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**Collective Bargaining Agreement  
Between the  
Town of Needham  
and  
Needham Police Union**

**July 1, 2011 through June 30, 2012**

**and**

**July 1, 2012 through June 30, 2015**

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## Table of Contents

<u>Article</u>	<u>Title</u>	<u>Page</u>
Article 1	Recognition – Persons Covered by This Agreement	3
Article 2	Union Security	4
Article 3	Management Rights	6
Article 4	Employee Job Assignments, Duties and Responsibilities	6
Article 5	Holidays and Overtime	6
Article 6	Tours of Duty	7
Article 7	Leave of Absence	7
Article 8	Civic Duty Leave	9
Article 9	Military Leave	9
Article 10	Non-Occupational Sick Leave	10
Article 11	Heart Injury, Hypertension and Heart By-Pass	13
Article 12	Injury on Duty	13
Article 13	Temporary Modified Work Program	15
Article 14	Bereavement Leave	17
Article 15	Vacation	17
Article 16	Clothing Allowance	18
Article 17	Special Departmental Assignments and Other Details	18
Article 18	No Strike Clause	21
Article 19	Stability of Agreement	21
Article 20	Settlement of Grievances	22
Article 21	Separability and Subordination to Existing Law	24
Article 22	Effect of Agreement	24
Article 23	Wages	25
Article 24	Educational Incentive Compensation	30
Article 25	Discipline, Discharge, and Employees' Personnel Files	32
Article 26	Indemnification	32
Article 27	Lay-Offs and Recall	32
Article 28	Duration of Contract	33
Article 29	Cafeteria Plan	34
Article 30	Miscellaneous Provisions	34
Appendix A	Drug and Alcohol Testing Policy dated July 1, 2003	37

THIS AGREEMENT made and entered into this first day of July, 2011 through June 30, 2012 and the first day of July , 2012 by and between the Town of Needham (hereinafter called the "Town"), acting by and through its duly designated representatives, and Needham Police Union (hereinafter called "Police Union"), under and pursuant to the provisions of Massachusetts General Laws, Chapter 150E, as amended.

### **PREAMBLE**

WHEREAS Chapter 150E of the General Laws, as amended, grants to municipal employees the right to bargain collectively with the Town through representatives of their own choice; and

WHEREAS by virtue of a decision of the Massachusetts Labor Relations Commission dated November 28, 1972, and an election held October 18, 1972, pursuant to said decision, the Police Union was duly certified as the exclusive bargaining agent for all regular full-time members of the Needham Police Department, excluding the Chief, Lieutenants and provisional and EEA employees; and

WHEREAS the parties to this agreement desire to establish a state of amicable understanding, cooperation and harmony compatible with any law or by-law applicable to the Town in the fulfillment of the obligation of the Town to protect the safety and welfare of all its inhabitants.

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

### **ARTICLE 1** **RECOGNITION** **PERSONS COVERED BY THIS AGREEMENT**

Pursuant to the certification by the Massachusetts Labor Relations Commission dated November 28, 1972, the Town recognizes the Police Union as the sole and exclusive bargaining agent for the Needham Police Union personnel for the purpose of collective bargaining with a view toward reaching a mutual understanding and agreement relative to questions of wages, hours and other conditions of employment.

All other municipal employees of the Town of Needham are excluded from the terms and provisions of the Agreement.

It is understood and agreed between the parties hereto that the provisions of this Article shall be subject to any changes in the structure or composition of the employee unit as may at any time be made by decision of a court of competent jurisdiction, by legislation, or by decision of an appropriate commission or other agency of the Commonwealth of Massachusetts.

**ARTICLE 2**  
**UNION SECURITY**

The Town agrees not to discharge or discriminate in any way against employees covered by this Agreement on account of union membership, union affiliation or lawful union activities.

**Section 1. Dues Deduction and Agency Fee**

- (a) The Town agrees that employees who are members of the Police Union on the effective date of this agreement and those employees who become members after that date shall, as a condition of employment, maintain their membership in the Police Union for the duration of this agreement to the extent of paying an initiation fee and membership dues uniformly required as a condition of acquiring or retaining membership in the Police Union, whenever employed under the terms of this agreement.
- (b) New employees who do not elect to become members of the Police Union on or after thirty-one (31) days following their date of hire or following the effective date of this agreement, whichever occurs later, shall, as a condition of employment, pay to the Police Union an agency fee equal to the regular monthly Police Union Dues, in recognition of the services performed by the Police Union in administering the Labor Agreement between the Parties. Such employees may execute a Wage Assignment Authorization, a copy of which is attached as Appendix A of this agreement, and the appropriate amount shall be deducted from their earned wages whenever employed under the terms of this agreement.
- (c) Permanent employees who were Union members as of the effective date of this Agreement but who have since terminated or may in the future terminate their Union membership and continue in the employ of the Town in the Bargaining Unit, will be required to pay to the Union directly or authorize deduction of said agency fee.
- (d) Any employee who is required to pay or authorize payroll deductions for an agency fee and who fails to do so, will be discharged at the request of the Union, which request shall be in writing, to the Town Manager, and shall state the reasons therefore.
- (e) Employees shall have fulfilled the obligations provided for in this Article by offering or tendering to the Police Union the initiation fee and membership dues uniformly required of members of the Police Union. The provisions of the Article shall not apply to any employee whose membership in the Police Union has been terminated for reasons other than his/her failure to offer or tender the initiation fee and membership dues uniformly required of members of the Police Union.

**Section 2. Dues Collection**

- (a) Subject to applicable law as set forth in Chapter 180, Section 17A of the General Laws of the Commonwealth of Massachusetts, the Town shall deduct from earned wages periodic Police Union membership dues required as a condition of acquiring or retaining membership in the Union of those employees who individually authorize such deductions in writing on the form attached hereto, made a part hereof, in Section 3 . The Town will remit all sums deducted under such deduction authorization to the Treasurer of the Police Union together with a list of the employees from whom such dues have been deducted.
  
- (b) The Police Union shall indemnify and save the Town harmless against any claim, demand, suit or other form of liability that may arise out of or by reason of action taken by the Town for the purpose of complying with this Article, or in reliance on any assignment furnished by the Town.
  
- (c) The Police Union shall provide the Treasurer of the Town of Needham with a bond as required by Chapter 180, Section 17A of the General Laws of the Commonwealth of Massachusetts.

**Section 3. Authorization for Payroll Deductions**

**AUTHORIZATION FOR PAYROLL DEDUCTIONS**

By: \_\_\_\_\_  
(Name of Employee)

To: TOWN OF NEEDHAM  
(Name of Employer)

Effective \_\_\_\_\_ I hereby request and authorize you to deduct from my earnings each \_\_\_\_\_ the amount of \$ \_\_\_\_\_. This amount shall be paid to the Treasurer of the Needham Police Union and represents payment of my Union Dues or Agency Fee (circle one). These deductions may be terminated by me giving you sixty (60) days written notice in advance or upon termination of my employment.

\_\_\_\_\_  
(Employee's Signature)

\_\_\_\_\_  
(Employee's Address)

**ARTICLE 3**  
**MANAGEMENT RIGHTS**

The Town, the Town Manager and the Chief of Police respectively reserve and retain all powers, authority and prerogatives as public officials in performing their statutory and by-law duties and responsibilities. Unless this agreement expressly makes provisions to the contrary, neither the Town nor the Town Manager nor the Chief of Police shall be deemed to be limited in any way by this agreement in the exercise of the regular and customary function of municipal management.

**ARTICLE 4**  
**EMPLOYEE JOB ASSIGNMENTS, DUTIES AND RESPONSIBILITIES**

**Section 1.** All Police Union personnel shall perform the respective duties assigned to them by the Chief or his/her duly constituted deputy or assistant chief/designee while exercising such delegated authority. Such assignments shall at all times be consistent with the official uniform chain of command so-called as is customarily recognized and adhered to by local Police Departments within the Commonwealth including the recognition and respect due the official ranks given to officer personnel.

**Section 2.** At least one Sergeant or Officer of a higher rank shall be on duty at all times on each shift.

**Section 3.** Except as otherwise provided in the Town Charter of the Town and this agreement, the official Rules and Regulations of the Police Department promulgated and approved by the Board of Selectmen on July 17, 2001 shall provide the standards and guidelines of performing the assignments referred to in Section 1 hereof.

**ARTICLE 5**  
**HOLIDAYS AND OVERTIME**

**Section 1. Holidays**

- (a) The Town of Needham recognizes the following legally observed holidays: New Year's Day, Martin Luther King Day, Presidents' Day, Patriots' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day.
- (b) Holiday Pay Members of the bargaining unit shall receive an extra one-fourth of a week's pay (10 hours) in the pay period for the week in which a holiday occurs. Employees will be entitled to 4 hours regular straight time pay for the week in which Christmas Eve occurs.
- (c) Holiday Premium If a member of the bargaining unit works on a holiday he/she shall be paid an additional one-half times his/her regular rate of pay for all hours worked on that holiday.

- (d) If an employee assigned to work on a holiday shall not report for duty because of non-occupational illness, he/she shall not be entitled to holiday pay or holiday premium.
- (e) If an employee reporting for duty on a legal holiday shall be taken ill in the course of the day's work, and has to be relieved of duty, he/she shall be entitled to holiday pay and holiday premium for that day.
- (f) Any member of the bargaining unit, who, when on his/her non-scheduled work day, performs overtime work on any of the above holidays, shall be paid two times his/her regular rate of pay for all hours worked on that holiday.
- (g) If a holiday occurs during an employee's scheduled vacation, he/she shall receive holiday pay and shall be charged for one less vacation day on not more than four occasions during any given vacation year. The employee must have received approval for a minimum of four (4) vacation days in order to receive holiday pay under this section.

**Section 2. Overtime**

- (a) Overtime shall be defined as time worked in excess of an employee's normally scheduled number of hours per day or per week.
- (b) All worked overtime must be approved in advance by the Chief of Police or his/her designee.
- (c) An employee who completes his/her regular shift, then is recalled back to work or for court appearance shall be guaranteed a minimum of four (4) hours of pay at the overtime rate of pay.

**ARTICLE 6**  
**TOURS OF DUTY**

Tours of duty, except for those employees having special assignments or duties, shall be scheduled on a basis of four (4) consecutive days "on duty" and two (2) consecutive days "off duty" as approved by the Chief of Police.

Employees having special assignments or duties will be scheduled in the interest of effective operations and will receive the same number of days off in the year as other employees.

**ARTICLE 7**  
**LEAVE OF ABSENCE**

**Section 1.** At the discretion of the Chief of Police, members of the bargaining unit who have completed the applicable probationary period may be permitted an unpaid leave of absence of up to

two week's duration, upon submission of a written request stating the reason for, and length of, the requested leave. If the request is for a medical leave of absence, the employee must submit supporting documentation from a treating physician.

**Section 2.** Requests for leaves of absence of longer than two week's duration must be submitted in writing and approved in advance by the Chief of Police and the Town Manager.

**Section 3. Leaves and Benefits**

- (a) Sick Leave Employees granted leaves of absence in excess of five (5) days in a calendar month shall not accrue non-occupational sick leave for that month.
- (b) Vacation Employees who are on unpaid leave status for more than five (5) days in a calendar month shall have their current vacation bank (if any) or their next year's vacation allotment reduced by one-twelfth of the annual allotment. Partial vacation days shall be rounded up to the closest whole number.
- (c) Longevity Employees who are on unpaid leave of absence for more than ten (10) days in a calendar year shall have their longevity eligibility dates adjusted by the number of calendar days spent on unpaid leave of absence.
- (d) Step Raises Employees who are on unpaid leave of absence for more than ten (10) days in a calendar year shall have their next step dates (if applicable) adjusted by the number of calendar days spent on unpaid leave.

**Section 4.** Two members of the Police Union shall be excused from duty for two days without loss of pay while in attendance as official delegates at the annual convention of the Massachusetts Police Association held within the Commonwealth.

**Section 5.** The Union president or his/her designee shall be allowed three (3) additional days per year without loss of pay in order to attend to union business, provided that staffing on the particular day in question is such that the Chief of Police does not feel the necessity to cover for such absence.

**Section 6 Administrative Leave** The Chief of Police shall have the discretion to place a member of the bargaining unit on paid administrative leave for a period not to exceed 45 calendar days in situations including, but not limited to, the investigation of a Police Officer's conduct, or the Police Officer's involvement in a traumatic event, such as a shooting or fatal accident. The period of paid administrative leave may be extended by mutual agreement of the parties. The placement of an Officer on paid administrative leave shall not be grievable.

**Section 7. Personal Leave** One shift leave of absence with full pay shall be granted for personal business during the calendar year with advance approval of the Chief of Police. Such request must be submitted in writing at least forty-eight (48) hours prior to the date selected.

**ARTICLE 8**  
**CIVIC DUTY LEAVE**

**Section 1.** Any employee of the bargaining unit shall be granted leave from duty when called for jury duty or under summons to appear as a witness at the request of the federal government, the Commonwealth, or any city or town of the Commonwealth on a matter that is not related to his or her work as a Needham Police Officer.

**Section 2.** Employees shall be paid by the Town during the period required for court service for the difference between the amount paid to them by the court, excluding travel allowance, and the amount of regular straight time pay which would normally be received from the Town for the scheduled work time spent on approved civic duty leave. If the jury or witness fees, exclusive of travel allowance, are more than the amount of regular straight time pay which the employee would receive for the scheduled work time spent on civic duty leave, no compensation shall be paid by the Town for the period of the court service.

**Section 3.** Official summons to appear for jury duty or as a witness must be presented in advance to the Chief of Police or his/her designee in order for the employee to receive authorized civic duty leave.

**Section 4.** To qualify for civic duty leave payment, the employee must furnish the Town Accountant with complete and satisfactory evidence of the jury or witness fees received.

**Section 5.** Absence due to civic duty leave shall not affect an employee's eligibility for longevity, satisfactory performance step increases, or benefits.

**Section 6.** Civic duty leave shall not be granted when an employee is involved in personal litigation.

**ARTICLE 9**  
**MILITARY LEAVE**

**Section 1.** Members of the bargaining unit who are members of a state or federal military reserve unit shall be entitled to leave of absence from a permanent position for compulsory military service under orders, up to seventeen (17) calendar days per year of such leave to be with full regular straight time pay for normally scheduled work hours.

**Section 2.** Military leave of absence with full regular straight time pay shall be granted to members of the bargaining unit on occasion of their required appearance under orders before armed forces draft boards or for physical examinations required by such boards.

**Section 3.** Military leave of absence without pay shall be granted to members of the bargaining unit called under orders for active duty with the state or federal armed forces for compulsory service other than the annual reserve routine tour of duty.

**Section 4.** Every employee desiring military leave as provided hereunder shall request it in writing in advance from the Chief of Police, and such request shall provide written proof from military or selective service officials indicating the date of departure and length of service required.

**Section 5.** Leave of absence for military duty shall not affect an employee's continuous service for the purposes of longevity. Military leaves of absence in excess of two weeks shall affect an employee's continuous service for the purpose of sick leave, vacation, and other benefit accrual.

**Section 6.** Military leave shall be administered in accordance with state and federal laws.

## **ARTICLE 10**

### **NON-OCCUPATIONAL SICK LEAVE**

**Section 1. Eligibility** Members of the bargaining unit shall be eligible for non-occupational sick leave as provided hereunder.

**Section 2. Accrual** Full-time employees shall accrue one and one-quarter (1 1/4) days non-occupational sick leave for each full calendar month of continuous employment per fiscal year. The aforementioned accruals shall be added to the employee's permanent record of available non-occupational sick leave and referred to as the "non-occupational sick leave bank."

**Section 3. Usage** Use of non-occupational sick leave shall be granted to an employee only when the employee is incapacitated from the performance of duties by personal sickness, injury or quarantine by public health authorities, except that employees shall be allowed to use up to three (3) days of non-occupational sick leave, when available, per fiscal year for illness of a parent, spouse or child of the employee. The employee's non-occupational sick leave bank will be charged for the number of days absent from work because of non-occupational illness.

**Section 4. Notification** Non-occupational sick leave shall commence on the date that notification of the employee's sickness, injury or quarantining is given to the Chief of Police/designee by the employee or the employee's family or physician. Employees who report for duty and who are subsequently relieved of duty as a result of non-occupational sick leave will not be charged for the first day of such absence.

**Section 5. Certification of Illness, Injury or Quarantine** The Chief of Police shall investigate and ascertain the validity of any request for non-occupational sick leave made by an employee, and shall approve the request if satisfied as to the validity of the illness. A physician's certificate may be required by the Chief of Police in any case of non-occupational sick leave. If the cause of sick leave is not substantiated to the satisfaction of the Chief of Police, the absence will not be paid as non-occupational sick leave. The Chief's approval of non-occupational sick leave will not be unreasonably withheld.

**Section 6. Extended Sick Leave**

- (a) When an employee has exhausted available non-occupational sick leave credits, extended sick leave with pay in excess of earned sick leave may be granted on an individual basis by the Town Manager for up to sixty (60) shifts per fiscal year, upon receipt of a written request for extended sick leave submitted by the Chief of Police, and upon receipt of written confirmation from a practicing physician that the employee is unable to report to work.
- (b) Requests for extended sick leave as provided herein shall not be submitted until the employee has used all available paid leave credit, including vacation leave and personal leave.
- (c) In determining whether to grant extended sick leave, the Town Manager shall take into account the employee's length of continuous employment, absence record, and performance history. Granting of extended sick leave is subject to availability of appropriation.
- (d) Extended sick leave will be treated as an unpaid leave of absence. Any employee granted extended sick leave as provided herein will not receive credit for such leave for the purpose of determining vacation or other leave eligibility, and the amount of time spent on extended sick leave shall not be included in computation of continuous service, in accordance with Article 7 of this Agreement, but shall not be deemed to be a break in service.

**Section 7. Non-occupational Sick Leave Buy-Back** An employee who terminates employment with the Town by retirement or disability shall be entitled to a cash payment upon termination at the employee's current rate of pay for twenty-five percent (25%) of the non-occupational sick leave bank. The spouse, duly designated beneficiary or legal representative of the estate of an employee whose employment with the Town is terminated by death, shall be entitled to cash payment at the employee's rate at the time of termination for twenty-five percent (25%) of the non-occupational sick leave credit outstanding at the time of termination after proper adjustments are made for the current fiscal year. Members of the bargaining unit who have not attained ten years of service with the Town of Needham as of June 30, 2011 shall be subject to a 960 hour (120 day) cap on the number of sick days to be used in calculating the 25% sick leave buy-back at retirement. The 960 hour cap shall not be construed as limiting the accumulation of non-occupational sick leave.

**Section 8. Personal Leave Incentive Plan**

- (a) Each member of the bargaining unit shall be eligible to convert 8 hours of unused, non-occupational sick leave to personal leave or to "buy back" 8 hours of unused, non-occupational sick leave for every calendar quarter (January 1 through March 31, April 1 through June 30, July 1 through September 30 and October 1 through December 31) in which no sick leave is used. Eligible employees must elect such

conversion by January 15<sup>th</sup> of each year for the accumulation calculations based upon calendar quarters occurring during the prior calendar year.

- (b) Eligible members of the bargaining unit electing to convert non-occupational sick leave hours to personal leave must use such leave hours (a maximum of 32 hours) by December 31 of the year in which they are converted. Use of converted time will only be granted if the Chief/designee determines that no unreasonable overtime obligation or staffing deficiency, which is known as of the date of request, will occur.
- (c) Eligible members of the bargaining unit electing to buy back non-occupational sick leave hours at their regular rate of pay (a maximum of 32 hours) must do so by January 15<sup>th</sup> of each year.
- (d) Eligible members of the bargaining unit may elect a combination of the options set forth in (b) and (c) to the extent that hours converted or bought back do not exceed the number of hours earned. However, once an employee elects to convert non-occupational sick leave to personal leave, those hours are ineligible for buy-back and will expire if not used by December 31<sup>st</sup>.
- (e) Hours converted or bought back in accordance with this program will be deducted from an employee's non-occupational sick leave bank.
- (f) The provisions of this section shall not apply to Personal Leave described in Article 7 Section 7.
- (g) Members of the bargaining unit on approved injury on duty status for more than five (5) days in a calendar quarter will be ineligible to participate in this program for that quarter.

Elections under this section shall be limited to conversion of non-occupational sick leave hours (earned during the 2007 calendar year) to personal leave hours in the first year of implementation (January 1, 2008).

**Section 9. Two Shifts Separated by Eight Hours** In the event an employee who is scheduled to work two shifts separated by only 8 hours (except for overtime) in a 24-hour period is sick, he/she will be charged for one day sick leave in the first 24-hour period of sickness. If the period of disability exceeds the first 24-hour period, all subsequent shifts will be charged at one day per shift.

**Section 10. Family Illness** Each employee may use up to three days of accumulated sick leave time for illnesses of a parent, spouse or child.

**ARTICLE 11**  
**HEART INJURY, HYPERTENSION AND HEART BY-PASS**

**Section 1.** Employees absent from duty on account of a heart injury except for hypertension and heart bypass surgery shall receive their full weekly compensation during the period of such absence without charging such absence to NOSL until a physician appointed by the town finds the employee fit to return to duty, the employee retires, or the employee ceases employment with the Town.

**Section 2.** Employees absent from duty on account of hypertension or for heart bypass surgery will be compensated as follows for up to ninety (90) calendar days of absence.

- (a) The Town will match on a one-for-one basis each day of absence. The employee's days will be charged to the employee's accrued NOSL. The Town's match will be in addition to any NOSL the employee has accrued. The Town will only match those days for which the employee has contributed one NOSL day. Not later than 90 calendar days after onset of the absence, the employee will either submit an application for retirement or return to work. Provided, however, that if a physician appointed by the Town is unable to determine that the employee is either fit for duty or is permanently disabled, the Town will continue to match on a one-for-one basis any additional period of absence. Until the Town's physician has made his/her determination, the employee will either return to work or submit his/her application for retirement. If the Town's physician recommends retirement, then, upon submission of the application, the Town will pay full weekly compensation to the employee for a period up to 120 days or until retirement, whichever comes first.
- (b) If the employee exhausts his/her accrued NOSL, the Town Manager may, in her/his sole discretion, grant a further period of paid leave.

**Section 3.** Medical, hospital, surgical, medicinal or similar bills incurred in the treatment of hypertension or heart bypass operation shall not be deemed to arise out of a work-related injury and will not be paid by the Town except to the extent that the Town contributes to the employee's health insurance premiums. They may be submitted to the applicable health insurance provider for appropriate coverage.

**Section 4.** Employees, while being compensated hereunder, shall not accrue additional NOSL or vacation time.

**ARTICLE 12**  
**INJURY ON DUTY**

When a Police Officer is incapacitated for duty because of injury or illness sustained in the performance of duty (including paid detail duty) without fault of his/her own, he/she shall be granted leave without loss of pay in accordance with M.G.L. Chapter 41 Section 111F and will be

indemnified for reasonable and customary expenses in accordance with M.G.L. Chapter 41 Section 100, subject to the provisions outlined below and pursuant to the Injury on Duty Policy.

**Section 1. Determination of IOD Status** The determination of eligibility for IOD status in accordance with M.G.L. Chapter 41 S 111F shall be made by the Town Manager or her/his designee. Prior to the approval of eligibility for benefits under this section, the Police Officer may be placed on non-occupational sick leave. If during the period in which the Town is determining eligibility for injured on duty status the employee exhausts his/her banked non-occupational sick leave, the Town will provide the employee with additional sick leave up to the date of determination. If the request for benefits under this section is approved, the period of the non-occupational sick leave shall be converted retroactively to Injured on Duty status.

**Section 2. Physical/Psychological Examinations** The Town may require a Police Officer who requests benefits under this section to submit to physical or psychological examinations, at the expense of the Town, prior to being placed on IOD Status. Such examination will be conducted by a physician who is Board-certified or is a specialist in the field which is directly related to the illness/injury for which benefits are sought.

**Section 3. Appeals** An employee whose claim for benefits under this section is denied by the Town shall have the right to file for arbitration under Article 21 of this Agreement or to file an appeal under the applicable provision of Massachusetts General Law.

**Section 4. Accruals** Employees receiving benefits in accordance with this section who are on approved IOD status for an entire calendar month shall not be entitled to sick leave accrual for that month.

**Section 5. Medical Case Management** The Town or its designated occupational health consultant will review all requests for indemnification of medical expenses and will make payment for reasonable and customary charges. Injured employees will be required to provide medical information release forms from all relevant medical providers for injuries/illnesses for which benefits are sought. It is understood that all employee medical information will be kept strictly confidential as provided by state law.

**Section 6.** Members of the bargaining unit who accept benefits under this Article and in accordance with M.G.L. c. 41 Sections 100 and 111F thereby and forever waive a suit for damages for the same injury against the Town of Needham with the following exceptions: (1) an action to enforce the member's rights under Section 100 or 111F if such right is denied by the Town; (2) any claim for disability retirement benefits; (3) an action brought after the Town has terminated benefits because of an assertion that the injury was not sustained in the performance of duty. There is no waiver of any claim that a member may have against any third party causing the injury other than a claim against the Town.

**ARTICLE 13**  
**TEMPORARY MODIFIED WORK PROGRAM**

**Section 1. Work-related Illness or Injury**

- (a) If a physician designated by the Town of Needham determines that a police officer is eligible for temporary modified work, the Chief may assign that police officer to a Temporary Modified Work Program. Failure of the police officer to comply with the Temporary Modified Work Program may result in suspension of IOD benefits. The physician designated by the Town shall be Board-certified or otherwise be a specialist or have expertise in the relevant area of injury or illness. Any determination that an officer can do temporary modified work shall be made only after a review of the specific duties that the officer will be asked to perform. The Town-designated physician shall give his or her opinion as to whether the officer can perform the specific tasks enumerated.
- (b) If the physician designated by the Town determines that the employee is eligible for temporary modified work, and the employee's physician (who shall be Board-certified or otherwise be a specialist or have expertise in the relevant area of injury or illness), disagrees, the employee, or if the employee so designates, the employee's physician, shall contact the Town's physician within fourteen (14) calendar days of receiving the Town physician's report. If the employee or the employee's physician fails to contact the Town's physician within fourteen (14) calendar days, the decision of the Town's physician shall be final and binding.
- (c) The Town's designated physician shall confer with the employee or the employee's physician on the question of the employee's ability to perform temporary modified work and they shall attempt to reach agreement. If they agree that the employee can perform temporary modified work, the employee shall be placed on a TMWP. If, after discussion, they fail to reach agreement, they shall jointly select a third physician, who shall be Board-certified or otherwise be a specialist or have expertise in the relevant area of injury or illness. Such selection will be made within 21 days of the original decision of the Town's physician. Failure or refusal on the part of the employee or the employee's physician to cooperate in this selection may void any obligation by the Town to appoint a third physician and the decision of the Town's physician shall be final and binding.
- (d) The Town or its physician shall make an appointment for the employee with the third physician and shall advise the employee of the time, date and place. Except for emergency, the employee shall report to and fully cooperate with the third physician. The report of the third physician must be completed and results received by the Town and the employee within fourteen (14) calendar days of the appointment.
- (e) An election by an employee to utilize the third physician option permitted hereunder shall be a binding election of remedies. Such election shall preclude any right to

bring an action or challenge the decision of the third physician, either pursuant to MGL Chapter 41, Section 111F, or pursuant to the grievance/arbitration procedures under this contract. The decision of the third physician shall be final and binding without right of appeal by either party. The cost of the third physician shall be borne by the Town and the Union jointly.

- (f) The provisions of this section shall apply only to questions relating to the determination of eligibility for temporary modified work.

## **Section 2. Non-Occupational Illness or Injury**

Upon release to the Town of the medical reports necessary to make a determination of ability to perform temporary modified work, an employee on NOSL may request a temporary modified work assignment. If the employee's physician determines that the employee is eligible for TMWP, the Chief of Police may assign that employee to a temporary modified work program. The Town shall have the right to require that the employee be examined by a Town-designated physician in order to confirm the employee's ability to return to temporary modified work.

## **Section 3. General Provisions**

- (a) Temporary modified work duties shall be related to law enforcement and shall include, but not be limited to, the following: dispatching, house officer, data entry, report writing, community education, research, and training.
- (b) The Chief of Police, at his or her sole discretion, may limit the number of police officers on temporary modified work plans at any given time. TMWP shall be reviewed on a periodic basis and notice shall be provided to the police officer whether or not the TMWP is to continue. In no event will a police officer be authorized for TMWP in excess of six (6) consecutive months without the advance written approval of the Town Manager or his or her designee.
- (c) The Chief of Police may change the work schedule of the officer if the work assignment clearly requires an alternative shift schedule. Such work shift shall remain only for the period of the TMWP. Schedules will be developed in order to accommodate the officer's need for on-going treatment. No officer regularly assigned to a shift shall be involuntarily reassigned in order to accommodate an employee on Temporary Modified Work Program.
- (d) Police officers on TMWP shall not be eligible for any overtime (excluding court time) or detail assignments except in extraordinary circumstances with the advance approval of the Chief of Police or his or her designee.

**ARTICLE 14**  
**BEREAVEMENT LEAVE**

**Section 1.** Bereavement leave without loss of regular straight time pay for normally scheduled working hours, not to exceed five (5) consecutive days per occurrence shall be granted to members of the bargaining unit on account of a death in the immediate family of the employee, provided that certification of death is satisfactory to the Chief of Police.

**Section 2.** For the purposes of this section, immediate family shall be defined as the parents of the employee, spouse, parents of spouse, children, grandparents, and brothers and sisters of the employee.

**Section 3.** Bereavement Leave of one day may be allowed on account of the death of a brother-in-law, sister-in-law, aunt or uncle of the employee.

**ARTICLE 15**  
**VACATION LEAVE**

**Section 1. Vacation**

(a) Employees will be credited with vacation leave on the first day of the calendar year for use during that calendar year. Employees who are on unpaid leave status shall have their vacation adjusted in accordance with Article 7, Leaves of Absence.

(b) Vacation Leave will be granted as follows:

<u>Length of Continuous Service</u>	<u>Vacation Leave Allowance As of January 1</u>
Less than Five Years:	14 Days
Five to Ten Years	21 Days
Ten or More Years	28 Days

(c) Transition Year Rate Vacation leave allowance rates will be adjusted on the first day of the calendar year in which an employee will be eligible for additional vacation leave.

(d) Vacation Carry Over Employees shall not be allowed to carry unused vacation from one calendar year to the next.

(e) Employee Termination When employment is terminated for any reason, the employee shall be entitled to receive payment for that portion of his/her vacation accumulation not yet taken for the current calendar year, subject to adjustment in accordance with Article 7, Leaves of Absence.

- (f) New Employees New employees shall be granted a proportionate amount of vacation as the number of full calendar months to be worked in the current year bears to the full calendar year.

**ARTICLE 16**  
**CLOTHING ALLOWANCE**

- (a) Each member of the bargaining unit shall be provided with an appropriate uniform as determined by the Chief at the inception of his/her initial employment. Thereafter, each member of the bargaining unit shall be provided with a uniform allowance in the amount of, \$1,000 effective July 1, 2007, \$1,100 effective July 1, 2008, and \$1,200 effective July 1, 2009. Said allowance, for the purchase of authorized uniforms and equipment and the cleaning of uniforms to be worn on duty as a Needham Police Officer, will be considered salary and shall be paid weekly. It is understood that payment of the clothing allowance and cleaning allowance in the form of salary will not relieve members of the bargaining unit from their responsibility of being presentable and properly equipped at all times as determined by the Chief or a designee.
- (b) A fund of \$400 will be established and maintained by the Chief of Police for replacement, repair, or cleaning of uniforms destroyed, badly damaged or soiled in the line of duty.
- (c) There shall be a Uniform Committee of the Needham Police Department. The composition of said uniform committee shall be six members, three of which shall be appointed by the Chief (and may include the Chief), and three of which may be appointed by the union. The committee shall meet for the purpose of considering and making recommendations to the Chief of Police on the uniform and equipment to be worn by all members.

**ARTICLE 17**  
**SPECIAL DEPARTMENTAL ASSIGNMENTS AND OTHER DETAILS**

**Section 1.** There are occasions when special Police assignments are sought to be filled on a voluntary basis. These various voluntary assignments may be conveniently classified as follows:

- (a) Departmental additional detail assignments are those within the department which consist of substitution by one officer for another due to inability to perform a regular scheduled assignment, such as leave, vacation or other authorized leave of justified absence from duty.
- (b) Additional detail assignments but outside of the department consists of (1) those performed for another Town department and paid from the Police budget and (2) those performed for another Town department and paid from that department's budget or a private organization or individual.

**Section 2.** All assignments within the definition of Section 1, paragraph (a) and (b) (1) shall in the first instance be offered by the Chief or officer acting for the Chief to those Needham Police

Officers who are willing to volunteer and the Chief will endeavor to maintain on an evenly distributed and rotating basis consistent with the right to volunteer concept. In the absence of a volunteer being available, the Chief reserves the right to assign the detail to any eligible officer available to serve.

**Section 3.** All other special details and assignments as herein defined shall in each instance be offered by the Chief or officer acting for the Chief to those Needham Police Officers who are willing to volunteer and the Chief will endeavor to maintain on an evenly distributed and rotating basis consistent with the right to volunteer concept. All such assignments, unless the Chief finds just cause to treat otherwise, shall be deemed to be outside of the public service for which such officers were employed.

**Section 4.** It has been determined by the Chief of Police, with the approval of the Town Manager to the extent legally required, that it is the policy of the Chief of Police to permit and allow additional detail assignments outside of the department to be voluntarily worked as herein authorized, provided that the physical capacity and well being of the individual officer, within the judgment of the Chief of Police, is not impaired or such work does not adversely effect the performance capability during regular tours of duty or official duties when assigned by the Chief.

**Section 5.** In no event shall any additional detail assignments be performed without the prior approval of the Chief or officer acting for the Chief in part due to the following:

- (a) It is the duty and responsibility of the Chief to protect the interest of the Town to see that certain risks and liabilities are adequately assumed by appropriate private organizations or individuals or as determined by the Chief.
- (b) The fiscal responsibility of the Chief and the Accounting Department to comply with the provisions of G.L. Chap. 44, Sec. 53C accepted under Article 20 of the 1973 Annual Town Meeting.

**Section 6. Private Detail Rates as of July 1, 2008**

Basic Rate	\$42
Holiday Rate	\$44
Sunday Rate	\$44
Liquor Rate	\$46
Sunday Liquor Rate	\$48
Holiday Liquor Rate	\$48
Strike Rate	1.5 times the Basic Rate
Strike on Holiday Rate	1.5 times the Holiday Rate
Strike on Sunday Rate	1.5 times the Sunday Rate

The final determination regarding the classification of a detail assignment will be made by the Town. The word "strike" shall include any private detail hired because of actual or potential labor unrest or dispute, including strikes, lock-outs, or labor-related picketing.

**Section 7. Detail Rate Increases** The current dollar differential between the basic rate and the special rates (\$2 or \$10); will be maintained.

**Section 8. Holiday Designation** For detail purposes, the holidays of Christmas Day and New Year's Day shall commence at 4:00 p.m. on the 24th and 31st respectively and terminate at 12:00 a.m. on the 26th and 2nd, respectively.

**Section 9. Town Detail Rates** Details worked for the Town of Needham shall be paid according to the following schedule:

**Town Detail Rates as of July 1, 2008**

Basic Rate	\$36
Holiday Rate	\$38
Sunday Rate	\$38
Strike Detail Rate	\$40
Strike on Holiday	\$40
Strike on Sunday	\$40

For the purposes of this section relating to the appropriate payment rate, Town details shall be defined as work performed at the request of a Town department, excluding work performed by outside contractors.

**Section 10. Special Detail Workers** The Town reserves the right to create the position of Special Detail Worker, and to set the compensation therefor. The Town Manager will recommend to the Personnel Board and to Town Meeting a rate differential between the Needham basic detail rate and the Special Detail Worker rate not to exceed \$7 per hour. Such Special Detail Workers shall be civilian, non-sworn personnel, and shall be limited to Public Safety Dispatchers, Animal Control Officers, Police Maintenance Assistant, and Traffic Supervisors employed by the Town of Needham, and retired Needham Police Officers. Special Detail workers shall be eligible to be assigned special details as defined in Section 1 (b) above, in accordance with the following:

(a) Private Details

All detail assignments as defined in Section 1(b) shall first be offered to Needham Police, then to sworn Police Officers from communities which have entered into Mutual Aid Agreements with the Town of Needham and which have been authorized by the Chief of Police to work detail assignments, and then to Special Detail Workers.

(b) Town Details

1. For the purposes of this section, and the determination of the priority order of employees working details, Town details shall be defined as details worked at

the request of a Town department, including work performed by contractors for Town-funded projects.

2. Town details performed on roads which are not designated as "primary arterial" or "minor arterial" roads, shall first be offered to Needham Police Officers, then to Special Detail Workers, then to sworn Police Officers from communities which have entered into Mutual Aid Agreements with the Town of Needham and which have been authorized by the Chief of Police to work detail assignments.

**Section 11. Administrative Fee** The Town of Needham reserves the right to assign an administrative fee to the extent authorized by state law on non-Town details, excluding details worked pursuant to Town contracts.

**Section 12. Special Fund** To ensure expeditious payment of outside detail monies earned, the Town shall establish and maintain a special fund of ten thousand dollars (\$10,000) for payment of outside detail monies as authorized by Massachusetts General Law, Chapter 44, Section 53C. Payment of such monies owed will thereafter be made within three (3) weeks from the date on which such detail was performed.

**Section 13.** Officers working paid details shall be guaranteed a minimum of four (4) hours pay. Officers working details beyond four (4) hours shall be guaranteed four (4) hours additional pay for hours worked between four (4) and eight (8) hours. Hours worked beyond eight (8) hours shall be paid on an hour for hour basis. Those details which last for more than eight (8) hours of continuous duty by the officer shall be paid at an additional half time for all hours or a portion thereof, worked in excess of eight (8) hours.

## **ARTICLE 18** **NO STRIKE CLAUSE**

Recognizing that it is specifically provided in Chapter 150E of the General Laws to be unlawful for any employee of the Needham Police Union to engage in, induce or encourage any strike, work stoppage, slowdown or withholding of services, the Police Union agrees that neither it nor its officers or representatives will call, instigate, authorize, sanction or ratify any strike, slowdown, or stoppage of work by employees of the Needham Police Union.

## **ARTICLE 19** **STABILITY OF AGREEMENT**

**Section 1.** No agreement, understanding, alteration or variation of the agreements, terms or provisions herein contained shall bind the parties hereto unless made and executed in writing by the parties hereto.

**Section 2.** The failure of the Town or the Police Union to insist, in any one or more instances upon performance of any of the terms or conditions of this Agreement shall not be considered as a

waiver or relinquishment of the right of the Town or of the Police Union to future performance of any such term or condition, and the obligations of the Police Union or of the Town to such future performance shall continue in full force and effect.

## **ARTICLE 20**

### **SETTLEMENT OF GRIEVANCES**

**Section 1.** A grievance is an employee's expressed feeling of dissatisfaction, presented in writing, concerning aspects of his/her employment or working conditions, which has not been resolved to the employee's satisfaction through informal discussion with his/her immediate superior. Such grievances may relate to the interpretation or application of, or compliance with, any of the provisions of said Agreement. Grievances of the employees shall be advanced to the Town by the Police Union, but nothing in this Article shall prevent individual employees from presenting their own grievances, and any settlement of such individual grievances shall not be inconsistent with the terms of this Agreement.

**Section 2.** The Town and the Police Union expect employees and supervisors to make a sincere effort to reconcile their differences. The following procedures are established for settlement of grievances:

The employee's grievance must contain the following information:

- (a) a statement of the grievance which cites that part of the Agreement which has been violated, or the circumstances which gave rise to the grievance;
- (b) a statement of remedial action or relief sought;
- (c) evidence (documentary, if available) to support the grievance; and
- (d) a statement of reasons why the aggrieved believes that the remedy should be granted.

**Section 3. Step One** The employee, or the Police Union, must notify his/her supervisor within fourteen (14) business days (Monday through Friday) after the occurrence of the matter which gave rise to the grievance. The supervisor must make his/her decision within five (5) business days after receipt of the grievance unless it is mutually agreed by the participants that additional time to answer will be allowed.

**Section 4. Step Two** Should the grievance remain unsettled, the employee or the Union must present it to the Chief of Police within five (5) business days after the decision of the supervisor is rendered or due. The Chief of Police will issue a decision within fourteen (14) business days (Monday through Friday) of his or her receipt of the grievance, unless it is mutually agreed by the participants that additional time to answer is allowed.

**Section 5. Step Three** Should the grievance remain unsettled, the employee or the Union must present it to, the Director of Human Resources within ten (10) business days after the decision

of the Chief is rendered or due, otherwise the matter will be considered resolved. The Director of Human Resources shall make his/her decision within fifteen (15) business days after receipt of the grievance unless it is mutually agreed by the participants that additional time to answer is allowed.

**Section 6. Step Four** Should the grievance remain unsettled, the employee or the Union must present it to, the Personnel Board within ten (10) business days after the decision of the Director of Human Resources is rendered or due, otherwise the matter will be considered resolved. If, after its own investigation, the Personnel Board agrees with the decision of the Director of Human Resources the Personnel Board will issue a decision.

- (a) If the Personnel Board determines that it will require additional information before issuing a decision, it will convene a meeting of the Joint Resolution Committee (JRC). The JRC will be comprised of two (2) members of the Personnel Board and the Town Manager.
- (b) The JRC shall present its findings to the Personnel Board. Two (2) affirmative votes of the JRC will be required to overturn the decision of the Director of Human Resources (Step 3)
- (c) The Personnel Board will issue a decision within thirty (30) business days of the receipt of the grievance by the Director of Human Resources . The time-frames in this section may be extended at the agreement of the parties.

**Section 7. Arbitration**

Should the Union request arbitration, the grievance shall be submitted to an arbitrator selected by the parties within ten (10) business days of receipt of the Step Four decision, otherwise the matter will be considered to be resolved.

- (a) If the parties cannot agree on the selection of an arbitrator within ten (10) business days, the Union may request the American Arbitration Association to appoint a neutral arbitrator to arbitrate the grievance in accordance with its rules and regulations.
- (b) The fees of the American Arbitration Association and of the arbitrator and the expenses of any required hearings shall be shared equally by the Union and the Town, but each party shall bear the expenses of its representatives, participants, witnesses and for the preparation and presentation of its own case. The obligation of the Town and its agents under the terms of this section shall be limited to those obligations which the Town and its agents may legally undertake, and in no event shall any present or future member of the Board of Selectmen or Personnel Board, or a present or future Town Manager have any personal obligation for payment under the provisions of this contract.

- (c) The arbitrator shall have no power to add to, subtract from, or modify any of the terms of this Collective Bargaining Agreement.
- (d) The award of the arbitrator shall be final and binding on the parties, provided it shall be one such as is permitted by the laws and regulations of the Commonwealth of Massachusetts, applicable to the Town and the employees of the Police Union.
- (e) No employee shall have the right to require arbitration, that right being reserved to the Town and the Police Union.

**ARTICLE 21**  
**SEPARABILITY AND SUBORDINATION TO EXISTING LAW**

Should any of the provisions of this Agreement become invalid or should their efficacy become doubtful or questionable because of existing federal or state legislation, a Town Charter, a Civil Service rule or regulation, a decision by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby.

In the event that this Agreement or any part of provision thereof conflicts with any State or Federal law, or Town Charter, this Agreement or any such part or provision thereof shall be subordinate to any such State or Federal law, ordinance, or Town Charter as long as such conflict remains.

Nothing in this Agreement shall diminish the authority and power of the Civil Service Commission, any Retirement Board, Town Manager, or Board of Selectmen established by law.

**ARTICLE 22**  
**EFFECT OF AGREEMENT**

**Section 1.** This Agreement contains and constitutes the entire Agreement between the Town and the Police Union arrived at as a result of collective bargaining. No amendment, extension, or alteration of this Agreement and no other Agreement between the parties hereto which is inconsistent with the terms hereof shall be effective or enforceable unless it is in writing and signed by the parties hereto.

**Section 2.** The parties acknowledge that during the negotiations which resulted in this Agreement each had the unlimited right and opportunity to make demands with respect to any subject or matter not removed by law from the area of collective bargaining, and that the understanding and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the Town and the Police Union for the life of this Agreement, each voluntarily and unqualifiedly waives the right, and each agrees that the other shall not be obligated, to bargain collectively with respect to any subject or matter referred to, or covered by this Agreement.

**Section 3.** The waiver of any breach or condition of this Agreement by either party shall not constitute a precedent with respect to future enforcement of all the terms and conditions of this Agreement.

**Section 4.** No provision of this Agreement shall be retroactive prior to the effective date unless otherwise specifically stated herein.

**Section 5.** Where this Agreement requires the appropriation of funds or other vote on the part of the Town to effect the carrying out of any provision hereof, to that extent this Agreement is subject to such action as may be taken by the Town Meeting pertaining to the required appropriation or other vote.

**ARTICLE 23**  
**WAGES**

**Section 1. Wage Schedules**

Police Unit A Salary Schedule - Expressed Hourly  
Effective July 1, 2011

GRADE	MIN	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6	MAX
P-2			26.7032	27.6899	28.7971	29.9493	30.5482
P-1	20.1046	20.8564	21.6099	22.4093	23.3065	24.2385	24.7232

Police Unit A Salary Schedule  
Effective July 1, 2011

GRADE	MIN	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6	MAX
P-2			55,543	57,595	59,898	62,295	63,540
P-1	41,818	43,381	44,949	46,611	48,478	50,416	51,424

Police Unit A Salary Schedule - Expressed Hourly  
Effective July 1, 2012

GRADE	MIN	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6	MAX
P-2			28.0115	29.0452	30.2067	31.4154	32.0433
P-1	20.3053	21.2192	22.1740	23.1716	24.2144	25.3043	25.9370

Police Unit A Salary Schedule  
Effective July 1, 2012

GRADE	MIN	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6	MAX
P-2			58,264	60,414	62,830	65,344	66,650
P-1	42,235	44,136	46,122	48,197	50,366	52,633	53,949

Police Unit A Salary Schedule - Expressed Hourly  
Effective July 1, 2013

GRADE	MIN	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6	MAX
P-2			29.3880	30.4726	31.6913	32.9591	33.6183
P-1	20.3053	21.3207	22.3865	23.5058	24.6813	25.9154	27.2111

Police Unit A Salary Schedule  
Effective July 1, 2013

GRADE	MIN	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6	MAX
P-2			61,127	63,383	65,918	68,555	69,926
P-1	42,235	44,347	46,564	48,892	51,337	53,904	56,599

Police Unit A Salary Schedule - Expressed Hourly  
Effective July 1, 2014

GRADE	MIN	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6	MAX
P-2			30.1221	31.2337	32.4832	33.7822	34.4577
P-1	20.8130	21.8538	22.9462	24.0938	25.2986	26.5635	27.8913

Police Unit A Salary Schedule  
Effective July 1, 2014

GRADE	MIN	STEP 2	STEP 3	STEP 4	STEP 5	STEP 6	MAX
P-2			62,654	64,966	67,565	70,267	71,672
P-1	43,291	45,456	47,728	50,115	52,621	55,252	58,014

Members of the bargaining unit on the payroll between July 1, 2011 and May 14, 2012 will receive a one-time payment of \$500 to be paid in a lump sum after the May 14, 2012 Special Town Meeting.

**Section 2. Rates of Compensation** An employee's weekly rate shall be his/her annual rate divided by 52. Notwithstanding the fact that the Police Officer's regular work week may be less than 40 hours, the hourly rate shall be calculated by dividing the weekly rate by 40 hours. The overtime rate shall be calculated at time and one half the hourly rate.

**Section 3. EMT Pay** All registered Emergency Medical Technicians (EMTs) shall be granted additional compensation of 4.5% of annual base salary, to be paid weekly, upon proof of certification or re-certification. Upon proof of recertification the Town will reimburse EMTs for the bi-annual recertification fee not to exceed \$150.00.

**Section 4. Rank Differential** Sergeants shall be paid 23.5% above the basic rates of Police Officers as shown in Section 1, Wage Schedules, above.

**Section 5. Night Differential**

- (a) Members of the bargaining unit regularly assigned to a shift configuration including evening or midnight shifts, as designated by the Chief of Police, shall receive night differential as a percentage of base salary in accordance with the following schedule:  
Four evening or midnight shifts: 6%; three evening or midnight shifts: 4.5%; two evening or midnight shifts: 3%, one evening or midnight shift: 1.5%.
- (b) Members of the bargaining unit assigned to midnight shifts will be entitled to the midnight differential pay, in addition to night differential pay referred to in section (a): One midnight shift-- \$10 per week; two midnight shifts -- \$15 per week, three or more midnight shifts -- \$20 per week.

**Section 6. Longevity** In addition to the step-rate increases or advancement provided above there shall be added to the annual compensation of each full-time employee in the bargaining unit .005 of base salary after completion of each and every five years of full-time employment except that at the completion of 19 years of full-time employment each such employee shall receive .01 of base salary for each and every five years of full-time employment. Interruption of such employment for the purpose of performing military service shall not be deemed to break the continuity of service with the Town in calculating benefits payable under this paragraph, provided that no employment other than military service is entered into by the employee during the period of said interruption. Subject to the approval of the Town Manager, a full-time employee whose employment has been interrupted through no fault of his/her own and who has been subsequently reinstated to full-time employment, may be given credit for longevity purposes for such prior town service.

**Section 7. Armorer** Effective July 1, 2011, an additional \$62.50 per month when assigned to and performing the duties of Armorer as designated by the Chief of Police.

**Section 8. Fire Arms Instructor** Effective July 1, 2011, an additional \$62.50 per month when assigned to and performing the duties of Fire-Arms instructor as designated by the Chief of Police.

**Section 9. Health Incentive Pay** A \$10 per week health incentive will be paid to all officers who meet the weight to height standards or percentage of body fat standards set by the United States Army and accepted by the Massachusetts Police Training Council.

To be eligible for this health incentive, each officer must submit to a height and weight measurement to be conducted by a Town Public Health Nurse either by appointment or during established nursing hours as set by the Board of Health. The results of the test shall be forwarded by the Public Health Nurse to the Director of Human Resources and the Chief of Police. The Town will require re-testing at six month intervals.

Any officer failing to pass the test initially may at any time arrange to have said test taken, and may have such test taken as often as requested but in no event more than one time per month.

Any officer failing to pass the height and weight standards test may choose to submit to a "skin fold" or fat content test. Such test is to be administered by a person or agency approved in advance and at no cost to the Town. The results of the fat content test shall be forwarded to the Director of Human Resources and the Chief of Police. For the purposes of eligibility for payment under this Section, an officer must meet the "Fitness" level in accordance with the following standard:

<u>Classification</u>	<u>Women (% fat)</u>	<u>Men (% fat)</u>
Essential Fat	10% – 13%	2% – 5%
Athletes	14 %– 20%	6 %– 13%
Fitness	21% – 24%	14 %– 17%
Average	25% – 31%	18 %– 24%
Obese	32% and higher	25% and higher

**Section 10. Payroll Date** The parties agree that the payroll distribution date is Friday.

**Section 11. Hiring above the Minimum Entrance Rate** With prior approval of the Town Manager, the Chief of Police may appoint Police Officers, who transfer or are re-employed from other full-time police departments and who have completed the required Police Academy training, at a step rate higher than the minimum entrance rate. This decision shall not be grievable. The step at which the Police Officer is hired shall be based on the number of complete years of experience he or she has served as a full-time Police Officer, education, references, job responsibilities and experience, and other factors deemed by the Chief of Police to reflect the level of proficiency. Police officers appointed under the open competitive civil service certification process are not eligible for the benefits outlined in this section.

**Section 12. Detective** A stipend in the amount of \$1,800 per year, paid weekly, shall be paid to the members of the bargaining unit who are assigned to and performing the duties of Detective as designated by the Chief of Police.

**Section 13. Patrol Supervisor** A stipend in the amount of \$480, per year, paid weekly shall be paid to the members of the bargaining unit who are assigned to and performing the duties of Patrol Supervisor as designated by the Chief of Police.

**Section 14. Principal Prosecuting Officer** A stipend in the amount of \$1,600 per year, paid weekly, shall be paid to the member of the bargaining unit who is assigned to and performing the duties of Principal Prosecuting Officer as designated by the Chief of Police.

**Section 15. Community Service Officer** A stipend in the amount of \$900 per year, paid weekly, shall be paid to the member of the bargaining unit who is assigned to and performing the duties of Community Service Officer as designated by the Chief of Police.

**Section 16. CAD Officer/House Officer Differential** A \$1 per hour differential will be paid on a per shift basis to that CAD-trained Police Officer assigned to work the dispatch area or, in the absence of a CAD trained Police Officer working the dispatch area, to that Police Officer assigned as a so called "House Officer," by the Chief of Police. In the event that a CAD-trained Police Officer is assigned to work the dispatch area and a House Officer is assigned on the same shift, the two shall split the \$1 per hour differential. Such differential shall not be paid for periods of less than four (4) hours. Nothing in this Article shall be deemed to impose any obligation on the Chief to assign anyone as a CAD or House Officer and any such assignment shall be at the sole discretion of the Chief.

**Section 17. Defibrillation Differential** A differential of 1% of annual base pay will be paid weekly for certification in defibrillation.

**Section 18. School Resource Officer** A stipend in the amount of \$900 per year, paid weekly, shall be paid to the member of the bargaining unit who is assigned to and performing the duties of School Resource Officer as designated by the Chief of Police.

**Section 19. School Attendance Officer** The Chief of Police may nominate a member of the bargaining unit to serve as the School Attendance Officer. If appointed, the School Attendance Officer will serve from September 1 of one year to August 31 of the next and the annual stipend established by the School Committee will be paid in equal weekly installments.

**Section 20. Administrative Sergeant** A stipend in the amount of \$900 per year, paid weekly, shall be paid to the member of the bargaining unit who is assigned to and performing the duties of Administrative Sergeant as designated by the Chief of Police.

The Union acknowledges that the right to assign, or not to assign, special assignments is at the exclusive prerogative of the Chief of Police.

**Section 21 Motorcycle Officer** Effective July 1, 2011, an additional \$62.50 per month when assigned to and performing the duties of Motorcycle Officer as designated by the Chief of Police.

**Section 22 Car Seat Installer** Effective July 1, 2011, an additional \$62.50 per month when assigned to and performing the duties of Car Seat Installer as designated by the Chief of Police.

**Section 23 401A Retirement Plan** Effective January 1, 2014, the Town will contribute up to \$500 annually in a two for one match to a 401A Retirement Plan. For every \$2 contributed by the employee to his or her town-sponsored 457 Deferred Compensation plan, the Town will contribute \$1 to a 401A Deferred Compensation Plan.

**ARTICLE 24**  
**EDUCATIONAL INCENTIVE COMPENSATION**

**Section 1. Educational Committee**

There shall be established an Educational Committee (hereinafter referred to as the Committee) comprised of the Chief of Police, the Director of Human Resources , and a member of the Needham Police Union designated by the Union President. It shall be their responsibility to supervise and implement the programs listed below. They shall have the following responsibilities:

- (a) Certification of credit after submission of proof by an officer and authorization for payment of incentive pay.
- (b) Establishing of in-service training courses.
- (c) Approval of payment of Career pay upon completion of courses.

In the event a question arises over the approval of a course, the officer has the right to appeal to the Town Manager for a final and binding decision.

**Section 2. Educational Incentive**

- (a) Effective July 1, 1998, Police Officers must qualify under MGL Chapter 41, Section 108L in order to receive Educational Incentive Pay.
- (b) In the event that the Commonwealth should fail to reimburse the Town, in whole or in part, for its share of MGL Chapter 41, Section 108L Educational Incentive Pay, the Town will fully absorb the total cost and make payment accordingly unless and until the parties agree to change the provisions of Article 24 of the Agreement. Payment of educational incentive pay will be restricted to:
  - (i) Officers who are already receiving the educational incentive pay for qualifying degrees; and
  - (ii) Officers, appointed prior to July 1, 2009, who have begun to accumulate points pursuant to said section 108L of said Chapter 41 of the General Laws as of September 1, 2009, who shall be allowed to accumulate the maximum number of points permissible; and
  - (iii) Any officer who laterally transfers to the Needham Police Department, or is re-hired from the Civil Service lay-off list to the Needham Police Department, who was already being compensated for a qualifying degree pursuant to MGL Chapter 41, Section 108L.

In the event that the Legislature should eliminate or amend MGL c. 41, Section 108L, the Town of Needham will continue to pay educational incentive pay to eligible employees as set forth in number

3, above, in accordance with the provisions of MGL c 41, Section 108L in effect on September 1, 2009, including 10% for a qualifying Associates degree, 20% for a qualifying Bachelor's degree, and 25% for a qualifying Master's degree

- (c) Effective July 1, 2012, members of the bargaining unit appointed after July 1, 2009 and who are not eligible to receive educational incentive pay in accordance with M.G.L. c. 41 Section 108L and in accordance with Sub-section (b) shall be eligible for the following:

For a qualifying Associate's Degree	7.5% per year, paid weekly
For a qualifying Bachelor's Degree	15% per year, paid weekly
For a qualifying Master's or Law Degree	15% per year, paid weekly

For the purposes of this Sub-section, "qualifying degree" shall be defined as that which would be qualifying under M.G.L. c. 41 Section 108L.

### **Section 3. In-Service Training**

An in-service training program shall be conducted within the Police Department. The program shall provide a minimum of 60 hours off-duty training. To be eligible for the transitional career incentive pay, an officer must satisfactorily complete 40 hours of off-duty in-service training for which he/she will be paid time and one-half his/her rate of pay in effect at the time of the training session. Credit for courses, which would be duplication of courses received elsewhere may be allowed by the committee upon written submission of proof of attendance by the individual desiring to receive such credit for other than in-service courses.

Nothing in this section shall affect on-duty training for which no extra compensation shall be paid.

### **Section 4. Transitional Career Incentive Pay**

- (a) Police Officers employed by the Needham Police Department before September 1, 2009, who do not receive educational incentive pay and who each year satisfactorily complete 40 hours of in-service training, or its equivalent as determined by the Committee, shall be paid career incentive pay as follows:

For the fiscal year in which the 5 <sup>th</sup> through 9 <sup>th</sup> service anniversary occurs:	\$ 500
For the fiscal year in which the 10 <sup>th</sup> through the 19 <sup>th</sup> service anniversary occurs:	\$1,250
For the fiscal year in which the 20 <sup>th</sup> or longer service anniversary occurs:	\$2,300

- (b) Such payments shall be in lump sum increments as determined by the committee and shall be rendered on any reasonable date after July 1 and after the completion of the in-service training yearly.
- (c) Any incentive pays referred to in Article 24 Section 4 shall not be used to compute holiday or overtime rates.

- (d) It is agreed and understood that there shall be no duplication of incentive pays referred to in this Article.

## **ARTICLE 25**

### **DISCIPLINE, DISCHARGE, AND EMPLOYEES' PERSONNEL FILES**

**Section 1.** No bargaining unit employee shall be disciplined or discharged without just cause.

**Section 2.** Bargaining unit employees shall be informed in writing of any and all pending charges. Employees shall have the right, upon request, to have an attorney and/or a union representative to represent him/her and to be present during the disciplinary proceeding.

**Section 3.** No disciplinary action will be taken by the Chief against any officer on a civilian complaint until the officer has been charged in writing and given the opportunity to respond to the complaint.

**Section 4.** Any letter of reprimand placed in an employee's file shall be subject to review after a period of two years and if at that time the employee has received no further letter of reprimand or has not been found guilty of any violation of the Needham Police rules and regulations and policy procedures, the letter of reprimand shall be removed from the employee's personnel file.

**Section 5.** An employee may inspect his/her own personnel file during normal business hours upon reasonable notice to the personnel office and in the presence of a member of the personnel office. An employee shall at any time have the right to respond to any reprimand or other unfavorable material contained in his/her personnel file, and such response shall be inserted in the personnel file, where it shall remain as long as does the unfavorable material.

## **ARTICLE 26**

### **INDEMNIFICATION**

The Town shall indemnify and hold bargaining unit employees harmless from any liability arising from their acting within the scope of their employment. In the event that an application for a criminal complaint is made against an officer for action taken in the performance of his/her duty and the officer is found not guilty or the application for the criminal complaint against said officer is denied, the Town will reimburse the officer for legal fees incurred up to \$1,000 for the hearing on the application for complaint, up to \$5,000 for a district court trial and up to \$10,000 for a superior court trial or federal district court trial. In the event that the legal fees exceed the above-stated limits, the Town Manager may in her/his sole discretion recommend approval of payment of additional fees.

## **ARTICLE 27**

### **LAY-OFFS AND RECALL**

**Section 1.** Lay-offs shall be made in accordance with the provisions of the Civil Service Law, as amended, or successor law or act. In the event that, for any reason, the Civil Service Law, or successor law or act shall not apply, then lay-offs shall be made by seniority. For purposes of this

paragraph, seniority shall be determined by date of permanent appointment to the Department. Subsequent recall shall take place on the same basis.

## **Section 2. Recall/Reinstatement Benefits**

In the event that a Police Officer is laid off and reinstated in accordance with the provisions of Civil Service Law, he/she shall be entitled to the following benefits upon return:

- (a) Seniority Seniority shall be determined by Civil Service Law.
- (b) Longevity The recalled officer shall be entitled to receive credit for prior service for the purposes of longevity payment. The Officer's anniversary date for the purposes of longevity payment shall be adjusted by the number of calendar days the Officer was separated from his/her permanent position.
- (c) Sick Leave The recalled Officer shall be credited with his/her non-occupational sick leave bank as of the time of the lay-off. The Officer shall not accrue sick leave during the period that he/she was separated from his/her permanent position.
- (d) Vacation The recalled Officer shall be granted credit for prior service for the purposes of vacation. The Officer shall not be entitled to vacation for the period that he/she was separated from his/her permanent position. Upon re-hire, the Officer shall be granted a proportionate amount of vacation as the number of full calendar months to be worked in the current year bears to the number of calendar months in a year. Partial vacation days shall be rounded up to the closest whole number.
- (e) Step Raises The recalled Officer shall be reinstated at the step rate in which he/she was paid at the time of the lay-off. The Officer's next step date shall be adjusted by the number of calendar days that he/she was separated from his/her permanent position.

## **ARTICLE 28 DURATION OF CONTRACT**

This Agreement shall continue in full force and effect to midnight, June 30, 2015 and shall be subject to re-negotiations for the period beginning July 1, 2015 as hereinafter provided. Until such time as the Town and Police Union re-negotiate a mutually satisfactory contract, the terms of the within Agreement shall remain in full force and effect.

Upon receipt of such notice, the parties shall make mutually satisfactory arrangements to engage in negotiations leading to a settlement of issues raised by such notice. Nothing in this Article shall preclude either the Town or the Police Union from modifying any proposals made during the course of the negotiations.

**ARTICLE 29**  
**CAFETERIA PLAN**

The Town shall institute a so called "cafeteria plan" in compliance with state law and the Internal Revenue Code. The parties agree that any reasonably incurred administrative expenses will be paid by those employees participating in said plan. The administrative fee charged to health insurance subscribers will not exceed \$10 per fiscal year. The administrative fee charged for other plans will be borne by the participants of those plans. The Town, at its sole option, may terminate non-health insurance cafeteria plans on a Town-wide basis, with 60 days' notice. The plan shall be implemented by July 1, 1990 or as soon thereafter as may be reasonably possible.

**ARTICLE 30**  
**MISCELLANEOUS PROVISIONS**

**Section 1. Beneficiary of Monies Due in Case of Death** In case of death of a member of the bargaining unit while employed, any wages, including but not limited to sick leave buy back and vacation, shall be made payable to the deceased in accordance with IRS regulations.

**Section 2. Court Appearances** Should an officer be required to appear in court on a "short day" beyond 12:00 noon, he/she shall be permitted to take four hours minimum pay and come to work three hours after the start of his/her normal tour of duty, provided he/she notifies the officer in charge on duty at the time he/she exercises this option.

**Section 3. License to Carry Firearms** The Town shall pay the license to carry firearm fee for all employees required to carry a firearm.

**Section 4. Promotional Examinations** The Town Manager will notify the Massachusetts Human Resources Division to conduct Sergeant and Lieutenant promotional examinations at regular intervals not to exceed two (2) years. The Union agrees that the Town may change its method of selecting candidates for promotion to the rank of Lieutenant and, to the extent that the title of Chief of Police remains subject to the provisions of M.G.L. c. 31 (Civil Service), the rank of Chief of Police. The determination of the appropriate method of selection shall be the exclusive prerogative of the Town Manager, consistent with state law and the Human Resources Division's rules and regulations in effect as of July 1, 2003. The Town will notify the Union one year prior to the examination date for the title of Lieutenant if a change will be made to the selection methodology used in the establishment of the previous list, and shall not be required to bargain further over the selection methodology.

**Section 5. Funeral Expenses** The Town will pay an amount not to exceed \$5,000 for the funeral expenses of a Police Officer killed in the line of duty. This section shall apply to an officer who, while in the performance of his/her duty and as a result of incident, accident or violence is killed or sustains injuries which are the direct and proximate cause of death. The presumptions created by M.G.L. Chapter 32 sections 94, 94A, and 94B shall not apply for the purposes of this section.

**Section 6. Non-Discrimination** Neither party will discriminate against any employee or applicant for employment by reason of his or her race, sex, age, color, religion, national origin, sexual orientation, or disability.

**Section 7. Vehicle Use** Incorporated herein by reference and considered an integral part thereof is the Town of Needham Vehicle Use Policy dated March 10, 1997, amended as follows:

- (a) Section V(B) is amended by striking the words "Appointing Authorities" and "appointing authority/department manager" and inserting in place thereof the words "The Chief of Police or his or her designee."
- (b) Section V(D)(10) is amended by striking the words "Town Administrator" and inserting in place thereof the words "Officer in Charge."
- (c) Section V(D)(2) is amended by inserting the words "except as otherwise permitted hereunder or in extenuating circumstances." at the end of the last sentence.

**Section 8. Drug and Alcohol Testing Policy** Incorporated herein by reference and considered an integral part thereof is the Needham Police Department Drug and Alcohol Testing Policy dated July 1, 2003; Appendix A

**Section 9. Legislative Changes to Pension System** The parties agree to reopen the collective bargaining agreement to discuss the impact of any changes resulting from any legislative changes affecting the pension system.

#### **Section 10 Health Insurance**

All members of the bargaining unit who are enrolled in a Town-sponsored HMO/EPO plan will be required to participate in the so-called Rate Saver plans effective July 1, 2012 under the following conditions:

- (a) Traditional HMO/EPO plans will no longer be available for participation by members of the bargaining unit.
- (b) The Town will provide a Health Reimbursement Arrangement (HRA) Program in fiscal years 2013, 2014 and 2015 in an amount not to exceed \$33,360 for the three year period. The HRA program will expire on June 30, 2015, or sooner if the \$33,360 allocation is exhausted.
- (c) Members of the Union will be eligible for reimbursement for qualified expenses consisting of office visits/primary care office visits/specialist, emergency room visits, in-patient hospitalization, same day surgery, diagnostic imaging, prescription drugs/retail and prescription drugs/mail order. Employees will be eligible for reimbursement only for the difference between their current co-payment and the co-payment of the Rate Saver plan.

(d) Members of the Union will be eligible for reimbursement for qualified expenses at the following thresholds:

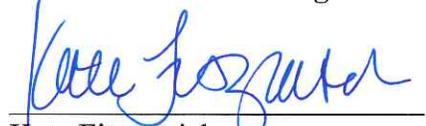
Individual Plan: Expenses incurred from \$351 up to \$2,000  
Family Plan: Expenses incurred from \$1,051 up to \$4,000

(e) The Town will not be obligated to pay more than \$33,360 for the HRA program. In the event that expenses in the first or second year exceed the \$11,120 per year target, the Town and the Union will meet to determine legal options for continuing the program.

**Section 11. Body Armor Policy** The Union agrees to implement and incorporate by reference the Needham Police Department Body Armor Policy, dated July 1, 2012.

IN WITNESS THEREOF, the Town has caused this instrument to be duly executed by its authorized designees and Needham Police Union has caused this instrument to be signed by its proper officers hereunto duly authorized this 14<sup>th</sup> day of November, 2012.

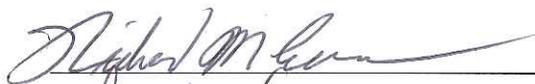
**Needham Town Manager**



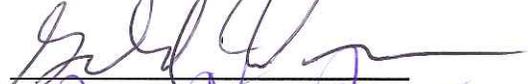
Kate Fitzpatrick

Date: 11-14-2012

**Needham Police Union**



**Board of Selectmen**



Date: 11-14-2012

Date: \_\_\_\_\_

**Approved as to form:**



David S. Tobin, Town Counsel

Date: 11/15/12

**Needham Police Department**

**Drug and Alcohol Testing Policy**

**July 1, 2003**

## TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
INTRODUCTION	2
DEFINITIONS	2
PROHIBITED CONDUCT	3
TESTING	5
CONSEQUENCES OF VIOLATION OF THE POLICY	7
TRAINING	8
ACCESS AND STORAGE OF TEST RESULTS	9
Appendix A REFERRAL PROCEDURES FOR SUPERVISORS	10
Appendix B SAMPLE REHABILITATION AGREEMENT	12
Appendix C DOT PROCEDURES FOR DRUG AND ALCOHOL TESTING (49 CFR Part 40)	

## 1. INTRODUCTION

- 1.1 To ensure a safe, healthful and productive work environment, to protect the health and welfare of the citizens of the Town of Needham, and to assure compliance with the Federal Drug-Free Workplace Act of 1988, the department has adopted this policy to address drug and alcohol abuse by sworn personnel. These procedures provide the department with reasonable measures to ensure that drug and/or alcohol use do not jeopardize the public or the department's ability to serve its citizens.
- 1.2 It is the general intent of the policy to create a humanitarian program. Treatment and discipline are both important aspects of the plan. Drug and alcohol testing, which will be part of the program, are intended in part as a means of identifying those who need help.
- 1.3 The department will not tolerate any drug or alcohol use which could affect an officer's job performance. The public has a right to expect that sworn personnel will carry out their duties in a safe and reliable manner, free from the effects of drug or alcohol use. This policy replaces any and all earlier policies or procedures on drug testing and applies to all sworn personnel.

These procedures apply to all sworn personnel. The department reserves the right to modify these procedures, in whole or in part, only in accordance with law and contractual procedures.

## 2. DEFINITIONS

- 2.1 Illegal Drugs – for the purposes of this policy, illegal drugs will include: Amphetamines, Cocaine, Marijuana, Opiates, and Phencyclidine.
- 2.2 Alcohol - colorless, volatile and flammable liquid that is the intoxicating agent in fermented and distilled liquors. It includes, but is not limited to, beer, wine and liquor. It does not include alcohol used in chemical processing, cleaning or testing.
- 2.3 Department - the Needham Police Department.
- 2.4 Department Property - includes buildings, offices, facilities, equipment, vehicles, land, and parking lots owned, loaned, utilized or leased by the department. It also includes any other site at which business of the department is transacted, whether on or away from department owned, loaned, or leased property.
- 2.5 Accident - an unplanned, unexpected and unintended event which occurs on department property, on department business, or during working hours; and initially appears to have been caused wholly or partially by a sworn police officer, and results in either a fatality, bodily injury requiring medical treatment away from the scene of the event, or damage to property in excess of \$2,500. An unplanned, unexpected and unintended discharge of a firearm, rifle, and/or shotgun, is also an "accident."

- 2.6** Drug Paraphernalia - any item which is clearly intended for use in administering, transferring, manufacturing, testing, or storing of a controlled substance, and which is not authorized or intended for use in the course of legitimate law enforcement activities.
- 2.7** Reasonable Suspicion of Drug and/or Alcohol Use - the reasonable suspicion standard for drug testing of sworn personnel is based upon specific objective facts and reasonable inference drawn from those facts, in light of experience and training, that the suspected individual may be involved in the use of any illegal drug or alcohol, as documented in accordance with Appendix A of this policy. Examples would include one or more of the following:
- 2.7.1** Observable phenomena, such as direct observation of on-duty alcohol use or possession and/or direct observation of on-duty or off-duty use or possession of illegal drugs, and/or the on-duty display of behaviors which appear to be indicative of the use of any illegal drug or alcohol, and are not attributable to other factors;
  - 2.7.2** A pattern of abnormal conduct, erratic behavior or deteriorating work performance, including but not limited to, frequent absenteeism, excessive tardiness, or frequent accidents, not attributable to other factors and which appear to be related to drug and/or alcohol abuse;
  - 2.7.3** Arrest, indictment, or conviction for a drug-related offense;
  - 2.7.4** Newly discovered evidence that the officer has tampered with a prior drug/alcohol test;
  - 2.7.5** Repeated or flagrant violations of the department's rules and procedures which are determined by a supervisor to pose a substantial risk of injury or property damage, which are not attributed to other factors, and which appear to be related to drug and/or alcohol abuse;
- 2.8** Under the influence of Illegal Drugs and/or Alcohol - The presence of a .04 alcohol content in the blood, or a verified positive drug test, at levels specified by the National Institute of Drug Abuse (NIDA), for an illegal drug.
- 2.9** Medical Review Officer (MRO) - A licensed physician responsible for receiving laboratory drug testing results who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate a positive test relative to the officer's medical history, and other relevant biomedical information.
- 2.10** Investigating Officer (IO) - The Chief of Police or his/her designee. The IO will perform many of the administrative duties associated with this policy.
- 2.11** Substance Abuse Professional (SAP) - an individual who is qualified by virtue of training and education in the treatment of substance abuse, who is retained by the Town to

recommend and/or review an officer's drug and/or alcohol treatment program.

### **3. PROHIBITED CONDUCT**

The following conduct by sworn personnel is prohibited:

- 3.1** Unauthorized use, possession, manufacture, distribution, dispensation or sale of illegal drugs, drug paraphernalia, or alcohol on department property, on department business, in department supplied vehicles, in vehicles being used for department purposes, or during working hours.
- 3.2** Unauthorized storage in a department desk, locker, automobile or other repository on department property of illegal drugs, drug paraphernalia, or alcohol.
- 3.3** Being under the influence of illegal drugs or alcohol on department property, on department business, in department supplied vehicles or vehicles being used for department business, on duty, or during working hours.
- 3.4** Possession, use, manufacture, distribution, dispensation or sale of illegal drugs while off duty.
- 3.5** Switching or adulterating any urine sample.
- 3.6** Refusing to consent to testing, or refusing to submit a breath or urine, sample for testing.
- 3.7** Failing to adhere to the terms of any Rehabilitation Agreement, which the officer has signed.
- 3.8** Conviction under any drug or alcohol statute in Massachusetts or any other state.
- 3.9** Failure to immediately notify the department of any arrest, conviction, or complaint being issued under any drug or alcohol statute.
- 3.10** Refusing to sign: a receipt for the department's Drug and Alcohol Testing Policy; a form to consent to testing pursuant to this policy; a form to release results to the Town pursuant to this policy; and any Chain of Custody Form.
- 3.11** Failure to submit to a breathalyzer and/or urine test, when ordered by a supervisor, in accordance with Section 4 of this policy.
- 3.12** Drinking alcoholic beverages while on duty or in uniform, or being in possession of alcoholic beverages on duty, except as ordered or in the performance of official duties.
- 3.13** Public drunkenness to the extent that it constitutes conduct unbecoming a police officer.

3.14 Use of illegal drugs, or possession of illegal drugs, except as required in the performance of official duties. Officers suspected of using illegal drugs shall, when ordered by a supervisor, submit to urine test, in accordance with Section 4 of this policy.

3.15 Consumption of alcoholic beverages to the extent that the officer is unfit for his or her next regular tour of duty.

#### 4. TESTING

Sworn personnel of the Needham Police Department will be tested for drugs and/or alcohol under the following circumstances:

##### 4.1 Reasonable Suspicion of Drug and/or Alcohol Use

4.1.1 Sworn personnel will be tested for drugs and/or alcohol when a supervisor determines that there is reasonable suspicion (as defined in Section 2.7 of this policy) to believe that the officer is under the influence of drugs and/or alcohol, but only after compliance with the procedures set forth in Appendix A.

4.1.2 Any test result based upon reasonable suspicion will be discarded if it is later determined that reasonable suspicion did not exist. The results of the test cannot be used to establish reasonable suspicion. If the officer tests negative for drugs or alcohol, the officer will be compensated for any regularly scheduled hours he/she would have worked during this period.

4.1.3 An officer will be placed on administrative leave while waiting for a test result based on reasonable suspicion, in accordance with the provisions of the collective bargaining agreement. Said leave shall not exceed seven (7) days.

4.1.4 In the event the initial reasonable suspicion drug test is positive, time restraints for administrative leave will be waived to allow for additional procedural testing, as authorized and allowed under the DOT Regulations, to occur. The officer shall remain on paid administrative leave until the conclusion of the additional procedural testing.

4.2 Post-Accident - An officer will be subject to a post-accident drug and alcohol test if he or she is involved in an accident as defined in Section 2.5 of this policy.

4.3 Annual Testing - In a joint desire to achieve and maintain a work force that is 100% drug free, all sworn personnel shall be subject to annual drug testing. The Department shall schedule such examination within 30 days of the officer's birthday, and will so notify each officer as far in advance as practicable.

4.4 Random Testing – Fifty percent (50%) of the bargaining unit will be subject to random, unannounced testing for illegal drugs and twenty-five percent (25%) of the bargaining unit will be subject to random, unannounced testing for alcohol on an annual basis. The Town will disclose to the Union the random testing mechanism used by its contracted vendor. Any

test which it is determined not to have been conducted on a random basis will be deemed to be a negative result.

- 4.5** Return to Duty - When an officer tests positive for drugs or alcohol, he or she will be required to submit to a return to duty drug and/or alcohol test after assessment by a substance abuse professional (SAP), completion of treatment, if any is required, and clearance to return to full-duty is provided by the SAP. In order to return to duty, the officer must have a BAC of less than .02 and/or a verified negative drug test. Without a successful test result, the Officer is considered to be unqualified to continue to perform work-related-functions. The cost of the return to duty test will be borne by the Town.
- 4.6** Follow-up Testing - Sworn personnel referred by the department to treatment, and who undergo any form of treatment for substance abuse, will be subject to unannounced testing for a period of two years following a return to full duty (which shall be subject to a medical certification that the officer is qualified to safely carry a weapon). Follow-up testing will be limited to three (3) tests per year, and the cost of the follow-up testing will be borne by the Town.
- 4.7** Testing Procedures
- 4.7.1** Alcohol Testing Alcohol testing will be conducted in accordance with the Department of Transportation Regulations (49 CFR part 40).
- 4.7.2** Drug Screening Drug tests will consist of screening for five drugs, classes of drugs, or their metabolites: marijuana metabolites, cocaine metabolites, opiate metabolites, phencyclidine (PCP), and amphetamines. Drug screening using urinalysis will be conducted in accordance with the Department of Transportation Regulations (49 CFR part 40).
- 4.8** Re-tests
- 4.8.1** The Urine drug screen process will include provisions for split sample collection in accordance with DOT regulations.
- 4.8.2** Alcohol testing will include provisions for re-testing in accordance with DOT regulations.
- 4.8.3** The department shall immediately place any officers who have requested a re-test on administrative leave pending the outcome of the re-test.
- 4.8.4** The cost of the re-test will be borne by the officer. If the result of the re-test result is negative, the officer shall be reimbursed for the costs of the test.
- 4.9** Any test in which proper procedures are not followed, in which chain of custody is breached, in which a split sample test results in a negative test, when the MRO deems the test to be negative, or which is invalidated for any reason, through no fault of the officer, will be deemed a negative result. The sample and the results will be destroyed.

- 4.10 If the result of any test is negative, or deemed negative, for drugs or alcohol, the officer will be compensated for any regularly scheduled hours he/she would have worked during any period he or she was placed on administrative leave.
- 4.11 No test result or sample will be used for criminal prosecution or any purpose other than treatment or discipline under this policy. No officer will be compelled to submit to testing in accordance with Section 2.7.3 unless the department can provide written assurance that the results will not be provided to any law enforcement agency in connection with the arrest or indictment, or in connection with any sentencing.
- 4.12 All negative samples will be destroyed, and all positive samples will be destroyed after any appeal period has been exhausted. Samples will not be tested for any purpose other than the drugs specified.

## **5. CONSEQUENCES OF VIOLATION OF THE POLICY**

- 5.1 Officers who test positive for alcohol or drugs will be placed on administrative leave during the period of any retest.
- 5.2 Officers who are confirmed to have tested positive for drugs or alcohol will be subject to disciplinary action up to and including termination. Officers who do not agree to enter into a Rehabilitation Agreement will only be allowed to return to work, if appropriate, in accordance with the Return to Duty and Follow-up testing provisions set forth in sections 4.5 and 4.6.
- 5.3 Officers who agree to enter into a Rehabilitation Agreement in accordance with this policy and Appendix B will have any imposed disciplinary action suspended pending the completion of the rehabilitation, provided that the officer has not tested positive for drugs within the preceding five (5) years or tested positive for alcohol within the preceding three (3) years. In the event that the officer successfully completes the rehabilitation and returns to work in accordance with the provisions outlined below, the imposed disciplinary action will be expunged. Rehabilitation provisions will apply only to the positive test result; an officer may be subject to additional disciplinary action for any related offense or violation of the rules and regulations of the Needham Police Department.
- 5.4 Officers who enter into a Rehabilitation Agreement must be evaluated by a Substance Abuse Professional (SAP) and comply with any treatment recommendations to assist them with an alcohol or drug problem. The payment of the recommended treatment will be at the expense of the officer (or his or her health insurance program, if applicable). Officers will be placed on non-occupational sick leave, accrued leave, or leave without pay status, whichever is appropriate, during the treatment period. Officers who fail to comply with the treatment required by the SAP will be subject to disciplinary action up to and including termination.
- 5.5 Officers who have been evaluated by a Substance Abuse Professional, who are cleared by the SAP to perform all of their essential functions, who comply with any recommended

treatment, who have taken and passed a return to duty test, and who are subject to unannounced follow-up tests, may return to work. As a condition of employment, the officer must comply with prescribed follow-up care, if any.

- 5.6** Officers who have returned to work under these conditions and who subsequently test positive for drugs or alcohol in accordance with this policy within five (5) or three (3) years, respectively, will be terminated immediately. An officer who tests positive for drugs or alcohol after the five (5) or three (3) year period will be subject to disciplinary action or offered rehabilitation provisions as if it were a first positive **test**.
- 5.7** Refusing to submit to a drug or alcohol test will result in disciplinary action up to and including termination.
- 5.8** Switching or adulterating any or urine sample will result in a recommendation of termination.
- 5.9** Failure to adhere to the terms of a rehabilitation agreement shall result in disciplinary action up to and including termination.
- 5.10** Officers may challenge a finding of reasonable suspicion through the grievance and arbitration provisions of the collective bargaining agreement. In the event that the officer prevails and reasonable suspicion is not upheld, the result will be deemed to be negative.
- 5.11** If the Town suspends disciplinary action in accordance with section 5.3, time limits for challenging the disciplinary action will begin when and if the disciplinary action is actually imposed.

## **6. TRAINING**

- 6.1** The Town will provide a minimum of two (2) hours of training annually for supervisors regarding misuse of alcohol and use of illegal drugs, including the circumstances which constitute reasonable suspicion.
- 6.2** The Town will provide training to officers about this Policy, testing procedures, and the integrity of the testing process which safeguards the validity of test results, prior to this policy going into effect.

**7. ACCESS AND STORAGE OF TEST RESULTS**

Any officer who is the subject of a test conducted under this procedure shall, upon written request to the Chief of Police, have access to any and all record(s) relating to his/her test result that is/are in the possession of the department or the Town. Such results and records are confidential medical information and shall not be disclosed without the officer's consent except to the extent necessary to effectuate the purposes of the department's Drug and Alcohol Policy. Positive test results shall be retained and processed in the same manner as any violations of department rules and procedures.

\_\_\_\_\_  
**Town of Needham**

**Date:** \_\_\_\_\_

\_\_\_\_\_  
**Needham Police Union**

**Date:** \_\_\_\_\_

## Appendix A

### REFERRAL PROCEDURES FOR SUPERVISORS

The department's supervisors (Sergeants, Lieutenants, Chief) are responsible for being alert to declining job performance, erratic behavior or other symptoms of possible substance abuse. Whenever a supervisor who has been trained in making determinations of reasonable suspicion of drug and/or alcohol use (as defined in Section 2.7 of these procedures) makes such a determination, the following steps will be taken:

1. The supervisor will document in writing all circumstances, information and facts leading to and supporting his/her suspicion. At a minimum, the report will include appropriate dates and times of suspect behavior, reliable/credible sources of information, rationale leading to referral for testing, and the action(s) taken.
2. Prior to referring an officer for testing, the supervisor will discuss the problem with the officer in a private location with one witness, preferably another supervisor, present. Caution will be taken not to accuse the officer of substance abuse, but the officer will be presented with instances of questionable behavior. If the officer does not have an acceptable explanation for his questioned behavior, the supervisor will continue with the procedures set forth in this section. Nothing in this procedure is intended to prevent the officer from invoking any Weingarten rights the officer may have. The officer shall have the opportunity to consult with a representative of the Union or his or her attorney, and to have either present, as long as such consultation and representation does not serve to delay the testing process.
3. The supervisor shall consult with the Chief of Police or his or her designee and they shall jointly decide whether to refer an officer for testing. All persons involved in the decision-making process will have received training in the identification of actions, appearance, and conduct that are indicative of the use of alcohol and/or drugs.
4. In those cases where the supervisor determines that the person's behavior causes a potential threat of harm to himself or others, the officer will be immediately removed from the work site and where there is no other misconduct resulting in suspension the officer shall be placed on administrative leave and shall be subject to customary restrictions of such leave.
5. Once a determination has been made to refer an officer for testing, it will be the responsibility of the supervisor to advise the officer of such decision and to escort the officer to a collection facility. The supervisor should remain with the officer at the collection site facility until testing is concluded. In the event that leaving the scene and/or remaining with the officer is not feasible, the supervisor will:
  - 5.1 Arrange transportation to the collection facility (the officer will be instructed not to drive a vehicle);
  - 5.2 Notify the collection facility that the officer is being sent for testing;

- 5.3 Request that the collection facility notify the supervisor when collection procedures are completed;
- 5.4 Arrange transportation for the officer following the collection process; and
- 5.5 Notify the officer that he or she is not to return to work pending receipt of the test results by the Investigating officer.
- 5.6 Upon conclusion of the examination, the supervisor will ensure that the officer is escorted to his destination. The supervisor will direct the officer not to drive himself/herself to his/her destination. The officer will be placed on administrative leave in accordance with Section 5.1.3 of this policy pending receipt by the Investigating officer of the test results and the officer will be notified of this change in status.
- 5.7 If the officer tests negative for drugs or alcohol, the officer will be compensated for any regularly scheduled hours he or she would have worked during the suspension period.
- 5.8 In those cases where a supervisor discovers an officer who possesses what appears to be illegal drugs or alcohol, he or she will proceed as described above for instances where reasonable suspicion exists, and, if the substance in question appears to be an illegal drug, will-immediately confiscate the substance and all equipment or paraphernalia directly employed with the substance consistent with the department's procedures for handling and collecting evidence.

## Appendix B

### SAMPLE REHABILITATION AGREEMENT

Name: \_\_\_\_\_ Date: \_\_\_\_\_

On \_\_\_\_\_ the Town of Needham agreed to your request to seek counseling and referral to a rehabilitation program for alcohol and/or drug abuse. The following conditions apply to your rehabilitation program:

1. You must authorize your treatment provider to provide proof to the Investigating Officer of enrollment in a rehabilitation program and proof of attendance at all required sessions or proof of completion of any required in-patient stay. Your attendance will be monitored closely and the Investigating Officer will initiate appropriate disciplinary action up to and including termination if you do not regularly attend all sessions or complete any required in-patient stay.
2. You must adhere to all of the requirements of the drug or alcohol treatment or counseling program in which you are enrolled.
3. If you are absent from work during the rehabilitation period without prior authorization, you must promptly submit a written doctor's certificate explaining the reason for such absence. The department will take disciplinary action if you are absent as a result of alcohol or drug use.
4. You will pay for all costs of rehabilitation that are not covered under your health plan.
5. During the two years following the completion of your rehabilitation program, the department will test you for alcohol and/or drug use on a random basis a maximum of three times per year. The Town will take prompt disciplinary action if you refuse to submit to testing or if you test positive during this period.

\_\_\_\_\_  
Town of Needham

\_\_\_\_\_  
Officer