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AGREEMENT BETWEEN

THE CITY OF HORNELL, NEW YORK

AND

WATER AND WASTE WATER TREATMENT PLANT OPERATORS

APRIL 1<sup>ST</sup>, 2009 TO MARCH 31<sup>ST</sup>, 2012

CITY OF HORNELL, NEW YORK

Department of Public Works

RECEIVED 3/16/10

SHAWN D. HOGAN, MAYOR

JOSEPH BOB, COMMISSIONER  
MICHAEL FUCCI, COMMISSIONER

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## **AGREEMENT**

Agreement made this 1<sup>st</sup> day of April, 2009,

By and between the City of Hornell, New York, hereinafter designated the Employer or governing body, and the Water and WasteWater Treatment Plant Operators, hereinafter designated as the "Association".

Whereas, the parties hereto desire to promote harmonious and cooperative relationship between them,

Now, therefore, in consideration of the mutual agreements, terms and conditions herein contained between the parties and pursuant to the Taylor Law and other applicable laws of the State of New York, the parties hereto do each agree with the other as follows:

## DEFINITIONS

1. **ASSOCIATION** Means the recognized employee organization for the Water and Waste Water Treatment Plant Operators.
2. **WATER & WASTE WATER TREATMENT PLANT OPERATORS** Includes employees under the supervision and control of the Board of Public Works for the City of Hornell.
3. **EMPLOYEES** Means individuals employed by the Board of Public Works, excluding the Superintendent of Public Works, the General Foreman, and any positions designated as managerial confidential.
4. **CITY** Shall mean the City of Hornell.
5. **EMPLOYER** Shall mean the City of Hornell, New York and/or any part of the management thereof.
6. **GRIEVANCE** Shall mean any dispute between the Association and/or individual employee and the City with respect only to the meaning or interpretation of provision(s) of this agreement.

## **ARTICLE I**

### **SECTION 101. RECOGNITION**

The City recognizes the Water and Waste Water Treatment Plant Operators Association as the sole and exclusive bargaining agent for "Employees" of the Water and Waste Water Treatment Plant Operators in collectively negotiating the terms and conditions of their employment and for the settling of grievances and disputes arising concerning the interpretation or application of the terms of this contract.

## **ARTICLE II**

### **SECTION 201. DURATION OF AGREEMENT**

This agreement shall be effective for the term of three (3) years commencing on the first day of April, 2009 and terminating on the 31<sup>st</sup> day of March, 2012.

### **SECTION 202. TERM OF REPRESENTATION**

The City extends the representation rights to the Association for a three (3) year period ending March 31<sup>st</sup>, 2012.

## **ARTICLE III**

### **SECTION 301. AFFIRMATION NO STRIKE**

The Association affirms that it does not assert the right to strike against the Employer, and agrees that it will not assist or participate in any such strike, slow down, sick in, etc., or impose on any of its members or others an obligation to conduct, assist or participate in any such strike.

### **SECTION 302. LEGISLATIVE ACTION – AGREEMENTS BETWEEN PUBLIC EMPLOYER AND EMPLOYEE ORGANIZATION**

"It is agreed by and between the parties that any provisions of this agreement requiring legislative action to permit its implementation by amendment or law or by providing the additional funds therefore, shall not become effective until the appropriate legislative body has given approval."

## **ARTICLE IV**

### **SECTION 401. ASSOCIATION RIGHTS**

The City extends the Association the following rights:

- (A) To membership dues deduction upon representation of dues deduction authorization cards signed by individual employees.
- (B) To unchallenged representation status for the duration of this agreement.
- (C) The Association shall have the right to post notices and communications on departmental bulletin boards.
- (D) Employees who are designated by the Association to adjust grievances or assist in the administration of this agreement shall be permitted a reasonable amount of free time to fulfill these responsibilities.

- (E) The Association will be consulted prior to any major shift in duties and responsibilities of employees in the unit. This would pertain to any major schedule change.

### **SECTION 402. CITY RIGHTS**

The Association recognizes the City's right to manage its affairs and shall not restrain or limit the Employer in the full and absolute management of its affairs, except as modified.

## **ARTICLE V**

### **SECTION 501. RESPONSIBILITIES**

It is specifically understood and agreed that all of the said employees shall abide by the rules and regulations of the Employer. It is further mutually understood and agreed that the Employer may adopt rules for the operation of the Department and the conduct of its employees, provided such rules and regulations are not in direct conflict with any of the provisions of this agreement.

### **SECTION 502. WORK RULES AND REGULATIONS**

The Association agrees to abide by the work rules and regulations as adopted by the Board of Public Works on April 6<sup>th</sup>, 1972 and as modified by this agreement.

- (A) Rule 7 changed to read: "Every employee should live within the City limits. Employees may live within a radius of five (5) miles of the City limits. Preference for overtime work in case of emergencies such as snow removal, water breaks, etc., will be given to employees residing within the City".
- (B) The exception to the rule is the reservoir caretaker.
- (C) Rule 14 changed to read as follows: "The Board of Public Works may adopt such other rules as necessary. Major rules shall become effective and a part of these rules fifteen (15) days after posting.

## **ARTICLE VI** **GRIEVANCE & ARBITRATION PROCEDURES**

### **SECTION 601. PURPOSE**

For the purpose of this agreement, disputes shall be subject to the grievance procedure as outlined below:

1. A dispute concerning the application and/or interpretation of this agreement is subject to all steps of the grievance procedure including arbitration.

### **SECTION 602. PROCEDURE**

It is acknowledged that upon occasion disputes arising pursuant to this agreement could be handled informally. Employees are encouraged to resolve disputes subject to this article informally with the immediate supervisor.

**Step 1.** The employee or the employee and the Association's grievance representative shall present the grievance in writing to the employee's immediate supervisor within ten (10) working days after the employee knew or should have known of the grievance.

The immediate supervisor shall meet with the parties involved and take all necessary steps to insure a proper disposition of the grievance made.

The supervisor must reply to the employee and/or his Association representative within five (5) workdays after the presentation of the grievance.

**Step 2.** In the event the grievance is not resolved in Step 1 hereof, the employee and/or his Association representative may appeal in writing to the Superintendent of Public Works within five (5) work days after the denial in Step 1 was made or should have been made.

The decision on the written appeal must be made within five (5) workdays of receipt of the written appeal. The written grievance shall contain specific reference(s) the section of the agreement, which the employee and/or his Association representative feels has been violated and a description of the grievance and the relief sought.

**Step 3.** In the event the grievance has not been satisfactorily resolved in Step 2 hereof, an appeal may be made by the Association in writing to the Board of Public Works within ten (10) work days of the receipt of the decision. The Board of Public Works shall meet with the Association's Grievance Committee for a review of the grievance within ten (10) work days of the receipt of the written appeal and shall issue a written decision within ten (10) work days following the meeting.

**Step 4.** An appeal from an unsatisfactory decision at Step 3 and a request for arbitration may be brought only by the Association President or his designee. Arbitration may be resorted to only when a dispute exists regarding the interpretation and/or application or a specific provision of this agreement.

- (A) A request for arbitration shall be initiated by the Association serving upon the Employer a notice in writing of the intent to proceed to arbitration. Such intent must be filed within fifteen (15) workdays after receipt of the Step 3 decision.
- (B) Said notice shall identify the provisions of the agreement, the Department, the employee involved and a copy of the grievance(s) and the relief sought.
- (C) The Employer and the Association shall each select an arbitrator within five (5) workdays after notice of intent to arbitrate has been given the Association. The two (2) arbitrators selected shall then select a third impartial arbitrator to act as chairman.

If said arbitrators are unable to agree upon a third party, then the selection of the third party shall be submitted to the Supreme Court of the State of New York for appointment of an impartial arbitrator to sit with the two (2) arbitrators selected by the parties hereto.

- (D) The arbitrators shall neither add to, subtract from nor modify the provisions of this agreement. They (arbitrators) shall confine their decision solely to the application and/or interpretation of this agreement.
- (E) The decision or award of the arbitrators shall be final and binding to the extent permitted by and in accordance with applicable law and this agreement. The arbitrators shall confine themselves to the precise issue submitted for arbitration and shall have no authority to determine any other issues not so submitted to them.
- (F) All fees and expenses of the arbitrators, if required, shall be divided equally between the parties. Each party shall bear the costs of preparing and presenting its own case.



- (G) The arbitrators shall hold the hearing at a time and place convenient to the parties within twenty (20) workdays after the third arbitrator is selected. The panel of arbitrators selected shall issue their decision within thirty (30) calendar days of the hearing.
- (H) In the event a disagreement exists regarding the arbitrability of an issue which the Association wishes to submit to arbitration, the arbitrators shall have the authority to determine whether or not the issue in dispute is arbitrable under the expressed terms of this agreement. Once a determination that a dispute has been made, the arbitrators shall proceed to determine the merits of the dispute submitted to arbitration.

**SECTION 603. EXTENSION**

All of the time limits contained in this article may be extended or altered by mutual agreement.

**ARTICLE VII**  
**EMPLOYEE BENEFITS**

**SECTION 701. SENIORITY**

A seniority list will be made up for the purpose of scheduling vacations.

**SECTION 702. PERSONAL LEAVE TIME**

Employees shall be entitled to thirty-two (32) hours personal leave time with full pay each year. These (hours) may be taken without explanation. Arrangements to take personal leave time off shall be made by notifying the Superintendent of Public Works, through the immediate supervisor in advance who shall grant such time off if arrangements can be reasonably made. Personal leave is accrued during the contract year. Those unit members who work four (4) ten (10) hour days will receive personal leave based on that schedule, they and they only will receive forty (40) hours personal leave time.

**SECTION 703. EMERGENCY LEAVE**

It is mutually understood and agreed that emergency leave of one (1) day for illness requiring emergency hospitalization of a member of the immediate family or of three (3) days for a death in the immediate family may be granted. "Immediate family" shall consist of husband, wife, father, mother, legal guardian, brother, sister, corresponding in-laws, uncle, aunt, nephew, niece, first cousin, grandparents, children or a more distant relative if residing in the employee's home at the time of death

**SECTION 704. HOLIDAYS**

It is mutually agreed that employees herein shall receive full compensation for the following legal holidays: New Year's Day, Lincoln's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Election Day, Veterans Day, Thanksgiving Day, Day after Thanksgiving and Christmas Day.

**SECTION 704A. HOLIDAY PAY**

Whether a holiday is worked or if it falls on a regular day off, the employee has the option of accepting straight pay or accepting straight compensatory time off. Time

and one half will be paid to the operator scheduled to work the holiday. This will be paid for actual time worked and only to the scheduled operator.

#### **SECTION 704B. COMPENSATORY TIME**

No more than five (5) days (50 hours) (40 hours) shall be carried over from one year to the next. Employees may convert up to five (5) days comp time to cash at the rate of **\$115.00** per day upon pre-notification of the City by December of each year.

Members now can sell back ten (10) comp days, but if and only if the money for five (5) of these sold back comp days go into a health insurance savings account and/or retirement annuity.

#### **SECTION 705. RATE PER PAY**

The rate of pay for the purpose of holiday pay shall be calculated at the rate of 1/8 of the bi-weekly salary for each day. (Assuming 10-hour day, 4-day week).

- (A) The employee must work the scheduled day before and after a holiday, unless authorized absence is approved, to receive holiday pay.
- (B) If a holiday falls on a Saturday, the holiday will be celebrated the preceding Friday. If a holiday falls on a Sunday, the holiday will be celebrated the following Monday. Normal overtime will be paid if you are called into work on any of the above mentioned holidays.

#### **SECTION 706. VACATIONS**

Employees covered by this agreement shall be granted a paid vacation according to the following schedule on each employee's respective anniversary date of hire:

- (A) Upon completion of one (1) year service – two (2) weeks (80 hours)
- (B) Upon completion of five (5) years service – three (3) weeks (120 hours)
- (C) Upon completion of twelve (12) years service – four (4) weeks (160 hours)
- (D) Upon completion of twenty (20) years service – a total of five weeks (200 hours)

It is also understood and agreed that said employee may take one week of his vacation on any weekend he is normally scheduled to work.

Each employee of this unit will have the option to sell up to three (3) weeks of his vacation time back to the City of Hornell. Each employee who so chooses will notify the City as of August 1<sup>st</sup> of his or her intent to sell back vacation time. The payment for this vacation time will be made by December 1<sup>st</sup>

#### **SECTION 707. SICK LEAVE**

All active full-time employees having completed thirty (30) days of continuous service with the Employer who are absent from duty because of sickness or off duty injury shall be granted full pay for lost time for a period of thirty (30) calendar days, commencing with the first day of absence and after twenty (20) years of service, ninety (90) days commencing with the first day of absence. In addition, the Employer shall carry in full force and effect for the duration of this agreement, insurance coverage providing each employee so absent eighty percent (80%) of his gross salary to a maximum weekly benefit of **seven hundred and fifty dollars (\$750.00)** during a period

of absence not exceeding fifty-two (52) weeks thereafter the City will pay for eighty percent (80%) of the cost of such coverage, the employee will pay the remaining twenty percent (20%).

It is further understood and agreed that if an employee is injured on duty, he then is subject to the rules and regulations of the Employer's compensation carrier.

Employee using no sick days each year shall be credited with two (2) comp time days.

Any employee using less than five (5) or less sick days each year shall be credited with one additional day comp time.

**SECTION 708. HEALTH PLAN**

The City agrees to pay 85% and the employee will pay 15% of the cost of GHI Health insurance, which includes major medical coverage, vision and dental rider. As of April 1<sup>st</sup>, 1990, all new employees will pay 30% of all health benefits. Effective October 1<sup>st</sup>, 1999, the City will provide preferred dental (GHI) to all unit employees. The City shall have the right to change health insurance providers if the same or better coverage is maintained. The Association agrees to continue the co-payment arrangement for drugs and doctors visits. The co-pay consists of \$10.00 for brand name prescription drugs, \$3.00 for generic prescription drugs and \$5.00 for participating doctors visits. **Prescription drugs shall be dispensed in generic form unless there is no available generic equivalent. The City agrees to work to establish health insurance savings account those employees who wish to do so.**

**SECTION 709. OVERTIME**

- A. The workweek shall consist of forty (40) hours. Hours worked in excess of forty (40) hours shall be paid for at the rate of time and one half.
- B. Authorized leave time shall be considered as time worked for the purpose of computing overtime.
- C. Any employee called out to work shall receive a minimum of two (2) hours work for which he shall be paid.

**SECTION 710. SALARIES**

**SALARY SCHEDULE**

<u>BASE RATE</u>	<u>TRAINEE</u>	<u>OPERATOR</u>
3% 04/01/2009	\$34,313.00	\$36,251.00
0% 04/01/2010	\$34,313.00	\$36,251.00
2% 04/01/2011	\$34,999.00	\$36,976.00

\$300.00 per year will be added each year to and including the fifth year.

## **SECTION 711. METHOD OF PAYMENT**

The Association agrees to the salary deposit plan, whereby employees will be paid biweekly by having their salary deposited in the City designated bank in a checking account in their name.

## **SECTION 712. LONGEVITY**

It is mutually understood and agreed that increase in pay for longevity shall be at the rate of **\$475.00** per year after 10 years of service; **\$500.00** per year after fifteen years of service; and **\$600.00** per year after twenty years of service. **\$775.00** after 25 years of service, and **\$1000.00** after **30** years of service. The above is not added to base.

## **SECTION 713. RETIREMENT**

The Employer shall continue to make the full contribution to the State Employee's Retirement System according to the retirement plan now in effect. The City agrees to offer Retirement Plan 751 to those eligible employees effective April 1<sup>st</sup>, 1990.

Upon retirement, the City will pay 50% of the employee's health insurance plan and 35% of dependent coverage. If upon retirement there is only the employee and spouse and no other dependents, two (2) individual plans will be issued where applicable. In the event of the death of the retired employee, the City agrees to continue its 35% contribution for dependent coverage, individual or family as may be elected by surviving spouse. In the event the surviving spouse becomes eligible for coverage elsewhere either through remarriage or employment, the City's coverage shall cease. It is hereby understood and agreed that the surviving spouse, upon becoming eligible for coverage elsewhere will notify the City immediately.

## **SECTION 713A. RETIREMENT INCENTIVE**

The employee shall notify the City one (1) year in advance of his planned retirement. This City shall provide a retirement incentive of **\$5000.00** to the employee. The incentive pay shall become part of the salary to be divided equally over the last year of employment.

## **SECTION 714. PERSONAL PROPERTY LOSS**

It is mutually understood and agreed by the Employer and the Association that personal property items are to exclude clothing but shall include items that fall in the following category: eye glasses, dentures, jewelry and personal tools and/or equipment that May become damaged through no fault of the employee.

## **SECTION 715. SAFETY**

It is mutually understood and agreed that the Employer and the Association shall, at all times, cooperate in matters of safety, health and sanitation affecting the employees herein.

## **SECTION 716. EDUCATION**

The City will reimburse an employee one hundred percent (100%) of the tuition cost for a special course related to the improvement of the employees job performance, upon the successful completion of such a course (C or better).

The taking of such a course must be with the prior, written approval of the Mayor on the form provided.

**SECTION 717. MILEAGE**

Any employee using a private car for approved City business is to be paid in the amount as established by the Common Council, but no less than fifteen cents (\$.15) per mile when authorized in advance by the employee's supervisor and/or the Mayor.

**ARTICLE VIII**  
**SAVINGS CLAUSE**

**SECTION 801. CONTRARY TO LAW**

If any provision of this agreement or any agreement of any employee or group of employees shall be found contrary to law, then such provision of application shall not be deemed valid or subsisting except to the extent permitted by law, but all other provisions or applications shall continue in full force and effect.

**ARTICLE IX**  
**FUTURE NEGOTIATIONS**

**SECTION 901. NOTICE**

It is mutually understood and agreed that in the event changes are desired and it is mutually agreed by the Association and the Employer, then said Association and Employer shall give notices of its intention to so negotiate to the body designated by the Employer at the negotiators one hundred and twenty (120) days prior to the termination of this agreement. Demands must be submitted at the time notice of intention to negotiate is exchanged.

**SECTION 902. RESIDENCY REQUIREMENT**

Any employee hired after 4/1/93 will reside in the City of Hornell within six (6) months of hire. It is further understood and agreed that City residents will be given preference for positions with the City of Hornell.

**ARTICLE X**  
**CLOSING CLAUSE**

**SECTION 1101.**

The parties agree that all negotiable items have been discussed during the negotiations leading to this agreement and, therefore, agree that negotiations will not be reopened on any item, whether contained herein or not, during the life of this agreement which is three (3) years, unless specifically stated elsewhere.

This agreement shall become effective April 1<sup>st</sup>, 2009 and shall terminate March 31<sup>st</sup>, 2012.

In witness whereof, the parties have caused this agreement to be executed by their duly authorized representatives.

**The City of Hornell, New York**

**Water & WasteWater Treatment  
Plant Operators**

\_\_\_\_\_  
Shawn D. Hogan, Mayor

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Commissioner

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**APPENDIX C**  
**UNIFORM ALLOWANCE**

Effective April 1, 2006 the Uniform allowance will be eliminated in lieu of a \$.10 cent an hour wage increase

**APPENDIX D**

Assistance chief operator will receive a five thousand dollar **(\$5,000.00)** stipend over and above his salary grade.