

AGREEMENT
BETWEEN
THE
TOWN OF LEXINGTON
AND
SEIU LOCAL 888
LEXINGTON CROSSINGS GUARDS
July 1, 2007 – June 30, 2010

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PREAMBLE

Pursuant to the provisions of Chapter 150 E of the General Laws of Massachusetts, this Agreement is made by and between the Town of Lexington, a municipal corporation in Middlesex County, Massachusetts, hereinafter referred to as the Employer; and SEIU Local 888, Lexington Crossing Guards hereinafter referred to as the Union.

Article 1. Recognition

The Employer recognizes the Union as the exclusive representative for the purpose of collective bargaining with respect to wages, hours, and other terms and conditions of employment of the employees of the Lexington Crossing Guards.

Article 2. Indemnification

The Town of Lexington shall indemnify and hold harmless any employee covered by this agreement against any claim, suit, or judgment by a reason of any act or omission, except an intentional violation of civil right of any person, criminal conduct or intentional tort, if the employee at the time of such act or omission was acting within the scope of his/her official duties.

Article 3. Union Dues and Initiation Fees

Subject to the requirements of General Laws, Chapter 180, Section 17A, the Town agrees to deduct and turn over to the Treasurer of the SEIU Local 888 on a monthly basis, union dues as authorized by individual union members in the manner prescribed by the Comptroller.

Article 4. Agency Service Fee

The employer agrees to collect through payroll deduction and pay to the Union, on a monthly basis, a service fee for each employee covered by this Agreement, provided however, that no such deduction will be made without the employee's authorization. The Town will be held harmless for any disputes arising under this Article.

Article 5. Discrimination and Coercion

Neither the Employer nor the Union, nor their respective duly authorized agents, shall discriminate against employees in the exercise of the right to self-organization; to form, join or assist any employee organization; to bargain collectively through representatives of their own choosing on actions of wages, hours, and other conditions of employment and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, free from actual interference, restraint or coercion, all in accordance with the provisions of said Chapter 150 E. Except as otherwise expressly provided herein, the freedom of such employees to assist the Union shall be recognized as extending to participation in the management of the Union, provided that such participation is other than during working hours, and does not interfere with the employee's work.

The Union shall be responsible for representing the interest of all employees in classifications covered by this Agreement without discrimination and without regard to membership in the Union.

The Union agrees that neither it nor any of its officers or representatives will call, engage in, induce, encourage, instigate, authorize, sanction, or ratify any strike, work stoppage, slowdown, or withholding of services by any employees of the Town of Lexington, nor shall any employee or employees in any employment covered under this Agreement engage in, induce or encourage any such strike, work stoppage, slowdown, or withholding of services.

Withholding in any manner limiting any rights of the Employer either at law or created by agreement, the Employer may terminate the employment of, or otherwise discipline, any employee who engages in, induces or encourages any such strike, work stoppage, slowdown, or withholding of services.

Article 6. Management Rights

Except as expressly and specifically limited or restricted by a provision of the Agreement, the Town has and shall retain the full rights of management and direction of its operations. Such rights of management include among other things, but are not limited to; the right to plan, direct, control, initiate and discontinue programs, services and operations, in whole or in part; to determine the programs or services to be provided; to change the manner or method in which programs or services are provided; to change or introduce new manners, methods or facilities to be utilized; to subcontract those programs or services or parts thereof that the Town deems advisable; to discharge or discipline employees for good cause; to determine the schedules and number of hours to be worked, provided, however, the Town shall not act in an arbitrary and capricious manner; to determine the workforce; to determine the number of employees it shall employ at any time; determine the qualifications necessary for any of the jobs it may have or may create in the future; to assign work duties in accordance with the determinations of the needs of the jobs; and to transfer, assign or reassign employees as its programs or services may require. It is agreed that the enumeration of management's rights shall not be deemed to exclude other management rights not specifically enumerated.

The Town shall have the right to make and enforce reasonable rules and regulations governing its services and programs, the manner and means of performing work performance standards, attendance, and any other matter so long as said rules and regulations are not in conflict with the Agreement. The Employer shall have the right from time to time to change, alter, amend and add to such rules. Such rules shall be enforced and be in effect upon being posted at the Police Department and a copy of such rules prior to posting shall be furnished to the union.

The Union further agrees to assist the Town in upholding and in enforcing such rules and regulations.

Article 7. Grievances and Arbitration Procedure

A grievance is hereby defined to mean an alleged violation of a specific term of this Agreement or a dispute involving the interpretation or application of the express provisions of this Agreement affecting any employee covered here under or any group of such employees having the same complaint. The term “employee” as hereinafter used shall mean either employee or employees, as appropriate, provided however, that no probationary employee shall have access to the grievance and arbitration procedure on matters involving disciplinary action and discharge. This grievance and arbitration procedure is limited to school crossing guard work.

Employees pursuing a claim against the Town for discrimination who elect to file a complaint with the MCAD shall be prohibited from also pursuing the claim through the grievance and arbitration process.

A grievance may be filed by one of the following:

- A. An individual employee by his/her own hand.
- B. A group of employees by their own signatures.
- C. The Union by signature of the President on behalf of one or more employees.

Grievances that arise shall be settled in the following manner:

- A. Failure at any step in this procedure to communicate the decision on a grievance within the specified time limit shall permit the aggrieved employee to proceed to the next step.
- B. Failure at any step of this procedure to appeal the grievance to the next step within the specified time frame shall be deemed to be acceptance of a previous decision rendered and a waiver of the complaint and of the right to proceed further under the grievance procedure.
- C. By mutual written agreement of the parties to a grievance proceeding, the time limits established in the grievance procedure may be specifically extended at any step.

Step 1. – The grievance shall be presented orally to the dayshift Lieutenant or other designee of the Police Chief, and shall include: (1) a clear statement of the grievance, (2) reference to the specific provision or provisions of the Agreement allegedly violated, and (3) the specific remedy requested. The grievance must be instituted in accordance with the procedures set forth herein within five (5) working days following the date of the occurrence, giving rise to the grievance. Such grievance shall be presented by the grievant or, at his/her option, by the appropriate Union representative.

The immediate supervisor or other designee of the Police Chief will render a decision no later than five (5) working days following the date of the presentation of the grievance in this step. In the event that, the grievant remains dissatisfied with the decision, individually, or, at his/her option, through an appropriate Union representative, may process the grievance to Step 2, provided such appeal is made in writing, as set forth above, to Step 2 within five (5) working days of the receipt of the decision in Step 1.

Step 2. – At this level the grievance shall be presented to the Administrative Captain or other designee of the Police Chief by the grievant, or at his/her option, by the appropriate Union representative. The grievance shall be discussed by the Captain or other designee of the Police Chief and the grievant at a conference, which shall be scheduled no later than seven (7) working days following receipt by the shift commander of the grievance in Step 2. The shift commander will render a decision in writing no later than five (5) working days following the date of conference. In the event that the grievant remains dissatisfied with the decision, or at his/her option, the appropriate Union representative may process the grievance to Step 3 provided the appeal made to Step 3 is made in writing as set forth above within five (5) working days of the receipt of the decision in Step 2.

Step 3. – At this level the grievance shall be presented to the Chief of Police by the grievant, or at his/her option, by the appropriate Union representative. The grievance shall be discussed by the Chief of Police and the grievant at a conference, which shall be scheduled no later than ten (10) working days following the receipt by the Chief of Police of the grievance in Step 3. The Chief of Police will render a decision in writing no later than five (5) working days following the date of the conference. In the event that the grievant remains dissatisfied with the decision or at his/her option, the appropriate Union representative may process the grievance to Step 4 provided the appeal made to Step 4 is made in writing as set forth above within five (5) working days of the receipt of the decision in Step 3.

Step 4. – Grievance processed in Step 4 shall be submitted in writing by its grievant, or at his/her option, by the appropriate Union representative to the Town Manager or his/her designee. The Town Manager or his/her designee shall conduct a hearing on the grievance no later than ten (10) working days following receipt of the appeal from the Step 3 decision. The decision of the Town Manager or designee shall be rendered in writing no later than ten (10) working days following the date of the hearing.

If the grievance remains unresolved after being processed through the foregoing procedure, the Union may, within thirty (30) calendar days after the decision in Step 4, submit the grievance to arbitration with the American Arbitration Association in accordance with their rules and procedures. The parties shall select an arbitrator from the lists supplied by the American Arbitration Association in accordance with their procedures. The arbitrator shall have jurisdiction solely over the issue submitted and shall have no authority to alter, amend or modify this Agreement in any way. The arbitrator's award shall be final and binding on the parties insofar as permitted by law. The fees and expenses of the arbitrator, together with charges related to the hearing, including, but not limited to, the cost of any transcript or testimony, a copy of which is furnished to the arbitrator, shall be shared equally by the Town and the Union.

Article 8. Hours Of Work and Assignment

This Article defines the normal hours of work and shall not be construed as a guarantee of hours of work per day, per week, or per year. The work week shall be defined by the School Committee approved Lexington Public Schools School Calendar and generally consist of five (5) workdays Monday through Friday during which time there will be regularly scheduled periods of coverage twice a day for each of the school crossing locations except for the Adams Street crossing location that will have three (3) periods of coverage on Thursday. Each crossing period is scheduled for no longer than one (1) hour with the exception of the Adams Street Crossing that is scheduled for no longer than one and one half (1-½) hours. The periods of coverage will be scheduled sometime between the hours of 7am and 9am, 11am and 1pm, and 2pm and 4pm.

Any hours worked in excess of this schedule shall be approved in advance by the Police Chief or designee.

The Town or the Police Chief retains the right to change the number of hours in the workday, the starting and quitting times, and the normal scheduled workweek and work year. Prior to effectuating any change under this paragraph, the Town or Police Chief will advise the Union in writing of the change. Upon request made in writing by the Union within three (3) working days from its receipt of notice of the change, the Town or Police Chief shall meet with the Union to discuss the change. The final decision shall be that of the Town.

To the extent reasonable the Town or the Police Chief will consider seniority and the expressed preference of employees in making decisions regarding assignments and transfers. It is expressly understood that the Chief of Police may assign and reassign personnel, regardless of preference or seniority if the Chief believes that such assignments are in the best interest of the department and the community. The Chief's decision in this respect is final, not subject to the grievance process, and not subject to the arbitration process.

On an intermittent and temporary basis, the Town of Lexington will staff vacant crossing locations with employees who are not members of the bargaining unit as provided in Article 1. These employees, generally cadets and police officers, will work intermittently when an assigned crossing location is vacant due to resignation, illness, leave or other circumstance and a floater is not available to staff it, except the Waldorff School Crossing. When the Waldorff School crossing is vacant due to resignation, illness, leave or other circumstance, the vacancy will not be filled on a temporary basis, except as a Road Job when specifically requested by the Waldorff School Administration.

Article 9. Leave

Article 9a - Sick Leave

Employees will receive five (5) days of sick leave at the beginning of the designated school year. A day is defined as a morning and afternoon crossing session.

To receive sick leave payment consideration, an employee must notify the officer in charge no less than one (1) hour prior to the start of each regular assigned shift, stating the nature of sickness or injury, the length of time expected to be incapacitated and when the employee expects to return to work. The Chief of Police may require employees who are absent for three (3) consecutive shifts, due to sickness or injury, to furnish a doctor's certificate or other satisfactory evidence of sickness or injury. The Chief of Police in cases of suspected abuse may require satisfactory evidence without regard to these restrictions.

Unit members on injury or sick leave should remain at their home or place of treatment during the period of recovery as otherwise directed by a physician as a necessary part of the prescribed treatment of the ailment. Unit members are not eligible to work details or road jobs on the date that they are sick or injured. This provision is not intended to prevent limited local travel if consistent with recuperation necessity, or other travel away from home.

Employees may carry over unused sick days in any year to a maximum of twenty (20) days. Once an employee has twenty (20) days of sick leave, they will not accumulate any additional sick days.

Article 9b - Personal Leave

Employees will receive two (2) Personal days per school year. A day is defined as a morning and afternoon crossing session.

The Chief of Police or designee must approve all requests for leave. Emergency leave may be granted at the sole discretion of the Police Chief or designee.

Employees will not have the ability to carry over personal days. Days not used by June 30 of any year will be forfeited.

Article 9c - Bereavement Leave

Employees will be granted up to a maximum of three (3) consecutive and uninterrupted work days of paid leave in the event of the death of a member of the immediate family.

The term "immediate family" as used herein shall include spouse, child, father, mother, sister, brother, mother-in-law, father-in-law, grandparent, or any relative who regularly resides with the employee as a member of his/her immediate family.

Employees will be granted up to a maximum of one (1) day of paid leave in the event of the death of "other" family members. The term "other family" is defined as aunt, uncle, or cousin.

Article 10: Worker's Compensation

Section 1: When a member of a bargaining unit suffers an illness or injury causally related to his/her employment with the Town, he/she shall be provided worker's compensation benefits in accordance with MGL Chapter 152, and pursuant to the following provisions.

Section 2: The Town reserves the right to require the employee to seek medical treatment at a medical facility designated by the Town.

Section 3: Employees receiving benefits under the provisions of MGL Chapter 152 may draw on accumulated sick leave to make up the difference between regular weekly wages and worker's compensation benefits.

Article 11. Civic Duty / Jury Duty

Full-time and part-time employees will be paid by the Town during the period required for jury duty for the difference between the amount paid them by the Court, excluding travel allowance,

and the amount of regular straight-time pay which would normally be received from the Town for scheduled work time spent on approved civic duty/jury leave. An employee summoned as a witness in Court on behalf of the Commonwealth or any town, city or county of the Commonwealth or on behalf of the Federal Government shall be granted civic duty leave with pay upon filing of the appropriate notice with their department manager except that this Article shall not apply to an employee who is also in the employ of another town, city or county of the Commonwealth or in the employ of the Federal Government or any private employer and who is summoned on a matter arising from that employment.

Official summons to jury duty or witness appearances must be presented in advance to the department manager to receive authorized civic duty leave.

To qualify for payment hereunder, the employee must furnish the finance department with complete and satisfactory evidence of the jury or witness fees received. As a condition to receiving payment from the Town hereunder, an employee on authorized civic duty/jury leave that is discharged from Court service for the day or a major portion thereof during the regular work hours must report to work.

Absence due to authorized civic duty/jury leave shall not affect an employee's eligibility for longevity, step increases or benefit eligibility.

Civic duty/jury leave shall not be authorized for an employee who is involved in personal litigation.

Article 12. Uniforms and Protective Clothing

The Town of Lexington will provide the uniforms and equipment to the employees. Employees are responsible for keeping the uniform clean, neatly pressed and in good condition at all time. Uniforms and equipment shall be replaced when items are worn out as the result of normal wear and tear. Upon replacement, the worn uniform / equipment shall be returned to the Town. Uniforms shall only be worn on the job.

Article 13. Wage Schedule

July 1, 2007	2% increase	Hourly Rate	\$25.80/hr
July 1, 2008	2% increase	Hourly Rate	\$26.31/hr
July 1, 2009	2 % increase	Hourly Rate	\$26.84/hr

Article 14. Overtime

The Town shall pay overtime to eligible employees in accordance with the provisions of the United States Fair Labor Standards Act. All time for which an employee is on full pay status, such as sick leave, etc. shall be considered time worked for the purposes of calculating overtime compensation. All worked overtime must be approved in advance by the Police Chief or designee.

Section 14a. - Compensatory Time

At the discretion and prior approval of the Police Chief or designee, and in accordance with the provisions of the United States Fair Labor Standards Act, paid compensatory time off from normally scheduled work hours may be provided to eligible employees, in lieu of payment for approved overtime work. Earned and paid compensatory time shall be reported biweekly to the Police Chief or designee. Payment for banked compensatory time will be paid at the employee's termination. Payment for banked compensatory hours in lieu of time off from work may be paid prior to termination only with advanced approval of the Town Manager.

Article 15. Special Division Assignments and Other Details

Matron Duty, Traffic, Labor and Holiday and Road Work Details. For the duration of this bargaining agreement, Matron Duty, Traffic Detail pay and Road Job assignments will be paid according to the schedule listed below.

Matron Duty- \$25.00 per hour with a four (4) hour guaranteed minimum. Employees working matron duty on an official holiday recognized by the Town or after eight (8) hours of work will be paid at time and one half the Matron duty rate of pay. Matron duty performed on Christmas Day, New Year's Day and Thanksgiving Day will be paid at double the Matron duty rate of pay.

Detail Rate – School Crossing Guards covered by this agreement for details worked shall be compensated **\$40.00 per hour** for a detail rate.

There shall be a three-hour minimum for all high school events. All other details shall have a four-hour minimum. Details that exceed four hours shall have an eight- hour minimum. Details that exceed eight hours shall be compensated at a rate of time and one half the detail rate for each hour or fraction thereof after the initial eight (8).

Labor Details - Off Duty Details for private industry (defined as an organization other than local government) involving labor disputes, strike duty and protests will be compensated **\$80.00 per hour** for a detail rate.

Holiday Details – School Crossing Guards that work a private industry detail on the Fourth of July, New Year’s Day, Thanksgiving, Christmas or Memorial Day will be compensated **\$80.00 per hour** for a detail rate. Details worked on behalf of the Town of Lexington are specifically excluded from the provisions of this paragraph.

Road Work Details - A road job is defined as traffic details that are staffed between 1 - 2 hours at the request of public or private employers to facilitate motor vehicle access to and egress from locations within the community. Road jobs are regularly scheduled periods of work, Monday through Friday during morning and evening rush hour traffic and generally staffed for the majority of a calendar year. The Police Chief may evaluate request for traffic control officers at similar location for less than one year and determine that they are road jobs.

Road Job Details are compensated at **\$50.00 per hour**. There will be a 1-hour minimum for all road jobs.

Administrative Fee- The Town of Lexington reserves the right to assign an administrative fee to the extent authorized by state law.

Payments of extra paid details shall be made in accordance with Massachusetts General Law.

All fulltime sworn officers of the Lexington Police Department will have the “right of first refusal” of police details and road jobs in Lexington. Subject to approval of the Police Chief and the Town Manager, if a full time sworn police officer of the Lexington Police Department exercises their right of first refusal for a detail or road job work, then the town may use qualified police officer retirees (except disability retirees) full time police department employees and part time police department employees and others, who are qualified and have been appointed Lexington Police Department Traffic Officers by the Town Manager, as follows: Lexington Police Department Police Officers -retired, Dispatch personnel, Full time Lexington Police Department civilian employees, Crossing Guards, Cadets, Auxiliaries and others.

Article 16. No Strikes or Stoppages

It shall be unlawful and a violation of the agreement for any employee to engage in, induce or encourage any strike, work stoppage, slowdown, or withholding of service by employees covered by this agreement.

Article 17. Effective Date and Duration

The Agreement shall continue in effect to and including June 30, 2010. The contract shall thereafter automatically renew itself for successive terms of one (1) year each unless before the expiration of the contract either the Employer or the Union shall have given the other written notice of its desire to modify or terminate the Agreement. If modification rather than termination is desired, the specific areas proposed to be modified shall be submitted in writing at the time the party gives notice.

Once each contract period the Employer and the Union, or either of them, may, by giving written notice to the other, including the specific provisions proposed to be modified prior to the expiration of the contract, reopen the Agreement, solely on the matters of wages, hours, and other terms and conditions of employment to the extent that they are within the control of the Employer.

IN WITNESS WHEREOF, The Town of Lexington has caused this instrument to be executed and its seal to be hereto affixed by its Town Manager, duly authorized by the Board of Selectmen, and Local 888, SEIU this day of _____2007.

Carl F. Valente,
Town Manager

John Magner
Representative SEIU Local 888

Witness

President, SEIU Local 888