly collective negotiating relations between the Employer and the Association, to secure prompt and equitable disposition of grievances and to establish fair wages, hours and working conditions for the employees covered by this Agreement.

3.2 The provisions of this Agreement shall be applied equally and to all employees in the bargaining unit, without discrimination as to age, sex, color, race, creed, national origin, handicap or marital status.

3.3 The Employer has the right to discharge, discipline, remove, demote, or suspend any employee for just cause.

## ARTICLE 4 - NO STRIKE

The Association affirms that it does not assert the right to strike and agrees that it will not assist or participate in any strike or impose upon any of its members or others an obligation to conduct, assist or participate in such a strike.

## ARTICLE 5 - DUES DEDUCTION

5.1 The Employer shall deduct from wages of employees and remit to the Local 1170 C.W.A. regular membership dues on behalf of those employees who have signed authorization permitting such payroll deductions.

5.1 All employees, after 30 days of employment, or 30 days following the execution of this Agreement, shall, as a condition of employment, pay or tender , by payroll deduction an amount equal to the periodic Union dues uniformly required, until termination or employee's separation from the bargaining unit. Separation shall include transfer out of the bargaining unit, removal from the Town payroll, or leave of absence of more than one month.

5.3 Each employee shall, after 30 days following return to the bargaining unit, as a condition of employment, pay or tender an amount equal to the periodic Union dues uniformly required in compliance with state law.

5.4 The Town shall inform employees and applicants for employment of their rights and obligations under the provisions of this article.

5.5 The Association agrees to indemnify and hold the Employer harmless from any and all matters of claims, demands, suits, actions, or other forms of liability which may arise against it on the account of the deduction of Union dues hereunder and the paying over of the same to the Union in accordance with the provision hereof.

## ARTICLE 6 - GRIEVANCE/ARBITRATION PROCEDURE

6.1 A grievance shall be a complaint by an employee or group of employees, or by the Union on behalf of the employees, that said employee or group of employees have, in any manner been treated unfairly as to wages, hours or conditions of employment, or by an authorized Union representative with respect to the interpretation or application of any provision of any collective bargaining agreement between the parties.

This grievance procedure shall be subordinate to disciplinary proceeding provided by Section 75/76 of Civil Service Law of the State of New York. The employee and the Union shall have the option to utilize the Civil Service procedure or the grievance and arbitration procedure.

6.2 The Union shall be considered the representative for grievance representation purposes of any employee laid off, discharged or otherwise separated from the payroll until the time limits of the grievance and arbitration procedure have been exhausted (except termination of a probationary employee shall not be subject to the arbitration procedure).

6.3 No grievance shall be considered unless presented in writing, on a form approved by the parties, within fifteen (15) work days from the date the alleged grievance first arose, except in cases of discipline, improper layoffs or separation from the Town's payroll, when grievances shall be initiated by the Union within fifteen (15) working days of such action.

6.4 Step 1:

a. The grievance shall be presented to the immediate supervisor within fifteen (15) days of the occurrence.

b. The immediate supervisor shall discuss the grievance with the grievance committee of the Association and shall make such investigation as he/she deems appropriate.

c. Within five (5) working days after presentation of the grievance, or the meeting, the immediate supervisor shall make his decision and communicate the same in writing to the employee presenting the grievance, the grievance committee, and Local 1170 C.W.A.

#### 6.5 Step 2:

a. If an employee, or the Union, is not satisfied by the decision of his/her immediate supervisor, the Union may within ten (10) work days after the supervisor's decision request a review and determination of the grievance by the Town Supervisor, or his/her designee. Such request shall be in writing.

b. The Town Supervisor, or his/her designee, shall meet with the Association's grievance committee, and/or the C.W.A. within five (5) work days after receiving said written notification. The Town Supervisor, or his/her designee, or the Union may request the presence of the employee's immediate supervisor and such other personnel as either deems appropriate at said meeting.

c. Within five (5) work days after the close of said meeting, the Town Supervisor, or his/her designee, shall notify, in writing, the employee, the grievance committee, and Local 1170 C.W.A. of his decision on said grievance.

#### 6.6 Step 3:

a. In the event no agreement is reached at Step 2, either the Association or the Employer may, upon written notice to the other, appeal the grievance to arbitration within twenty (20) work days after receipt of the Step 2 answer.

b. If the parties fail to mutually agree to an arbitrator, the Employer and Local 1170 C.W.A. shall then request the New York State Public Employment Relations Board (PERB) to submit a panel of seven (7) names of suggested arbitrators.

c. The parties shall then select the impartial arbitrator from such list by each party alternately removing one name from the list until but one name remains.

d. The decision of the impartial arbitrator shall be final and binding. However, it is agreed that the arbitrator shall be bound by the terms of this Agreement, and shall have no authority to add to or subtract from or modify the provisions of any contract between the parties; but this in no way shall limit him in the interpretation or meaning he may place upon any of the provisions of any contract between the parties in rendering a decision and/or award.

e. The expense of the impartial arbitrator selected, the hearing room, and the transcript of the testimony, if the parties mutually agree upon having the testimony of the hearing transcribed, shall be borne equally by the Employer and the Association.

#### ARTICLE 7 – SEXUAL HARASSMENT POLICY

The Town of Bristol is committed to providing a work environment that is free of all forms of discrimination and unlawful harassment. Sexual harassment which discriminates on the basis of gender is a violation of Section 703 of Title VII of the Civil Rights Act of 1964, as amended and the New York State Human Rights Law.

Sexual harassment will mean unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature when any or all of the following conditions exists.

When: Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment;

Submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting that individual; or



Such conduct has the purpose or effect of interfering unreasonably with an individual's work performance or is creating an intimidating, hostile or offensive working environment.

Sexual harassment will not be tolerated either within the work place, for it may have deviating effects on its victims. All employees are prohibited from engaging in conduct including, but not limited to, the following:

Sexual flirtations, touching, advances or propositions;

Verbal abuse of a sexual nature, such as swearing, jokes or comments of a sexual nature;

Graphic or suggestive comments about individual's dress or body;

Using sexually degrading word to describe an individual; and/or;

Displaying sexually suggestive objects or pictures in the work place, including photographs, post cards or posters.

An employee who believes to have experienced or witnessed sexual harassment in the work place should immediately report such behavior to the employee's department head. If the employee is unable to discuss the matter with the department head, the complaint should be reported to the Town Supervisor or other member of the Town Board. All complaints will be investigated discreetly and promptly. An employee who reports sexual harassment activities will not suffer adverse employment consequences as a result of making a complaint.

Any employee who, after investigation, is found to have engaged in sexual harassment will be subject to appropriate disciplinary action in accordance with Civil Service Law (Section 75) and when applicable Article 6 of Bristol's Highway Department Contractual Agreement.

## ARTICLE 8 - SALARY

8.1 Employees shall receive wage increases as follows:

Effective January 1, 2006:	3.0% (\$19.09)
Effective January 1, 2007:	4.0% (\$19.85)
Effective January 1, 2008:	4.0% (\$20.64)
Effective January 1, 2009:	4.0% (\$21.47)

8.2 Employees in the title of Regular MEO shall earn \$.10 less per hour, and employees assigned as Deputy Superintendent shall earn \$.10 more per hour than the above rates.

## ARTICLE 9 - WORK DAY AND OVERTIME

9.1 The work day shall be eight (8) hours per day for five (5) days, or ten (10) hours per day for four (4) days, and the work week shall be forty (40) hours, Monday through Friday.

9.2 For any hours worked in excess of eight (8) hour in any day, or ten (10) hours if on a four (4) day work week, or forty (40) hours in any work week shall be paid at the rate of time and one-half. Holidays, sick and personal leave days shall be computed as work time. Any work on Saturdays, Sundays, or Holidays shall be considered as overtime.

9.3 Employees called in for emergencies outside of their regularly scheduled hours shall be guaranteed a minimum of three (3) hours at the rate of time and one-half.

9.4 The Superintendent of Highways shall in emergencies, call in employees by order of their seniority dates.

9.5 Employees called in for emergencies on Thanksgiving Day, Christmas or New Year's Day, in addition to the provisions of Section 9.2, shall be paid double time for all hours worked.

9.6 Employees may select compensatory time in lieu of immediate overtime pay, to be calculated at the appropriate rate of pay. Employees may accumulate up to a maximum of one hundred twenty (120) hours during a calendar year, starting December 1st of the previous year, and will be allowed to carry hours over into the next year.

### ARTICLE 10 - HOLIDAYS

10.1 All employees of the Association shall receive the following paid Holidays:

New Year's Day	Columbus Day
Martin Luther King's Day	Veteran's Day
Good Friday	Thanksgiving's Day
Memorial Day	Friday After Thanksgiving
July 4th	Christmas Day
Labor Day	One (1) Floating Day

10.2 If an employee works on any of the actual Holidays, he/she shall be paid for the Holiday, plus time and one-half for the hours worked, except as provided in Section 9.4.

10.3 When a Holiday falls on a Saturday, the employees shall receive the previous Friday off. When a Holiday falls on a Sunday, the employees shall receive the following Monday off.

10.4 A Holiday occurring during a period of vacation or authorized leave shall not be included in computing such vacation time or authorized leave. The employee shall be credited for the holiday in place of the vacation day or authorized leave. An employee shall not be paid for both the Holiday and vacation, but may take the vacation day at another time.

10.5 The Floating Holiday to be mutually agreed to by the Highway Superintendent and the employee, except in emergency situations.

## ARTICLE 11 - VACATION

11.1 Each employee covered by this Agreement shall receive a vacation with pay, based upon the following schedule, to be determined by the anniversary date of employment of the individual employee.

Length of Service	Length of Vacation
After 1 Year	10 days
After 5 Years	15 days
After 7 Years	16 days
After 9 Years	17 days
After 11 Years	18 days
After 13 Years	19 days
After 15 Years	20 days
After 16 Years	21 days
After 17 Years	22 days
After 18 Years	23 days
After 19 Years	24 days
After 20 Years	25 days

11.2 Employees will not be granted vacation until they have satisfactorily completed their probationary period and received permanent appointment. Upon completion of the probationary period, the original date of appointment shall be used in establishing vacation.

11.3 Vacations will be based on current rate of weekly pay at the time the vacation is taken.

11.4 If a conflict arises for vacation selection, seniority shall apply.

11.5 Vacation requires the approval of the Highway Superintendent.

11.6 Employees may receive vacation pay in advance for pay periods that occur while the employee would be on vacation, provided that such payment will only be made in increments of a full work week(s). All requests for pre payment of vacation pay will be made at least three weeks prior to the beginning of vacation.

11.7 An employee who becomes ill or hospitalized while on vacation leave may charge such time as authorized sick leave, provided proper documentation is submitted to the Department Head.

11.8 All vacation time will be used during the year. A vacation year will run from an employee's anniversary date in one year to the day prior to his/her anniversary date in the next year.

11.9 Employees will be allowed to carry over one (1) week's vacation to the next year.

#### ARTICLE 12 - SICK LEAVE

12.1 Employees shall earn sick leave each year as follows:

<u>Length of Service</u>	<u>Length of Leave</u>
After 6 Months	3 Sick Days
After 1 Year	5 Sick Days
After 5 Years	8 Sick Days
After 7 Years	10 Sick Days
After 10 Years	12 Sick Days

12.2 Sick leave shall be defined as personal illness or injury of the employee, his spouse, and children living in the household. Sick leave may be used for illness or injury of the employee arising out of or during the course of the employee's employment with the Employer, until Workman's Compensation Benefits become effective.

12.3 The employee shall, in reporting absence for sick leave, communicate with the Highway Superintendent the nature of the illness and the probable duration of the illness.

12.4 The Employer reserves the right to request a doctor's certificate to verify the illness before granting sick leave pay, after three (3) consecutive days, or in cases of abuse may be requested sooner.

12.5 Each employee may accumulate up to 160 days (1,280 hours) of sick days.

12.6 Upon lay-off or separation employees shall be compensated in cash at the rate of 50% of their unused sick leave at their current rate of pay.

12.7 The Employer will maintain a sick leave reserve to aid employees who suffer prolonged illness.

For the first year of this Agreement, the Employer will contribute a total of twenty (20) days and in each subsequent year, during which the sick leave bank continues, the Employer will contribute the equivalent of two days/employee, to be divided equally among the employees.

The maximum number of days available in the bank will not exceed one hundred (100) days.

An employee may make application following the exhaustion of all sick days and any benefits appropriated through disability or Worker's Compensation.

A committee consisting of two Town Board members appointed by the Highway Superintendent and two members from Local 1170 C.W.A. will be responsible for procedure and guidelines to administer the bank, and may recommend an individual employee be granted the total or partial number of days in the bank, with the approval of the remaining employees.

## ARTICLE 13 - PERSONAL/BEREAVEMENT LEAVE

13.1 A permanent, full-time employee who has been continuously employed for at least six (6) months shall be granted personal/bereavement leave not to exceed one (1) day, and an employee employed at least one full year shall be granted leave, not to exceed three (3) days.

13.2 Personal matters which may not be taken care of except during normal working hours may include Religious observance, personal medical/dental appointments, graduation from college of a child, court appearance, or other similar personal business. Personal leave may be taken in a minimum of 1 hour increments. Paid bereavement leave will be granted due to the death of a spouse, mother, father, children, brother, sister, mother and father-in-law, grandchildren, grandparents, grandparents-in-law, brother or sister-in-law, aunt, uncle, niece, nephew or persons living within the household.

13.3 The employee shall specifically designate the reason for the personal/bereavement leave so that the Highway Superintendent may satisfactorily monitor the same.

13.4 Any personal/bereavement leave credits not used during a contract will accrue as sick leave.

13.5 Employees may appeal to the Highway Superintendent for additional personal/bereavement leave, and if granted a sick day could be converted to personal/bereavement leave.

13.6 An employee wishing to apply for an extended leave of absence (more than 26 days) must do so ten (10) weeks before the leave is to begin. The employee must do so in writing expressing the duration and reason for the leave. This leave may not be used for vacation purposes. The leave must first be approved by the Highway Superintendent and then the Bristol Town Board. The employer will notify the employee within five (5) weeks whether the leave is granted.

## ARTICLE 14 - HEALTH INSURANCE

14.1 Each employee shall receive fully or partially paid by the employer, a family or single Blue Choice Select, or an equivalent amount towards a health plan of the employee's choice.

14.2 Current full time employees hired prior to January 1, 1999, shall receive fully paid by the Employer, Blue Choice Select.

Current full time employees hired after January 1, 1999 will have Blue Choice Select, or its equivalent available to them. These employees shall contribute 20% of the monthly health care premium cost.

Employees hired after the ratification of this Contract will have Blue Choice Freedom, or its equivalent available to them. These employees shall contribute 20% of the monthly health care premium cost.

14.3 The Town shall reimburse all employees for all increases in co-payments for all physician visits.

14.4 Employees may choose to forgo coverage under a Town sponsored health insurance program in exchange for a \$1,500.00 lump sum payment. This buy out provision is subject to the following conditions:

(a) An employee may opt to take the buy-out on the anniversary date of their current coverage.

(b) An employee must file with the Town Clerk's Office an application to forgo health care coverage, and provide proof of current insurance.

(c) An employee must remain without coverage for one (1) year to receive the lump-sum payment. This payment will be made on the day after the full-year requirement has been met and will be subject to applicable withholdings.



(d) If the employee, after choosing the buyout option determines that he/she needs health care coverage because of an unusual and not-repetitive circumstance (e.g. spouse loses job and consequently, health care coverage), the employee may pick up coverage from a Town-sponsored plan subject to limitations imposed by the carrier.

(e) If the employee chooses to pick up coverage premature of his/her anniversary date, then: 1) he/she forfeits the lump sum payment entirely if he/she opted out for six (6) months or less; or 2) he/she receives an amount prorated by month if he/she opted out for more than six (6) months.

(f) An employee has the right to renew health care coverage at an anniversary date, even if he/she opted out of coverage for the previous twelve (12) months.

14.5 – Employees will have an opportunity to participate in a Flexible Spending Account (FSA). The flexible spending plan administrator shall be selected between a Bristol Town Highway designee and a Bristol Town Board designee by April 1, 2000. An administrator will be approved by the Town Board as soon as possible, but no later than June 1, 2000. Withholding for such plan shall take effect as soon as possible after approval.

## ARTICLE 15 - RETIREMENT

15.1 The Employer shall provide coverage under the New York State Retirement System as follows:

- Tier I - Section 75i Employees hired previous to July 1, 1973, may include voluntary contributions.
- Tier II - Section 75i Employees hired between July 1, 1973 and June 30, 1976, noncontributory.
- Tier III - Article 14, Employees hired after July 27, 1976, 3% contributory plan.
- Tier IV - Article 14, Employees hired after September 1, 1984, 3% contributory plan.

The above Tiers are regulated solely by the New York State Retirement System, and the Employer has no authority or control over specific retirement provisions or changes to the plans. The above represents information to the employees only.

The Town has adopted Plan 41 j to the Retirement Plans.

#### ARTICLE 16 - JURY DUTY

16.1 An employee who is required to serve on a jury or as a witness in a court case shall receive paid leave for the necessary period. Employees requesting jury duty leave shall submit to the Superintendent a copy of the Court Order or Subpoena along with any juror or witness fees or compensation. Employees receiving approved jury duty or court leave will not be required to turn in payments for expense reimbursements paid through the Court system (such as meal and mileage allowances).

#### ARTICLE 17 - TRANSFER

17.1 An employee may be transferred voluntarily for health or personal reasons to a job with a lower pay scale and shall have their wages reduced over a six (6) month period by 33 1/3 % every two months.

17.2 An employee may apply for any vacancy in his department regardless of his pay scale. A notice of the opening shall be posted on the employee bulletin board, stating the job classification, rate of pay, and Civil Service qualifications. Such posting shall be for a period of five (5) working days. During this period, employees may apply for the open position. The application shall be in writing and on a Civil Service form, and shall be submitted to the Superintendent.

#### ARTICLE 18 - WORKMEN'S COMPENSATION

All full and part-time employees of the Town are covered for work-related injuries while employed. The Worker's Compensation Plan is underwritten through the County of Ontario with the cost being shared by each of the sixteen towns and two cities. These benefits are referred to as self-insurance.

Should you, as an employee of the Town, incur what you believe to be an injury that is job related, notify your supervisor as soon as possible. Your supervisor can then notify the appropriate department within Ontario

County on your behalf. It is suggested that such action be taken within the first 24 hours to insure that the proper benefits can be underwritten.

In accordance with Article 5, Section 71 of the Civil Service Law, the Town of Bristol will provide a leave of absence for the period of up to one year, to any employee who has separated from service by reason of a disability resulting from his/her service with the Town. If, after one year, the employee is unable to return to their place of employment, they will be terminated. However, an employee may, within a period of one year after termination of disability, make application for a medical examination to determine whether or not the disability has terminated so as to permit the individual to return to their place of employment. If the former employee is found to be fit, he/she must be reinstated to his/her former position, if vacant, or to a vacancy in a similar position, or a position in a lower grade in the same occupational field or a vacant position for which he/she was eligible for transfer. If no such appropriate vacancy exists, then the employee's name must be placed on a list to be given preferential treatment in the event that his/her former position becomes available.

#### ARTICLE 19 - LAYOFFS

19.1 In the event of a general layoff, employees will be laid off first on the basis of least seniority within a specific classification.

19.2 In the event two or more employees have the same seniority date, the employee holding the highest rated position for the longest period of time shall have first seniority rights.

19.3 If an employee is transferred to a job at a lower wage rate, their wages will be reduced to the new rate as follows:

Two Months after transfer	33 1/3% reduction
Four Months after transfer	33 1/3% reduction
Six Months after transfer	33 1/3% reduction

19.4 In the event of a layoff, or a particular operation is discontinued, 30 days' notice will be given to the employees and the Union.

19.5 Any employee laid off due to a lack of work, or elimination of an operation shall have recall rights to their original job title or a job title they are qualified to perform if work increases, for a one (1) year period from the date of lay-off.

19.6 Employees laid off shall be given the opportunity to recall for a one (1) year period before the Town hires new employees.

The employees must notify the Town of their intent to accept or reject the recall offer within ten (10) business days of receiving the notification from the Town by certified mail.

#### ARTICLE 20 - ORGANIZATION AFFAIRS

20.1 The Employer shall afford all Union representatives reasonable amount of on-duty status to process grievances and to consult with appropriate management officials, provided that the representatives shall first request this of his supervisor and arrange to take the necessary time without overdue interference with his assigned duties.

20.2 Officers of the Association shall be granted up to a total of five (5) days a year, without pay, to attend Union conferences, conventions, meetings, provided the Superintendent approves such time off.

#### ARTICLE 21 - SENIORITY

21.1 Seniority shall be defined as the length of continuous service with the Town within any classifications covered by this Agreement.

21.2 Seniority for purposes of this Agreement shall apply only to choice of vacations, reduction of force among permanent non-competitive employees and promotion among permanent non-competitive employees.

## ARTICLE 22 - SEPARATION

22.1 Any Employee who is laid off, retires or separates from the service of the Town for any reason, prior to taking their vacation, and who gives at least two weeks notice to the Town shall be compensated in cash for the unused portion of vacation they have accumulated at the time of separation.

## ARTICLE 23 - PLOWING

23.1 The Highway Superintendent will, in emergencies, permit employees to plow their personal driveways, at no cost to the employee.

## ARTICLE 24 - DRIVER'S LICENSES

Any employee required as a condition of employment to maintain a CDL-A license shall receive an additional \$.10 per hour.

## ARTICLE 25 - ALCOHOL AND DRUG TESTING

The overall Coordinator of this policy is the Town Supervisor. If you have questions concerning this policy, contact your Supervisor or the Program Coordinator.

The Omnibus Transportation Employee Testing Act requires alcohol and drug testing of all personnel who drive commercial motor vehicles requiring a commercial driver's license (CDL). In order to conform to these regulations, and to ensure that all employees of the Town who are so classified are properly tested, the following policy and procedures will apply.

## A. ALCOHOL TESTING

### 1. Prohibitions:

Performance of safety-sensitive functions is prohibited under the following conditions:

Reporting for duty or remaining on duty requiring the performance of safety-sensitive functions with a breath alcohol concentration of 0.02 per cent or greater, as indicated by an alcohol breath test.

Using or possessing alcohol while on duty to operate vehicles covered by this policy.

Reporting to work within four (4) hours after using alcohol.

No driver required to take a post-accident alcohol test shall use alcohol for eight hours following the accident or until a post accident test is administered, whichever comes first.

### 2. Required Tests:

Post-accident - Alcohol breath tests will be conducted under the following conditions:

- a. All fatal accidents
- b. The driver is issued a citation for a moving traffic violation.

Alcohol breath test will be conducted within eight (8) hours of the accident.

Employees are expected to remain available for testing. Failure to do so constitutes a refusal to test.

For purposes of this rule, an accident is defined as an incident involving a commercial motor vehicle in which there is either a fatality, an injury requiring medical treatment away from the scene, or a vehicle is required to be towed away from the scene.

### **Reasonable Suspicion**

Reasonable suspicion testing will be conducted when a trained supervisor observes behavior, speech, odor or appearance that is characteristic of alcohol misuse. If a breath test cannot be administered, the driver must be removed from performing safety-sensitive duties for at least 24 hours.

### **Random Testing**

The annual percentage rate of alcohol testing will be 25%. Tests will be conducted on an unannounced basis, spread reasonably throughout the calendar year, and administered just before, during or just after performance of a safety-sensitive function.

### **Return to Duty**

Return to duty testing will be conducted when an individual who has violated the prohibited alcohol conduct standards intends to return to a position performing safety-sensitive duties. An alcohol test with resulting concentration of less than 0.02% will be required prior to reassignment to the safety-sensitive position. Once the individual returns to duty, at least six (6) unannounced follow-up tests will be conducted during the twelve (12) month period following the return to duty date.

### **Test Refusal**

Refusal to undergo any of the tests outlined above will be treated the same as a positive test.

### **3. Process for Random Selection**

Drivers will be randomly selected for testing from a pool of drivers and the testing dates and times will be unannounced and with unpredictable frequency throughout the year.

### **4. Process for Alcohol Testing**

Alcohol screening will be conducted using evidential breath testing devices (EBT). An initial screening test will first be administered, with any resulting alcohol concentration of less than 0.02% considered as a negative test. A confirmation test will be required for alcohol concentration of greater than 0.02%. A confirmation test result of greater than 0.04% will be considered a positive test.

An initial test reading of 0.02% or greater, with a confirmation reading of less than 0.04% will result in the suspension of the individual from safety-sensitive duties until the start of the individual's next regularly scheduled shift but not less than a period of 24 hours following the test.

### **5. Consequences of Alcohol Misuse**

Employees of the Town who are required to have a CDL (hereinafter referred to as CDL employees) and who engage in prohibited alcohol misuse in accordance with the testing procedures outlined above, will be immediately removed from safety-sensitive functions with no obligation on the part of the employer for reassignment to a non-safety-sensitive position. CDL employees who have engaged in alcohol misuse will be referred to a substance abuse professional for evaluation, assistance and potential treatment. CDL employees will not be permitted to return to a safety-sensitive position until all treatment recommendations have been complied with and the individual has been released to return to safety-sensitive duties



by the substance abuse professional. During the period of treatment, the employee will be eligible to discharge accumulated sick, personal and/or vacation leave.

CDL employees noted above will be subject to the return to work testing requirements and follow-up testing requirements outlined in #2 above.

CDL employees may be subject to disciplinary action up to and including termination in accordance with applicable Civil Service Law and/or Union contract provisions. Employees will be allowed one opportunity for treatment and counseling under this policy. Subsequent positive tests following return to duty will result in disciplinary action proposing termination. Employees terminated under this policy will be ineligible for rehire.

## **6. Confidentiality of Records**

All driver alcohol testing records are confidential and test results will only be released to the Town and the substance abuse professional. Any other release of information will only be allowed with the driver's consent.

All dated records and notifications for verified positive test results will be maintained for a period of five years.

All dated records and notifications for negative test results will be maintained for a period of one year.

The records of any breath alcohol test results are maintained under strict confidentiality and will not be released without the specific written authorization of the tested individual. Results will be released, however, to Federal, State, or local officials with regulatory authority over the controlled substances program.

## B. Drug Testing

### 1. Prohibitions

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substances. The only exception is when use is under physician's order and does not impair the individual's ability to operate a commercial motor vehicle.

### 2. Unauthorized Controlled Substance

All urine specimens will be analyzed for the following controlled substances:

- a. Marijuana
- b. Cocaine
- c. Amphetamines
- d. Opiates (including heroin)
- e. Phencyclidine (PCP)

### 3. Required Tests

**Pre-employment** - must be conducted after an offer of employment has been extended (conditional offer) but before the individual actually performs safety-sensitive functions for the first time. If the individual fails the controlled substances test, including the confirmation test, the offer of employment will be withdrawn. This section also applies to current employees transferring to safety-sensitive positions.

The individual will not be considered for employment, or transfer in the case of current employees, with the Town for a period of one (1) year.

**Post-accident** - Controlled substances tests will be conducted under the following conditions:

- a. All fatal accidents

b. The driver is issued a citation for a moving traffic violation.

Controlled substances tests must be conducted within thirty-two (32) hours of the accident.

Employees are expected to remain available for testing. Failure to do so constitutes a refusal to test.

For purposes of this section, an accident is defined as an incident involving a commercial motor vehicle in which there is either a fatality, an injury requiring medical treatment away from the scene, or a vehicle is required to be towed from the scene.

### **Reasonable Suspicion**

Reasonable suspicion testing will be conducted when a trained supervisor observes behavior, speech, odor, or appearance that is characteristic of controlled substance misuse. Belief that the driver has violated controlled substances prohibitions must be based upon specific and articulable observations.

### **Random Testing**

The annual percentage rate of controlled substances testing will be 50%. Tests will be conducted on an unannounced basis, spread reasonably throughout the calendar year, and administered just before, during or just after performance of safety-sensitive functions. Drivers selected for random controlled substances tests will proceed immediately to the testing site upon notification of being selected.

### **Return to Duty**

Return to duty testing will be conducted when an individual who violated the prohibited controlled substances standards intends to

return to a position performing safety-sensitive duties. A controlled substances test with a verified negative result will be required prior to reassignment to the safety-sensitive position. A driver cannot be returned to safety-sensitive duties until an evaluation has been completed by a substance abuse professional, and the rehabilitation recommendations complied with. During the period of treatment, the employee will be eligible to discharge accumulated sick, personal, and/or vacation leave. Once the individual returns to duty, at least six (6) unannounced follow-up tests will be conducted during the twelve (12) month period following the return to duty date.

### **Test Refusal**

Refusal to undergo any of the tests outlined above will be treated the same as a positive test.

#### **4. Process for Random Selection**

Drivers will be randomly selected for testing from a pool of drivers and the testing dates and times will be unannounced with unpredictable frequency throughout the year. On-duty drivers selected for controlled substances testing must report for testing regardless of whether or not they are assigned to safety-sensitive functions on the day they are selected. Once notified of selection testing, the driver must proceed directly to a collection site for testing.

#### **5. Process for Controlled Substances Testing**

Drug testing is conducted by analyzing the urine specimen of drivers. Once provided in a location that affords privacy, specimens will be sealed and labeled to ensure an appropriate chain of custody, proper identification and integrity of the specimen.

Urine specimens will be divided into two (2) containers, i.e. “primary” and “split” specimens. If the analysis of the primary specimen confirms the presence of illegal, controlled substances, the driver has 72 hours to request the split specimen be sent to another certified laboratory for analysis. Drivers requesting the confirmation test will be required to pay the full cost of this second opinion.

All drug tests will be reviewed and interpreted by a physician, i.e., a Medical Review Officer (MRO), before they are reported to the Town. The test will be evaluated in the light of all relevant information obtained, including the driver’s statement and documentation as to any currently prescribed medication currently being taken.

#### **6. Consequences of Positive Drug Test**

Employees of the Town who are required to have a CDL (hereinafter referred to as CDL employees) and who have engaged in controlled substances misuse will be immediately removed from the safety-sensitive function with no obligation on the part of the employer for reassignment to a non-safety-sensitive position. CDL employees who have engaged in controlled substances misuse will be referred to a substance abuse professional for evaluation, assistance and potential treatment. CDL employees will not be permitted to return to a safety-sensitive position unless and until all treatment recommendations have been complied with and the driver has been released to return to safety-sensitive duties by the substance abuse professional. During the period of treatment, the employee will be eligible to discharge accumulated sick, personal and/or vacation leave. CDL employees will be subject to the return to work testing requirements outlined in #3 above.

CDL employees may be subject to disciplinary action up to and including termination in accordance with applicable Civil Service Law and/or Union contract provisions. Employees will be allowed one opportunity for treatment and counseling under this policy. Subsequent positive tests following return to duty will result in disciplinary action proposing termination. Employees terminated under this policy will be ineligible for rehire.

## **7. Confidentiality of Records**

All driver drug testing records are confidential and test results will only be released to the Town and the substance abuse professional. Any other release of information will only be allowed with the driver's consent.

All dated records and notifications for verified positive controlled substances test results will be maintained for a period of five years.

All dated records and notification for negative controlled substance test results will be maintained for a period of one year.

The records on any controlled substances test results are maintained under strict confidentiality and will not be released without the specific written authorization of the tested individual. Results will be released however to Federal, State and Local officials with regulatory authority over the controlled substances program.

## **ARTICLE 26 - DEFERRED COMPENSATION PLAN**

The Town will implement the New York State Deferred Compensation Plan (PEBSCO) for the employees of the bargaining unit.

## Article 27 – Longevity

27.1 Effective in 2003, and each year thereafter, employees shall be entitled to the following longevity payment based on their anniversary date, and will be payable within two weeks of their anniversary date.

After 10 Years of Service	\$200.00
After 15 Years of Service	\$400.00
After 20 Years of Service	\$600.00

## ARTICLE 28 - SCOPE OF AGREEMENT

28.1 If mutually agreed by both parties, this Agreement may be modified or amended during its term. Either party may notify the other of an intent to modify or amend this Agreement.

28.2 If any section, subsection, sentence, clause, phrase, or portion of this Agreement is for any reason held invalid or unconstitutional by a Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof. Such section, subsection, sentence, clause, phrase or portion of the Agreement held invalid or unconstitutional would then be subject to renegotiation.

28.3 The parties mutually agree that negotiations for the next Agreement will commence by August 1, 2009. In the event the parties do not reach agreement for a new contract by December 31, 2009, the terms of this Agreement shall remain in force in accordance with applicable State Law.

28.4 IT IS AGREED BY AND BETWEEN THE PARTIES THAT ANY PROVISION OF THIS AGREEMENT REQUIRING LEGISLATIVE ACTION TO PERMIT ITS IMPLEMENTATION BY AMENDMENT OF LAW OR BY PROVIDING THE ADDITIONAL FUNDS THEREFORE SHALL NOT BECOME EFFECTIVE UNTIL THE APPROPRIATE LEGISLATIVE BODY HAS GIVEN APPROVAL.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective offices.

TOWN OF BRISTOL

Wayne F. Houseman  
Thomas Stevens  
Alton E. Fewer Jr  
Julian E. Hester  
Christ H. Niple

DATE 11/10/06

TOWN OF BRISTOL HIGHWAY ASSOCIATION

Rinda McShatt  
Zoe Kerswell  
Peter Ross  
St. John  
Alfred Miller  
Wife Fulwood

DATE 11/10/06