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Title: **Elmira, Town of and Joint Council 18, International Brotherhood of Teamsters (IBT), Local 529 (2008)**

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Union: **Joint Council 18, International Brotherhood of Teamsters (IBT)**

Local: **529**

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**AGREEMENT
BETWEEN**

Town of Elmira

and

TEAMSTERS LOCAL UNION NO. 529

Elmira, New York 14904

For period January 1, 2008 through December 31, 2010

RECEIVED

OCT 02 2008

**NYS PUBLIC EMPLOYMENT
RELATIONS BOARD**

FINAL

ARTICLE I. RECOGNITION

101. This Agreement is made between the Town of Elmira, hereinafter called the "Employer," and TEAMSTERS LOCAL UNION NO. 529, affiliated with the International Brotherhood of Teamsters and Teamsters Joint Council 18, hereinafter called the "Union." NYS PERB Case No. C-5616, Voluntary Recognition dated October 30, 2006.

102. The Employer recognizes the Union as the exclusive representative of the Town of Elmira Public Works employee for purposes of collective negotiation with respect to their terms and conditions of employment in the following described unit; **INCLUDING:** All full-time and regular part-time employees employed in the Highway Department, including all, Working Foremen, Mechanics, Heavy Motor Equipment Operators, Motor Equipment Operators, Equipment Operators, Operators, Laborers, and all other employees who perform such work; **AND EXCLUDING** confidential employees, managerial employees, and elected officials.

ARTICLE II. EMPLOYEE ORGANIZATION RIGHTS

201. Union Security. Membership in the Union is not compulsory. Employees have the right to join, not join, maintain, or drop their membership in the Union as they see fit. Neither party shall exert any pressure on, or discriminate against, an Employee with respect to such matter.

202. Membership in the Union is separate, apart, and distinct from the assumption by an Employee of his/her equal obligation to the extent that he/she receives equal benefits. The Union is required under this Agreement to represent all of the Employees in the bargaining unit fairly and equally without regard to whether or not an Employee is a member of the Union. The terms of this Agreement have been made for all Employees in the bargaining unit and not only for members of the Union. Accordingly, it is fair that each Employee in the bargaining unit pays his/her own way and assume his/her fair share of the obligations along with the grant of equal benefits contained in this Agreement.

203. In accordance with the policy set forth under this Section and in Section 208 of Article 14 of the Civil Service Law, all Employees shall pay to the Union a service fee equal to that paid by other Employees in the bargaining unit who are members of the Union. This amount shall be limited to an amount of money equal to the Union's regular and usual initiation fees, and its regular and usual dues. For present employees, such payment shall commence thirty-one (31) days following the effective date or on the date of the execution of this Agreement, whichever is the later, and for new employees, the payment shall start thirty-one (31) days following the date of employment.

204. The service fee obligations concerning Employees who are not members of the Union shall comply with Article 14 of the Civil Service Law.

205. If there is any change in the applicable law during the term of this Agreement, the parties agree that this Article shall be automatically amended to provide for the maximum Union security that may be lawful.

206. When the Employer needs additional employees that would be covered under this Agreement, the Union shall be given equal opportunity with all sources to refer suitable applicants, but the Employer shall not be required to hire those referred by the Union. It is understood that the Employer may give preference to residents of the Town of Elmira. The Employer may give preference to present Employees in filling the position of Highway Superintendent by inviting Employees of the bargaining unit to apply for the position.

217. The Steward or the designated Alternate shall be permitted reasonable time to investigate, present, and process grievances on or off the Employer's property without loss of time or pay during his/her working hours. Such time spent in handling grievances during the Steward's or the designated Alternate's regular working hours shall be considered working hours in computing daily and/or weekly wages if within the regular schedule of the Steward, Alternate Steward, or Acting Steward, as the case may be.

218. Picket Lines. It shall not be a violation of this Agreement and it shall not be cause for discharge or disciplinary action if an Employee refuses to enter upon any property involved in a primary labor dispute, or refuses to go through or work behind any primary picket line, including the primary picket line of the Union. It is agreed that no Employee shall be liable for any damage to any vehicle that occurs as a result of crossing or attempting to cross any picket line, nor shall such Employee be subject to any form of disciplinary action as a result of such damage.

219. Management - Employee Relations. It is understood that no Employee shall be disciplined in front of coworkers. It is also understood that no Employee shall be criticized in front of coworkers and in a manner that is demeaning.

220. Bulletin Board. The Employer shall provide a bulletin board in each place of work for the posting of notices and other materials pertaining to official Union business by the Employees and authorized representatives of the Union.

ARTICLE III. EMPLOYER RIGHTS AND RESPONSIBILITIES AND NON-DISCRIMINATION

301. It is agreed the Employer shall have the exclusive right to determine the overall functions of the Town, to determine the inherent managerial policy of the Town and to determine the nature, level and quality of services to be provided to the public. Subject to this Agreement, the Employer has the right to determine the methods and means to provide services to the public and to supervise the workforce.

302. Subject to this Agreement, the Employer may promulgate reasonable rules and regulations pertaining to the employees covered by this Agreement. Such rules and regulations shall be reduced to writing and posted by the Employer and shall not conflict with this Agreement.

303. The Highway Superintendent and Deputy Highway Superintendent are expected in the Town to assist in performing Bargaining Unit work and the Town agrees no Bargaining Unit member shall be laid off, sent home due to such work or kept home due to such work. In no event shall this provision be used as a subterfuge to deprive a Bargaining Unit employee of work.

304. The Employer and the Union agree not to discriminate against any individual with respect to hiring, compensation, terms or conditions of employment because of such individual's race, color, religion, sex, sexual orientation, national origin, age, disability, marital status, political beliefs, or political affiliation nor shall they limit, segregate or classify employees in any way to deprive any individual employee of employment opportunities because of race, color, religion, sex, sexual orientation, national origin, age, disability, marital status, political beliefs, or political affiliation or engage in any other discriminatory acts prohibited by law.

305. The Employer and the Union further agree not to discriminate against any individual because of such individual's membership in the Union, support of the Union, or activity that is lawful under the Taylor Law.

ARTICLE IV. BARGAINING UNIT

401. Defined. Bargaining unit work shall consist of maintenance and repair of roads (including measurement of roads), bridges, walkways and drainage ways (including construction and repair of sluices and culverts) within the road right of ways; cutting and removing brush, weeds, and vegetation from within the bounds of the Town highways; and snowplowing, sanding and salting roadways within the Town's jurisdiction. In addition, if the Town enters into an agreement with any other municipality, district or school district in which the Town agrees to provide road, sidewalk, or parking lot maintenance, snowplowing or snow and ice removal and the Town Board has authorized the Town Highway Superintendent to perform such work, such work shall also be considered bargaining unit work for so long as the Town Board has authorized the Town Highway Superintendent to perform such work. If the Town Board requires the Town Highway Superintendent to maintain Town parks or playgrounds or the Town dump, such work shall be considered bargaining unit work for so long as the Town Board has required the Town Highway Superintendent to maintain such properties.

402. Protection of Unit Work. Bargaining unit work as described above shall be performed only by Bargaining Unit Employees and shall be governed by the terms of this Agreement.

403. Other work. The Town Highway Superintendent may from time to time assign work to employees of the bargaining unit that is not defined as bargaining unit work. By performing such work, the work does not become bargaining unit work in the future.

ARTICLE V. SENIORITY

501. Seniority List. A list of Employees arranged in order of their seniority, by department, shall be placed in a conspicuous place at the place of employment. Each Employee's seniority date shall be included on this posting. Within thirty (30) days following the effective date of this Agreement, the Employer shall forward a copy of this list to the Union. Upon making additions to or deletions from this list, the Employer shall forward a copy of the amended list to the Union within thirty (30) days following the additions or deletions. The Seniority List shall be attached to and made a part of this Agreement as Appendix B.

502. Probation. A new Employee who is hired shall work under the provisions of this Agreement. However, such Employee shall be employed on a six (6) month trial basis to enable the Employer to determine the Employee's fitness and ability to perform the work. The Employer shall have sole discretion to determine the Employee's fitness and ability and may discharge such Employee if it determines that the Employee lacks the fitness and ability to perform the work. It is specifically understood that the Employer shall not discharge or discipline a probationary Employee for the purpose of evading this Agreement, on the basis of Union membership, for the purpose of discouraging Union membership, or to avoid adding Employees to the seniority list. For the purposes of this paragraph, "fitness and ability to perform the work" shall include, but not be limited to arriving at work on time, following safety rules, and taking direction from Employee's supervisors.

503. After completing the probationary period, the Employee shall be placed on the regular seniority list and the Employee's seniority date shall revert back to his/her first date of employment.

504. Application of Seniority. The principles of seniority shall prevail at all times. These principles shall be used to resolve disputes involving, but not limited to, layoff, recall from layoff, bidding for jobs, vacations, and overtime.

505. Seniority shall be broken only by discharge for just cause, voluntary quit, or more than three (3) years' layoff.

ARTICLE VI. DISCIPLINARY ACTION

601. **Cause for Discipline and Notice of Discipline.** Disciplinary action, including discharge or suspension, shall be imposed only for just cause. If the Employer imposes any form of disciplinary action, including discharge or suspension, it shall within one (1) working day, give the Employee, the Steward, and the Union written notification of the disciplinary action. This notice shall specify the conduct for which the disciplinary action is being imposed, the nature of the disciplinary action taken, and the reasons for having imposed that particular form of disciplinary action. The notice shall contain a detailed description of the alleged acts and conduct including reference to dates, times, and places, and shall set forth the names of all witnesses to the alleged acts and conduct.

602. **Hearing Before Discharge or Suspension Without Pay.** Before any Employee is discharged or suspended without pay, the Employer shall provide to such Employee, and to the Union, written notice of the charges against the Employee, an explanation of the Employer's evidence, and an opportunity to present the Employee's side of the story, including reasons why the Employer's proposed action should not be taken. The Employee's side of the story may be presented orally, in writing, or both.

603. **Right to Union Representation.** An employee shall be entitled to Union representation at each stage of any disciplinary proceeding instituted by the Employer. An employee shall be entitled to Union representation at any questioning if it is contemplated that the employee might be disciplined as a result of any matter to which the questioning relates. Before commencing each stage of any disciplinary proceeding and before commencing any questioning as set forth above, the Employer shall inform, in writing, the affected employee(s) of their right to Union representation as set forth in this paragraph. As used in this paragraph, the right to Union representation includes the right to consult with a Union representative in advance of the stage of disciplinary proceeding or questioning or both, as applicable, and the opportunity to have Union representation present throughout the interview or disciplinary procedure. No employee may be disciplined or discharged based upon any questioning or investigation performed in the absence of Union representation, unless representation was waived as provided in this paragraph. The employee shall not be required to sign any statement arising out of the questioning. Any statements or admissions made by an employee during a questioning without the employee having had the opportunity to have Union representation shall not be used in a disciplinary proceeding against any employee. An arbitrator has the authority to determine whether the employee was afforded the opportunity to have Union representation or has waived representation. An employee's waiver of Union representation must be knowing and voluntary. Accordingly, no waiver of an employee's right to Union representation shall be valid unless the employee has first been provided an opportunity to speak with a Union representative regarding the employee's waiver of Union representation, the waiver is in writing, and the waiver is signed by the employee. If the arbitrator determines that the employee was not afforded the opportunity to have Union representation or did not waive representation, as provided in this paragraph, and the questioning resulted in a statement, the statement may not be used in any disciplinary proceeding. No recording devices of any kind shall be used during any disciplinary proceedings unless agreed to by the Union and the Employer and each party receives a copy of the recording.

604. **Limitation on Use of Prior Discipline.** Disciplinary action resulting in a verbal or written reprimand shall not remain in effect, for purposes of subsequent discipline, for more than one (1) year. Disciplinary action resulting in a more severe disciplinary penalty shall not remain in effect, for purposes of subsequent discipline, for more than two (2) years. Accordingly, disciplinary action that is not to remain in effect after the applicable time periods set forth in the paragraph shall not be used against an employee in disciplinary proceedings.

ARTICLE VII. GRIEVANCES

701. **Defined.** Any dispute concerning the interpretation or application of this Agreement or the

rights claimed to exist hereunder shall be processed in accordance with the provisions of this Article. "Agreement" includes this Agreement, along with all riders, supplements, appendices, letters of understanding, and other documents that cover in whole or in part terms and conditions of employment.

702. Every Employee shall have the right to present his/her unresolved dispute free from interference, coercion, restraint, discrimination, or reprisal, and shall have the right to be represented by a person of his/her own choosing at all stages of the grievance procedure. Employees, Stewards, Alternate Stewards, the Union, and the Employer shall have fifteen (15) working days from the time that they became aware of such dispute or the time that they should have become aware of such dispute through the exercise of reasonable diligence to grieve such matter. If the matter is not grieved, it shall be deemed acceptable, and all parties shall waive the right to grieve the matter. If a party to this Agreement fails to respond to a grievance within fifteen (15) working days of its receipt of the grievance, that party shall be deemed to have accepted the merit of the grievance.

703. It is expressly understood that matters of discipline, including discharge, are subject to appeal through the grievance procedure.

704. Grievance Procedure. The procedural steps of the grievance procedure shall be as follows:

705. Step 1. The Employee shall present the basis for his/her dispute to his/her Union representative who shall advise the Employee of his/her rights and assist the Employee and the Supervisor to reach an amicable solution. The presentation may be either oral or written.

706. Step 2. The second step of the grievance procedure shall be between the Union Business Agent, or other representatives of the Union designated by the Business Agent, and representatives of the Town of Elmira. Any party necessary to amicably resolve this dispute (i.e. Grievant, Steward, Assistant Steward, Supervisor, Witnesses, etc.) shall be present at the presentation. The presentation may be either oral or written.

707. Step 3. If the dispute cannot be satisfactorily resolved, the issue may be submitted by either party to final and binding arbitration. The arbitrator shall be selected from the list of arbitrators maintained by the New York State Public Employment Relations Board and shall be selected in accordance with the rules and procedures of PERB. The costs of such arbitration shall be borne equally by the Employer and the Union.

708. Grievances brought by the Union or by the Employer shall be initiated at Step 2 of the Grievance Procedure.

ARTICLE VIII. REVIEW OF PERSONAL HISTORY FOLDER

801. An Employee shall, within two (2) working days of presenting a written request to the Employer, be provided the opportunity to review his/her official personal history folder in the presence of a Union representative, if requested by the Employee, and an appropriate Employer representative. This right shall not be abused. The Employee shall be allowed to place in such file a response to anything contained therein which the Employee deems to be adverse.

802. The official personal history folder shall contain all memoranda and documents relating to the Employee which contain criticism, commendation, appraisal, or rating of the Employee's performance on his job. Copies of such memoranda and documents shall be sent to the Employee simultaneously with their being placed in the official personal history folder.

803. An Employee may, at any time, request and be provided copies of all documents and notations in his/her official personal folder of which he/she has not previously been given copies.

804. Except for disciplinary actions and annual work performance ratings, any material in the personal history folder of an adverse nature that is over two (2) years old shall, upon the Employee's written request, be removed from the personal history folder. This does not preclude the earlier removal of such material.

ARTICLE IX. EXAMINATIONS

901. Any expense for any examinations required by law or by the Employer shall be paid by the Employer except to the extent that the Employee's health insurance covers such expense, in which case the portion that is payable by the Employee's health insurance shall be the responsibility of the Employee. The Employee shall be responsible for paying the cost of obtaining and renewing a driver's license and Commercial Drivers License (CDL-B). The Employer will pay the cost of an Employee obtaining a CDL-A license and any renewal if the employer determines that an Employee should have such license.

902. Further, except to the extent as is specifically required by Federal or State law, no Employee with a CDL or a safety sensitive position shall be asked or required to submit to drug or alcohol testing, nor shall any Employee be asked or required to submit to polygraph testing or to any other form of test which purportedly measures, directly or indirectly, truthfulness or honesty. Any required testing shall be performed in accordance with the requirements of the law governing such testing. A refusal or willful failure to comply with required testing may subject the employee to disciplinary action. If an Employee tests positive for drugs or alcohol, the Employee may be subject to disciplinary action.

903. If the Employer has good reason to believe that an Employee is no longer physically able to safely continue in his/her regular duties or to perform the essential functions of his/her position, the Employer may require a full physical examination by a physician selected by the Employer, provided that such examination is job related and consistent with business necessity. This examination shall be at the Employer's expense. Should a disagreement arise between the Employer's physician and the Employee's physician over the physical fitness of an Employee to continue in his/her job duties, then a third physician, who shall be selected and mutually agreed upon by the two physicians, shall make the final determination. All expenses in connection with the examination by the third physician shall be borne by the Employer.

ARTICLE X. HEALTH AND SAFETY

1001. **Equipment.** The Employer shall not require any Employee to operate any equipment that is not in safe operating condition or is not in compliance with any rule, statute, ordinance, or regulation pertaining to safety or which the Employee reasonably or in good faith believes is not in safe operating condition or is not in compliance with any rule, statute, ordinance, or regulation pertaining to safety. If any Employee reasonably and in good faith believes that any equipment is not in safe operating condition or is not in compliance with any rule, statute, ordinance, or regulation pertaining to safety, then said Employee shall notify his/her supervisor or the Highway Superintendent immediately. It shall not be a violation of this Agreement for Employees to refuse to operate such equipment. All such refused equipment shall be appropriately tagged so that it cannot be used by other operators until the complaint is adjusted. After the complaint is satisfactorily adjusted, the Employer shall place on such equipment an "OK" in a conspicuous place that will be visible to anyone who might attempt to operate the equipment.

1002. **Dangerous Conditions.** Under no circumstances shall an employee be assigned or required to engage in any activity involving: dangerous conditions of work; danger to person or property; or a violation of any applicable, rule, statute, ordinance, regulation, or court order relating to safety of person or equipment. Employees shall notify Highway Superintendent, or in his absence the Town Supervisor, immediately of any unsafe work conditions so they can be corrected immediately.

1003. **Plowing.** Per past practice, two employees are required to operate a truck utilizing both the plow and the wing. It is also understood that future advancements in equipment may make it safe to utilize one (1) employee to operate a truck safely.

1004. No Employee shall be required to perform any hazardous task outside the Employee's classification with which he/she is not familiar.

1005. Protective Clothing. The Employer shall provide, at its expense, to Employees the necessary gear for adequate protection from inclement weather conditions, as Employer deems necessary and appropriate. The Employer shall provide Employees with work gloves as needed.

1006. Safety Appliances. The Employer shall provide at its expense any necessary safety appliances that have not been explicitly mentioned in this Article including, but not limited to, hard hats, safety glasses, safety vests, and flags.

1007. Training. The Employer shall provide, at its expense, the necessary training and education so that Employees can perform their jobs safely and efficiently.

ARTICLE XI. WAGES AND HOURS

1101. Hours. The standard workweek for all Employees shall be forty (40) hours. The standard workweek shall consist of five (5) consecutive eight (8) hour workdays running from Monday through Friday inclusive, as follows:

Monday through Friday: 7:00 am – 3:30 pm All Unit Employees

A work week starts 12:01 am Monday and ends 12 midnight on Sunday. All hours worked in excess of eight (8) hours per day or forty (40) hours per week or both shall be compensated at the rate of one and one-half times the hourly rate. This compensation shall be in addition to all other benefits provided for by this Agreement.

1102. The Union recognizes the right of the Employer to change the standard work schedule when necessary to insure orderly operation or to provide for unusual conditions such as non-emergency snow removal, street cleaning, and trash pickup. The Employer shall give the Employee at least twenty four (24) hours notice of any non-emergency change of work schedule.

1103. The Employer and the Union may agree to implement a summer work schedule, which shall be set forth in a written memorandum at the time the parties so agree.

1104. A coffee break of ten (10) minutes each will be given mid-morning and mid-afternoon. These breaks will be taken wherever you are working and at a convenient time. There will be a five (5) minute clean-up time before lunch. Breaks and lunch will be taken where the employee is working. Lunch will be an unpaid thirty (30) minute break.

1105. Employees working five (5) hours past the end of the normal work day shall receive a paid one-half hour meal break. When the situation demands, Employees shall work overtime. However, no Employee shall be required to work an unreasonable amount of overtime.

1106. Wages: Employees shall be paid according to the wage schedule set forth in Appendix A of this Agreement.

1107. New Hires

1108. Not used.

1109. To the extent that any Federal or State Minimum Wage Law provides for a minimum wage higher than any base wage rate set forth in this Agreement, then such higher wage shall prevail as a

base wage rate.

1110. Compensatory Time: Employee's may elect to accumulate compensatory time instead of paid overtime for time worked in a work week in excess of forty (40) hours with written request and approval. An Employee may only accumulate compensatory time during the following two time periods: January 1st to April 30th and November 1st to December 31st. For the time period of May 1st to October 31st, the employee must take paid overtime for time worked in a work week in excess of forty (40) hours unless the Highway Superintendent authorizes that such time may be accumulated as compensatory time. By authorizing such compensatory time, the Superintendent's action shall not create a normal practice and each such action shall be considered on its own merits at the Superintendents sole discretion.

In the event that a Highway Superintendent cannot grant compensatory time within the same pay period, with pre-authorization from the Highway Superintendent, the employee will have the option of receiving "Compensatory Overtime" in lieu of paid overtime. When an employee chooses to receive compensatory overtime, the employee will be credited with the equivalent of one and one-half (1 1/2) hours for all authorized time worked over forty (40) hours in a given workweek. An employee may accumulate up to forty (40) hours in compensatory time credits. In the event an employee accrues more than forty (40) hours in compensatory time credits, the employee must take paid overtime for time worked in excess of forty (40) hours. An employee must use all compensatory leave credits, within the period of November 1st and April 30th of the subsequent year or be paid at the employee's pay rate at the time the compensatory time is paid earned unless the Highway Superintendent authorizes that such time may be accumulated as compensatory time. By authorizing such compensatory time, the Superintendent's action shall not create a normal practice and each such action shall be considered on its own merits at the Superintendents sole discretion.

1111. Employees shall be paid bi-weekly on the Friday that is one week following the close of the immediately previous pay period, unless such day falls on a weekend or holiday, in which case Employees shall be paid on or by the last workday immediately proceeding such day. Errors or shortages shall be corrected by lunch break on the work day following payday except in cases where the shortage is more than twenty-five dollars (\$25.00), in which case the shortage shall be paid by the end of the Employee's shift on the third work day following payday.

1112. Emergency Call-In Provisions. Any Employee called in for emergency work shall perform only the work for which he/she was called and shall be paid one and one-half times his/her regular rate of pay, with a minimum guarantee of three (3) hours pay regardless of time actually worked except for Sundays and holidays, which shall be compensated at double time with a minimum guarantee of three (3) hours pay regardless of time actually worked. Employees shall be paid for all time worked during such emergency, in addition to all other benefits provided for by this Agreement. All other terms and conditions of this Agreement shall also apply. A second call out constitutes a new call-in period. An emergency shall be determined solely by the Employer.

1113. Employees called in for emergencies or before their regular starting time shall report promptly for work.

1114. Reporting Pay. In the event that an employee reports for work on his regular shift without previously having been notified not to report shall be given four (4) hours of work or if no work is available he shall be given two (2) hours pay.

1115. On-The-Job-Injury. An Employee who is injured on the job and leaves the job to obtain medical attention shall be paid at the applicable rate for the balance of his/her regular shift for that day if he/she is unable to return to work.

1116. Separation from Employment. If the Employer discharges an Employee, it shall pay all money due to the Employee by the Employee's next payday following such discharge

1117. If an Employee quits voluntarily or retires, the Employer shall pay all money due to the Employee on the next payday following such quitting or retirement. In the case of an Employee who dies, the Employer shall pay all money due to the Employee's estate.

1118. "Money due" shall include, but not be limited to, wages, unused vacation, accrued vacation. In the case of retirement, "money due" shall also include unused and accrued sick leave credits.

1119. **Layoff and Recall Notice.** The Employer shall provide any Employee being laid off with one week's notice that he or she is being laid off or, if such notice is not provided, one week's pay in lieu thereof. This notice or pay shall be in addition to all other benefits provided for by this Agreement.

1120. A laid off Employee shall receive at least ten (10) work days' notice of recall from time of receipt. Such notice shall be mailed to the Employee's last known address by certified mail, return receipt requested. The Employee shall respond to such notice within ten (10) work days of receiving the notice and shall report back to work within twenty (20) work days after receiving the notice of recall, unless otherwise mutually agreed to. If the Employee fails to respond to the notice or report back to work, he/she will be removed from the layoff list.

ARTICLE XII. HEALTH AND WELFARE

1201. The Employer agrees to participate in the New York State Teamsters Council Health and Hospital Fund ("Fund") with the following coverages:

Medical/Prescription	Supreme
Dental	One
Vision	
Legal	

The Employees shall pay a portion of the insurance premium as set forth below:

2008	2009	2010
8%	9%	10%

Accordingly, the Employer agrees to execute, and make a part of this Agreement, such documents, including the Fund's Participation Agreement, as are necessary so that such benefits can be provided to Employees.

1202. The Employees contribution towards the insurance premium will be with pretax dollars.

1203. The Employer will insure each employee under Federal Insurance Contribution Action (Social Security) to the extent required by law and the New York State Workmen's Compensation Law.

1204. **Liability Insurance:** All employees are covered for a liability when performing their regular duties in the course of that employment for the Town under the Town master insurance plan.

1205. **Retired Employees:** This agreement makes no provision for the continuation of any benefits to retirees and any such policy shall be at the Town's sole discretion. If upon retirement the retired employee continues insurance in any plan, whether the Town's plan if available or the union plan if available, the Town will buy back thirty-five percent (35%) of accumulated sick leave and apply it to future health premium co-pays. If a retiree chooses not to participate in the plan, they will be given ten percent (10%) of the cash value of the accumulated days. If a retiree dies before they use up their co-pay fund, the surviving spouse will be entitled to use the balance toward co-pays.

1206. **COBRA:** Pursuant to the Consolidated Omnibus Budget Reconciliation Act, employers sponsoring group health coverage must offer employees and their families the opportunity to

continue health insurance coverage at group rates when coverage would otherwise end. Rights to continue coverage include termination of employment for reasons other than gross misconduct, death of a spouse or parent, divorce or legal separation, change in status from full-time to part-time, or eligibility for Medicare.

If an employee elects to continue coverage, they must pay the full monthly premiums, plus an administrative fee or coverage will be canceled.

ARTICLE XIII. PENSION

1301. The Town provides New York State Retirement coverage with charges to employees of 3% of gross wages for those who became members of the New York State Retirement System after July 1976, pursuant to New York State Retirement System regulations.

1302. The Town has established a Deferred Compensation Plan whereby eligible employees may voluntarily authorize a portion of their salary to be withheld and invested. The money saved is paid out to the employee at a later date, generally during retirement years. Neither the deferred amount nor earning on investments are subject to current Federal and State Income Taxes. Taxes become payable when the deferred income plus earnings are distributed to the employee, presumably at retirement. Details regarding this plan are available from the Town Bookkeeper.

1303. In accordance with Section 41J of the New York State Retirement Law, any allowable unused sick leave held by a retiree may be used as additional service credit upon retirement. Such unused sick leave credit is applied as additional service credit on a calendar day basis..

ARTICLE XIV. ALLOWANCES

1401. Clothing Allowance. Per past practice, the Town Highway Department Employees shall receive a clothing allowance of One Hundred Seventy Eight Dollars (\$178.00) The Employer shall pay, during January the allowance to each employee to be used toward the purchase of work clothing and shoes and the employee shall provide receipts for the purchase of work clothing and shoes. The color, style, and type of clothing shall be, subject to state and federal regulations as the same may apply, approved by the Town Highway Superintendent, or in his absence, the Town Supervisor. If the money is not used for work clothing or shoes, then Clothing Allowance shall be included in the wages of said employee upon issuance of the W-2 to said employee.

1402. Mileage Allowance. Employees will be reimbursed at the current automobile mileage allowance rate as set by the Internal Revenue Service when the Employee is required to use his/her own vehicle for Town business. Staff must submit an approved mileage reimbursement form to receive reimbursement. This reimbursement will not be deemed compensation for any purpose.

1403. Conference & Meeting Allowance. Employees who have obtained prior approval of their immediate supervisor will be reimbursed for conferences and meetings. An Individual Expense Report must be completed and appropriate approvals obtained upon return. Reconciliation must be submitted and receipts must be attached to show proof of expense.

Any personal property losses, which may occur when at a meeting or conference, are not the responsibility of the Town. The Town will also not be responsible for any fines incurred by Town employees.

1404. Tuition Reimbursement: Full time employees will be reimbursed for 100% of the tuition costs for approved education courses taken during off-duty hours. Registration fees and costs of books and materials are not reimbursable. There are six (6) criteria for the plan:

To be eligible for holiday pay, the employee must work his last scheduled day in full prior and first scheduled day after the holiday, unless his absence is occasioned by authorized paid leave. For unusual or special circumstances, upon authorization of the Highway Superintendent or in his absence the Town Supervisor, an unpaid absence on the day prior to or the day after a holiday may be computed for the purpose of holiday pay.

1602. If a holiday falls on a Saturday, the observation of the holiday shall be on the preceding Friday. If a holiday falls on a Sunday, the observation of the holiday shall be on the following Monday, with all authorized leave time considered as days worked for calculating overtime.

1603. Holiday pay shall be eight (8) hours pay at the Employee's regular straight-time rate.

1604. Employees not scheduled to work shall receive holiday pay in addition to all other benefits provided for by this Agreement.

ARTICLE XVII. LEAVE

1701. Personal Days. Each Employee with one (1) year of service shall be granted two (2) days of personal leave annually, except that employees that have worked ten (10) or more years shall receive three (3) personal days. Each Employee shall receive eight (8) hours pay per day of personal leave, in addition to all other benefits provided for by this Agreement. Each Employee shall give the Employer as much advance notice as possible of his/her decision to take personal leave. Half-day increments are the minimum which shall be taken.

1702. Funeral Leave. If there is a death in the immediate family or household of any Employee, the Employer shall pay the Employee eight (8) hours pay per day, in addition to all other benefits provided for by this Agreement, for each day of leave. This leave is to enable the Employee to attend the deceased's funeral as well as to attend to matters relating to the death of the member of the Employee's immediate family or household. Leave under this Section shall not exceed three (3) working days. The term "immediate family" means spouse, children, stepchildren, parents, stepparents, mother-in-law, father-in-law, brothers, sisters, brother-in-law, sister-in-law, grandparents, grandchildren and the Employee's spouse's grandparents. The term "household" means any person who resides continuously with the Employee for at least three (3) months out of any year. Further, upon approval of the Highway Superintendent, or in his absence the Town Supervisor, the Employer may grant one (1) day off with pay for the purpose of attending the funeral of a current or retired Employee.

Such leave must be in consecutive work days and must commence between the date of death and the date of burial. Under extenuating circumstances and with the prior approval of the Employee's immediate supervisor, an employee may be granted additional time off with or without pay.

1703. Sick Days. Each regular employee will be credited with sick leave at the rate of one (1) day per month of continuous employment. Sick leave days may be accumulated as follows:

- | | |
|-----------------------------|-----------------------------------|
| A) 5 – 15 years of service | Ninety (90) days |
| B) 16 – 20 years of service | One Hundred Twenty (120) days |
| C) 21 or more years service | One Hundred Sixty Five (165) days |

1704. Sick Leave. Paid sick leave may be used to address the illness or other health matters of an Employee or a member of the Employee's immediate family or household, as these terms are defined in Section 1703 above, including but not limited to hospital, doctor's appointments, and dental appointments. Either proof of illness or a doctor's certificate may be required by the Town If a person is absent for three (3) consecutive days.

1705. Employees on sick leave shall receive eight (8) hours pay per day, in addition to all other benefits provided for by this Agreement. Half-day increments are the minimum which shall be taken.

1706. Quarantine. If an Employee who is not ill himself is required to remain absent because of quarantine and presents a written statement of the attending physician or local health officer proving the necessity of such absence, he/she shall be granted leave with pay without the loss of sick leave or personal leave for the period of the required absence. Prior to return to duty, such Employee may be required to submit a written statement from the local health officer having jurisdiction that the Employee's return to duty will not jeopardize the health of an other person.

1707. An Employee off work on Workers' Compensation or Disability may draw from his/her accumulated sick leave the difference between the Employee's regular weekly wage and the amount of the Employee's Workers' Compensation or Disability allowance, as the case may be. The Employee's sick leave balance will be reduced by the number of hours needed to make up such difference. To the extent that the Employer pays the Employee's full wages, the Employee shall reimburse the Employer for the amount of the Workers' Compensation benefits. If sick time is used, then it shall be replenished after the Town is reimbursed.

1708. In those cases where the entitlement to all sick time has been exhausted, the Employer shall grant applications for extended sick time without pay.

1709. Military Leave. Employees enlisting in or entering the military service of the United States, including being called to active duty, shall be granted all rights and privileges provided by the Uniformed Services Employment and Reemployment Rights Act of 1994, or as such Act may be amended, and all rights provided under State law.

1710. The Employer shall grant leave for service in the military reserves or National Guard as required by the Employee. The Employee shall provide certification of his/her required service. The Employer shall continue to provide the Employee with the benefits provided for by this Agreement for the duration of such leave. If the Employee is deployed for full time service, then Employee's benefits will not continue unless required by law.

1711. Leave of Absence. Any Employee desiring an unpaid leave of absence from employment shall secure written permission from both the Union and the Employer as soon as reasonably possible prior to the leave. During the period of absence, the Employee shall not engage in gainful employment except if employed by the Union or an affiliate thereof; or if otherwise agreed to by the Union and the Employer. An Employee's request for a leave of absence shall not be denied if the leave is for a good cause. Good cause shall include, but not be limited to, the following reasons:

- a) To address the illness or other health matters of an Employee or member of the Employee's immediate family or household when the absence would extend beyond the Employees accumulated sick leave (including the maternity or paternity leave for a maximum period of one (1) year following the birth or adoption of a child);
- b) to perform Union duties or engage in official union business or activities; or
- c) to attend a certified educational or training institution. Educational leave for courses taken during working hours and approved by the Supervisor is to be taken without loss of compensatory time, vacation, or loss of pay.

1712. Jury Duty and Compelled Appearance. Any regular Employee called for jury duty, subpoenaed to appear as a witness in any proceeding, or otherwise compelled to appear in any proceeding shall be granted leave for that duty or appearance with no charge against leave credits. For each day of such duty or appearance, the Employee shall be paid the difference between eight hours pay

at his/her applicable hourly wage and the actual payment received for that duty or appearance, such as witness or jury fees. This payment shall be accomplished by the Employee turning his/her payment for jury or witness service, retaining the mileage allowance, over to the Town Clerk, and the Employee shall in turn receive his/her full pay for that day. This compensation shall be in addition to all other benefits provided for by this Agreement.

ARTICLE XVIII. MAINTENANCE OF STANDARDS

1801. The Employer agrees, subject to the provisions of this Agreement, that all conditions of employment shall be maintained at the highest standards and the conditions of employment shall be improved whenever specific provisions for improvement are made in this Agreement.

1802. The Employer agrees not to enter into any agreement or contract with the Employees, individually or collectively, which would in any way conflict with the terms and provisions of this Agreement. Any such agreement shall be null and void.

1803. Where new operations to be covered by this Agreement for which rates of pay and other terms and conditions of employment are not established by this Agreement are to be put into effect by the Employer, the Employer shall give the Union as much advance notice as possible and shall likewise enter into negotiations regarding such matters.

ARTICLE XIX. DECLARATION OF NO STRIKE POLICY

1901. The Employer and the Union agree to follow all existing provisions of the Taylor Law and any subsequent revisions.

ARTICLE XX. WORK PROTECTION

2001. For the purpose of preserving work and job opportunities for the employees covered by this Agreement, the Employer agrees that no bargaining unit work as defined in Article IV will be subcontracted, transferred, leased, assigned or conveyed in whole or in part to any other entity or person, unless otherwise provided for in this Agreement.

ARTICLE XXI. LEGISLATIVE ACTION

2101. The Employer shall prepare, secure introduction, and recommend passage by the appropriate legislative body of appropriate legislation in order to provide the benefits described in this Agreement.

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

ARTICLE XXII. SAVINGS AND SEPARABILITY

2201. If any Article or Section of this Agreement, or any supplements or riders thereto should be held invalid by operation of law or by any tribunal of competent jurisdiction, or if compliance with or if enforcement of any Article or Section should be restrained by such tribunal pending a final determination as to its validity, the remainder of this Agreement and of any supplements or riders thereto, or the application of such Article or Section to persons or circumstances other than those as to which it has been

APPENDIX "A"
WAGES

Employees in the following classifications shall work under the following wage schedule:

	Current Rates	Effective <u>01/01/2007</u>	Effective <u>01/01/2008</u>	Effective <u>01/01/2009</u>	Effective <u>01/01/2010</u>
Foreman	23.06		3.25 % (23.81)	3.5% (24.64)	3.75% (25.57)
Operator 1	20.60*		3.25% (21.27)	3.5% (22.01)	3.75% (22.84)

* Corey Ripley's current pay rate is 17.31 per hour. By this agreement, he will be increased to the full operator 1 rate at two separate times. On January 1, 2008 his pay rate will increase to 19.29 per hour and will increase to 21.27 per hour on July 1, 2008.

* Greg Mann's current pay rate is 18.40 per hour. By this agreement, he will be increased to the full operator 1 rate at two separate times. On January 1, 2008 his pay rate will increase to 19.84 and will increase to 22.01 on January 1, 2009, which will be the hourly rate for all Operator 1 employees.

HOURLY RATES ARE IN PARENTESIS.

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OF COUNSEL
PAUL R. CERRADINI
COUNSEL

December 2, 2004

Re: Town of Elmira Employee Alliance Police Unit

Town of Elmira Board Employee Negotiation Representatives
c/o Scott D. Moore, Esq.
Moore, Woodhouse & Pawlak
150 Lake Street
Elmira, NY 14901

Gentlemen:

The three members of the police unit, Bruce K. Stayments, Peter Michalko and Robert Richards VI, have ratified the agreement that was put forward at our November 11, 2004 negotiating session as follows:

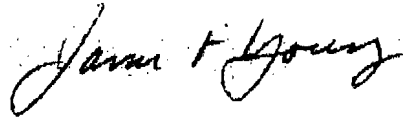
- Term:** Three years commencing January 1, 2005
- Percentage Wage Increase:** First Year: 3.5%
Second Year: 3.5%
Third Year: 3.5%
- Lump Sum Increase:** Robert Richards VI - \$2,000
Peter Michalko - \$1,000
Bruce K. Stayments - \$1,000
- Health Care Benefit:**
- Coverage:** BlueCross BlueShield Traditional Indemnity 70 Day
- Contribution:** First Year: 7% of the employee's 2005 premium
Second Year: 7% of the employee's 2006 premium
Third Year: 8% of the employee's 2007 premium

A \$2,500 per year payment to any employee electing not to enroll in the Health Care Insurance benefit.

Other:

- An additional Personal Day for employees who have ten or more years of employment with the Town.
- An increase in the annual Clothing Allowance of \$53. — 176.25
- Understanding that newly hired employees will be offered only the BlueCross BlueShield PPO-B Health Care Insurance Coverage.

Very truly yours,



James F. Young

Town of Elmira
Employee ALLIANCE

1255 West Water Street, Elmira New York 14905-1995 • 607 734 2031 • fax 607 734 4089

November 12, 2004

Town of Elmira Board Employee Negotiation Representatives
1255 West Water Street
Elmira New York 14905

Gentlemen:

Alliance members today ratified the Terms of the agreement negotiated on November 11, 2004 which we understand to be:

Term: Three years commencing January 1, 2005

Wage Increase:

First Year:	3.5%
Second Year	3.5%
Third Year	3.75%

Health Care Benefit:
Coverage: Blue Cross/Blue Shield Traditional Indemnity 70 Day

Contribution:

First Year	7% of the employee's 2005 premium
Second Year	7% of the employee's 2006 premium
Third Year	8% of the employee's 2007 premium

A \$2,500 per year payment to any employee electing not to enroll in the Health Care Insurance benefit.


Other:

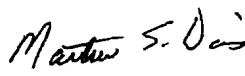
- An additional Personal Day for employees who have ten or more years of employment with the Town.
- An increase in the annual Clothing Allowance of \$53.
- Understanding that newly hired employees will be offered only the Blue Cross/Blue Shield **PPO-B** Health care Insurance coverage.

It is understood that this agreement does not include Bruce K. Stayments, Peter Michalko and Robert Richards VI.

We look forward to three years of a harmonious and productive relationship where each employee takes pride in making the Town of Elmira "A Great Place To Live!"

Sincerely,


Gaty M. Patelunas


Matthew S. Davis