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TOWN OF PENDLETON AND INTERNATIONAL BROTHERHOOD OF TEAMSTERS LOCAL #264

COLLECTIVE BARGAINING AGREEMENT 2007-2010

RECEIVED
NYS PUBLIC EMPLOYMENT
RELATIONS BOARD

JUN 1 9 2009

ADMINISTRATION

PREAMBLE

An Agreement by and between the TOWN OF PENDLETON, NEW YORK (hereinafter, "the Employer"), and the INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 264 (hereinafter "the Union").

WITNESSETH

WHEREAS, The Union has been designated and selected by a majority of the employees in the unit hereinafter described as their exclusive bargaining agent for the purpose of collective negotiations and the settlement of grievances, and

WHEREAS it is the desire of both parties to this Agreement to negotiate collectively with regard to terms and conditions of employment in order to avert disputes and secure harmonious cooperation within the limits of the laws of the State of New York,

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

1. **LEGISLATIVE REVIEW**

It is agreed by and between the parties that any provision of this Agreement requiring legislative action to permit its implementation shall not become effective until the appropriate legislative body has given approval.

2. UNIT

The unit shall consist of all regular full and part-time employees of the Highway Department and Water and Sewer Departments of the Employer, however, such Unit shall not include the Water and Sewer Superintendent, the Highway Superintendent, and all other employees of the Highway Department and the Water and Sewer Department ("the Unit"). All references to "Employees" contained herein shall be deemed to refer to members of the Unit.

The use of all other employees as described by the Town will not replace regular full time or part time employees. These other employees will not work when bargaining unit employee are on layoff or when the use of other employees may cause bargaining unit employees to suffer a reduction of regular hours.

3. RECOGNITION

The Union, having heretofore been designated and selected by a majority of the Employees in the Unit, and described herein as their exclusive representative for purposes of collective negotiations and the settlement of grievances, is hereby recognized as the exclusive representative for the employees of the unit as defined herein for the purpose of collective negotiations with the Employer with regard to terms and conditions of

employment and with respect to the administration of grievances arising under this Agreement within the limitations of the Laws of the State of New York.

4. DISCIPLINE & DISCHARGE

An employee shall not be disciplined, suspended or discharged except for just cause. Any employee who is to be discharged or suspended shall be granted the right to be accompanied by a Union Steward or representative at the time that such discharge or suspension is imposed. The Employer will provide the Union with copies of any and all disciplinary notices imposed upon the employee within three (3) calendar days of the date of said penalty is imposed.

Disciplinary action shall be subject to the grievance procedure set forth in this agreement.

5. MANAGEMENT RIGHTS

Any and all rights, powers and authority which the Employer had prior to entering into this Agreement are retained by the Employer, except as expressly and specifically abridged, delegated, granted or modified by this Agreement. These rights shall include, but are not limited to the right to: hire, select, promote, assign, retain, transfer, demote, layoff, suspend discharge or discipline employees; determine the number of people required to be employed; layoff or relieve employees from duty; require employees to record working time through use of time clocks, determine the methods, means and personnel needed to conduct its operations; determine whether a vacancy exists and whether and when it should be filled; establish, eliminate or combine jobs or job classifications; make such operating changes as are deemed necessary by it for the efficient and economical use of its facilities; make any and all reasonable rules and regulations; determine to make technological alterations by revising either processes or equipment or both; determine work standards and enforce these standards by discipline; consolidate, merge or otherwise transfer any or all of its facilities, property, processes, or work with or to any other municipality or entity or effect or change in any respect the legal status, management or responsibility of such property, facilities, processes or work; and terminate or eliminate all or part of its work facilities. Any rights held by the Employer not expressly and specifically abridged, delegated, granted or modified by this Agreement shall continue and are not limited by past practice.

6. NO STRIKE CLAUSE

The Union recognizes the status of the Town of Pendleton Highway, Water and Sewer Department employees as "public employees" and the provisions of the law applicable thereto.

The Union shall not engage in a strike, nor cause, instigate, encourage or condone one. In the event a strike or work stoppage occurs, the Union shall exert its best efforts to prevent and terminate the same.

No lockout of employees shall be instituted by the Employer during the term of this Agreement.

7. DUES CHECK OFF AND AUTHORIZATION

An employee desiring to become a member of the Union may execute a written authorization in the form annexed hereto as Appendix A. Upon receipt of the authorization from an employee, the Town, shall pursuant to the authorization, deduct from the wages dues the employee each pay period.

The Employer following each pay period from which those deductions are made will transmit the amount so deducted to the Union within thirty (30) days. All transmittals shall be sent out by a listing of the members from whom the deductions have been made and the amount deducted from each to:

TEAMSTERS LOCAL #264 35 TYROL DRIVE CHEEKTOWAGA, NEW YORK 14227

The Union shall certify to the Employer, in writing, the current rate of membership dues and shall give the Employer thirty (30) days notice prior to the effective date of any changes.

A deduction authorized by any employee shall continue as long as so authorized unless and until such employee notifies the Employer of his desire to discontinue or to change such authorization in writing and by registered mail and the Employer shall forward a copy of the employee's notification to the Union.

Agency Shop: Agency Shop fee deductions, of an equal amount to Union membership dues, shall be continued for the term of this Agreement. Such amount shall be deducted on a monthly basis and shall be transmitted at the same time and to the same office as set forth in the Section above. The Union agrees to hold the Employer safe and harmless because of said deduction.

If, through inadvertence or error, the Employer fails or neglects to make a deduction which is properly due and owing from an employee's pay check, such deduction shall be made from the next pay check of the employee and submitted to the collective bargaining representative, employee or any party by reason of the requirements of this Section of the Agreement for the remittance or payment of any sum other than that constituting actual deductions made from employee wages earned.

On the effective date of this Agreement, the Employer shall supply to the Union at the address listed above, a list of all current employees in the bargaining unit showing the

employee's full name, home address, social security number, job title, work location, membership status, insurance deductions and first date of employment. Such information shall hereafter be provided to the above if any changes occur.

8. PLEDGE AGAINST DISCRIMINATION AND COERCION

The provisions of this Agreement shall be applied equally to all employees in the bargaining unit without discrimination as to age, sex, marital status, race, color, creed, national origin or political affiliation. The Union shall share equally with the Employer the responsibility for applying this provision of the Agreement.

In connection with the equal employment opportunity program of the United States, the Employer pledges its full support to Executive Order 11246 of September 1965 as amended by Executive Order 11375 dated October 13, 1968, in continuing its well established policy to provide equal employment opportunities for all individuals on the basis of qualifications and merit without regard to race, color, creed, age, sex, religious affiliation or national origin, which policy the Union enthusiastically endorses.

All references to employees in this Agreement designate both sexes and wherever the male gender is used it shall be construed to include male and female employees.

The Employer agrees not to interfere with the rights of employees to become members of the Union, and there shall be no discrimination, interference, restraint or coercion by the Employer or any Employer representative against any employee because of Union membership or because of any lawful employees activity in an official capacity on behalf of the Union.

The Union recognizes its responsibility as bargaining agent and agrees to represent all employees in the bargaining unit without discrimination, interference, restrain or coercion.

The Union agrees that it will not interfere with, coerce, or intimidate any of the employees into joining the Union. The Union recognizes that no employee is required to join the Union and every employee has the right to join or refrain from joining the Union.

9. ENTIRE AGREEMENT

The parties agree that this Agreement represents complete collective bargaining and full agreement by the parties with respect to rates of pay, wages, hours of employment or other conditions of employment which shall prevail during the term hereof and any matters or subjects not covered have been satisfactorily adjusted, compromised or waived by the parties for the life of this Agreement. This Agreement will replace and supersede any and all previous agreements and no amendments, modifications, changes or interpretive alterations shall be effective unless executed in writing, dated and signed by the representatives of the parties to this Agreement. The parties agree that this provision will be subject to renegotiation upon expiration of this Agreement.

10. BULLETIN BOARD

The Employer agrees to provide suitable space for the Union bulletin board in each garage, terminal or place of work. Postings by the Union on such boards are to be confined to official business of the Union.

11. ACCESS TO EMPLOYEES

Each contract year, the Employer will furnish the Union a list of new employees in the bargaining unit in addition to any change of address of current employees in the unit. Such list of new employees shall contain the name, address, position and salary. It is understood that it is the obligation of an employee to notify the Employer of any change of address, phone number, name, marital status. This information will be held in strict confidence and will not be used to harass any employee.

One (1) month after the signing of this Agreement, the Employer agrees to provide job descriptions of all positions covered by this Agreement to the Union and annually thereafter during the term of this Agreement. For any new job titles within the bargaining unit created during the term of this Agreement, the Union Business Representative shall be provided a copy of such job description within thirty (30) calendar days after an employee is appointed to such new position.

12. UNION BUSINESS

Properly designated Union Stewards shall be allowed necessary time off, without loss of pay, while directly involved in the manner provided in the grievance procedure. The Union Steward or Union Business Representative shall advise the appropriate Superintendent of the grievance and schedule the activity at a time mutually agreeable to all.

13. COMPENSATION

Compensation shall be as set forth in Appendix A to this Agreement.

A. Overtime Pay

Hourly employees will be paid overtime for all time worked in excess of eight (8) hours in an employee's work day.

Hourly employees will be paid overtime for all hours worked in excess of forty (40) hours in an employee's work week.

For the purpose of computing overtime pay for over forty (40) hours in an employee's work week, a holiday or a vacation day for which pay is received will be counted as a day worked.

B. Schedule of Hours

Normal working hours and days will be 7:00 A.M. – 3:30 P.M., Monday through Friday

Employees called in or out of their normal schedule shall be afforded two (2) hours of pay at the appropriate rate, upon the condition that they agree to stay until the job is completed.

If an employee is required to work on a holiday or a day celebrated as a holiday, the employee shall receive regular pay plus time and one half for each hour worked.

14. HOLIDAY PAY

Holiday pay is compensation paid for time during which work would normally be performed, said work having been suspended by reasons of a general holiday.

All full time employees shall be entitled to the following paid holidays at their regular pay:

New Year's Day
President's Day
Good Friday
Memorial Day
July 4th
Labor Day
Columbus Day
Veteran's Day
Thanksgiving Day
The Day after Thanksgiving
Christmas Day

Holidays falling on Saturday will be observed on the previous Friday and holidays falling on Sunday will be observed on the following Monday.

15. VACATION SCHEDULES

- 1. Full time employees shall receive ten (10) days of vacation time after one year of employment. Vacation time shall be scheduled on a calendar year basis (January 1 December 31). At the completion of one year of full-time employment, an employee will receive .83 days per month worked to the end of the calendar year. In order to gain a full month's vacation for only a partial month's work, the employee must be employed at least 15 days of the month in question.
- 2. Full time employees, upon the completion of seven (7) years of service, shall receive two (2) extra days of vacation time to be added to the ten (10) days previously earned.
- 3. Full time employees, upon the completion of ten (10) years of service, shall receive fifteen (15) days of vacation time.
- 4. Full time employees, upon the completion of fifteen (15) years of service, shall receive twenty (20) days of vacation.
- 5. An employee may, upon written request, receive pay instead of vacation days. A maximum of ½ of the number of vacation days earned may be used in this way. Five days of vacation time may be carried over to the next year.
- 6. The vacation periods of employees must be arranged so they do not unreasonably interfere with the operation of the Department to which they are assigned. Preference in scheduling of vacations will be based on length of service. Vacation requests must be submitted one month in advance.
- 7. When an established holiday observance falls on a normal weekday within the vacation period of any employee, an additional vacation day will be granted.

16. SICK LEAVE

All regular scheduled full time employees shall be credited with paid sick leave accumulated at a rate of twelve (12) days per year. These days may accumulate to a maximum of two hundred (200) days.

Sick leave shall be paid only when the employee is absent due to that employee's illness or medical appointment. At the discretion of the employee's supervisor, a sick day may be granted for a family emergency.

Employees taking sick leave are to report their absence, not later than twenty (20) minutes before their normal starting time, in order to be credited with sick leave.

All leave for sickness may be subject to proof. However, no proof of sickness is mandated by the Town until an employee has been absent for over three (3) consecutive work days,

or there is a pattern of sick leave abuse. An example of proof would be a doctor's certificate.

The employee will have the option to accept disability payments singularly or may augment the disability benefit through partial application of the employee's accrued sick leave, personal days or vacation time.

If the employee accepts disability benefits solely, there will be no deduction from sick leave.

Sick leave time may also be used at the employee's discretion to supplement disability benefits. Upon application by the employee, the difference between the weekly benefits received from disability and full pay will be paid by the Town and deducted from sick time accrued. Deductions from sick time will be made in not less than one-half (1/2) day increments.

After ten (10) years of continuous service to the Town, a employee will be awarded one day of vacation time for every four (4) days of sick time earned and not used beyond the maximum number of days permitted to be accumulated. The sick days may only be used once, and a time period of January 1 to December 31 will be used for determining earned sick days. The vacation days are in addition to the vacation days earned in Section 3 and must be used in the year following the year earned.

Incentive – Any regular working full time employee who used no sick days for the time period of January 1 to December 31 will receive a bonus of \$200.00. Any regular working full time employee who use two or less sick days during the time period of January 1 to December 31 will receive a bonus of \$100.00. The bonus will be paid on the first pay day in January following the completed time period.

17. PERSONAL LEAVE

- 1. Each January 1st, full time employees shall be credited with five (5) paid personal leave days.
- 2. Personal leave must be applied for by the employee at least two (2) days in advance. Where an emergency exists, the two-day requirement may be waived by the Employer.
- 3. Unused personal leave days shall not be cumulative and are forfeited as of December 31st of each calendar year.
- 4. New employees shall not be eligible for personal leave until the employee has been employed six months. After six months, personal leave days shall be prorated up to the following January I.

18. BEREAVEMENT LEAVE

A leave of absence with pay shall be granted to an employee who is necessarily absent from duty because of a death of an immediate member of his/her family. The immediate member of the family shall be defined as: spouse, children, brother, sister, father, mother, grandparents, father-in-law and mother-in-law, sister-in-law, brother-in-law, other person occupying the position of parent of the employee or his or her spouse, or member of the employee's household. The duration of such leave shall not exceed three (3) days. Any time in addition to these days shall be charged to either personal, vacation, or accumulated sick leave.

DISCHETINALY. In the event of a non-immediate family member, the employee may receive up to three (3) days of paid leave.

19. <u>Insurance</u>

The New York State Teamsters Health and Hospital Plan. Select Plan/Prescription, Dental Option 1, Vision, Disability Options 1, will be provided for all employees; provided however, that the employee will be responsible for payment of the amount by which the cost of coverage under this plan exceeds the cost of comparable coverage offered by the Town. Current retirees, and employees retiring during the term of this Agreement, will be offered coverage under either Independent Health Encompass Elect 355X or an alternate, substantially similar health insurance plan selected by the Town, subject to the provisions of section 22 of this Agreement.

All full time employees will be offered the opportunity to receive the hepatitis B vaccination series and tetanus vaccination as required, for protection paid for by the Town of Pendleton.

20. COVERALLS

Coveralls will be furnished to employees at the expense of the Employer.

21. LONGEVITY PAY

The Town of Pendleton shall pay each regular full time employee the following longevity increments upon completion of continuous years of service:

Upon completion of ten years \$100 Upon completion of fifteen years \$200 Upon completion of twenty years \$300

Longevity pay will be paid on the payday prior to December 25th.

22. RETIREMENT

- 1. The Employer shall continue to afford eligible employees the opportunity to participate in the New York State and Local Employee Retirement System at the rates and under the terms in effect as of the January 1, 1981.
- 2. The Health Care Plan offered by the Town of Pendleton will be paid for by the Town after retirement between the ages of 55 to 65 years with the following years of service or until eligible for Medicare or Medicaid:

10-15 years of service-

the Employer pays 50% of premium the Employer pays 75% of premium

16-20 years of service-20 + years of service-

the Employer pays 100% of premium to age 65, or until

eligible for Medicare or Medicaid.

- 3. Under ten (10) years of service an employee may continue coverage through the Town Group Plan at his or her own expense, consistent with his or her rights under COBRA.
- 4. Employees retiring with fifteen (15) years or more of employment with the Employer will be able to select one of two options upon retirement from service. In either case, the employee must notify the Town Clerk and the Highway or Water & Sewer Superintendent in writing of the intended date of retirement not less than six months prior to the date of retirement:
 - a. The Employee may be paid one day's pay for every four (4) days of unused sick leave accumulated at the time of retirement.

OR

- b. Unused unpaid sick leave at retirement may be added to credited service and used in the benefit calculation at retirement. The formula to be used is specified in Section 41-j of the N.Y. State and Local Retirement System guideline book.
- 5. The Town will not provide duplicate health insurance to an employee receiving health insurance from another employer.
- 6. When an employee retires or leaves Town service, his separation shall be governed by the Agreement that is in effect upon the date of his separation.
- 7. An employee retiring (leaving Town service) before the age of 55 will have the health benefits frozen until the employee reaches the age of 55.

23. SURVIVOR BENEFITS

Upon the death of a retired employee before age 65, whose health insurance is paid by the Employer, the Employer will provide health insurance for the spouse for one year from the date of death at the same percentage the retired employee received.

24. JOB ASSIGNMENTS AND QUALIFICATIONS

Any employee employed by the Town may be assigned, on a temporary or provisional basis or in an emergency, duties not normally performed in the employee's regular job classification.

An employee may be placed in the Class II laborer's certification if he/she possesses the necessary ability and qualifications to be able to perform the duties of a truck driver or an equipment operator. Class II laborers may be asked to drive a truck (with proper license) or operate equipment for short periods of time or in an emergency situation. A laborer working in the sewer or water department after earning a satisfactory yearly evaluation, displaying a knowledge of electricity, working independently and possessing the necessary commercial driver's license may be placed as a Class II laborer, subject to Town Board approval and applicable civil service law and regulations.

A current full time employee will have the first opportunity to fill a position if there is any job opening in the Public Works Department (highway, water, sewer, or parks) if he/she qualifies, subject to governing Civil Service Rules and Regulations, Town Board Approval, and if his or her work record and performance are deemed satisfactory by the appropriate hiring Superintendent.

The safety of the Town employees is a vital concern and a necessity. Cooperation is required from the employees and supervision to insure that all proper and appropriate safety standards and rules be followed at all times. This shall include that all appropriate and necessary safety devices, shields and clothes will be used and worn. This includes glasses, ear protection, work shoes, safety vests, hard hats, etc. It is the responsibility of each employee to have and to wear all necessary equipment to begin and to perform the work assigned in a safe manner.

25. SENIORITY

Seniority shall be defined as length of full-time continuous service from the date of hire with the Employer.

In the event of a lay off, seriiority shall determine the order in which such employees are laid off, those employees with the greater seniority being the last laid off. It is understood that seasonal employees must be laid off first then regular part-time employees before any full-time employees are laid off.

Any recall of laid off employees shall be in the inverse order of lay off.

Seniority shall terminate upon:

- A. Discharge for just cause.
- B. Voluntary quitting of job.
- C. Layoff for a period of over one (1) year.
- D. Employees on layoff will be notified of recall by certified letter, and the employee's seniority shall terminate unless he reports to work within two (2) weeks after the certified letter is signed for.

All new employees shall be probationary for a period of six (6) months during which time said employee may be suspended, dismissed, discharged or laid off at the sole discretion of the Employer.

26. JURY DUTY

Full-time employees required to be absent as a result of jury duty, as certified by the clerk of the applicable court, shall be paid by the Employer the difference between his or her rate of pay for eight (8) hours and the daily jury fee once every two calendar years. It is expected that the employee will report back to the Employer on any day that he or she is excused from jury duty before noon.

27. DURATION AND TERMINATION

This Agreement shall be effective as of the first day of January 2007 and shall continue in full force and effect until the 31st day of December 2010.

If either party desires to terminate or modify this Agreement it shall, one-hundred and eighty (180) days prior to the termination date, give written notice of such desire by certified mail to the other party.

This Agreement shall be binding upon the Employer and its successors, assignees, or transferees of the Employer.

IN WITNESS WHEREOF, the parties have cauday of, 2008.	used this Agreement to be executed on the
FOR THE EMPLOYER	FOR THE UNION

GRIEVANCE PROCEDURE

Defined: A grievance is any controversy between the Company and the Union with respect to interpretation or application of any of the terms of this Agreement or compliance with any of the terms of this Agreement.

Procedure: All grievances shall be settled in the following manner:

Step 1:

The aggrieved party and steward shall first discuss the grievance with his/her immediate supervisor with the objective of resolving the matter informally.

Step 2:

If the matter is not resolved at the above Step, it may be submitted as a grievance in writing on the executed form to be provided by the Union and presented to the supervisor within fourteen (14) calendar days after the reason for the grievance has occurred. The grievance shall include the name(s) and position(s) of the aggrieved party; the current date; and the details of the grievance and relief requested, including the specific clauses or provisions of the Agreement alleged to be violated.

A meeting between the designated Employer representative and a Union Business Representative will be held within seven (7) calendar days after receipt of the written grievance. Within seven (7) calendar days after such meeting, the Employer will provide the Union with a written response to its grievance.

Step 3:

If, at this point, the grievance has not been satisfactorily settled, either party hereto shall have the right to submit such grievance to arbitration, providing such written submission is made within ten (10) calendar days after receipt of the Step 2 written response. The Employer and the Union agree that the arbitrator shall be selected by mutual agreement or from the panel list submitted by the New York Public Employment Relations Board. The arbitrator shall have no power or authority to add to, detract from or modify, explicitly or impliedly, any express term of this Agreement, and his authority shall be limited to deciding only whether a specific provision of this Agreement has been violated and the appropriate remedy. Only one (1) grievance shall be submitted to or be heard by an individual arbitrator except by mutual written agreement of the parties. The decision of the arbitrator shall be final and binding upon the parties hereto. In any event, should either party fail to comply with the arbitrator's award, the parties agree that either party may petition a court of competent jurisdiction to confirm and enforce said award and that judgment may be entered thereon unless the award is vacated by court order. The expense and fees of the arbitrator shall be shared equally by the Employer and the Union.

Employer Grievance: Any grievance submitted by the Employer shall begin directly at Step 2 of the procedure.

Discharge or Discipline: A grievance contesting discharge or disciplinary suspension must be filed directly at Step 2 within five (5) calendar days after discharge or disciplinary

suspension; otherwise, the grievance shall be deemed waived. On all other grievances, the time limits in the Steps above must be met by the grievant; otherwise, the grievance shall be deemed waived.

Time Limits:

- A. The time within which an appeal may be filed at a higher Step of this procedure shall be measured from the date of receipt of the grievance answer.
- B. The time limits set forth above may be extended by mutual agreement in writing to the Employer and the Union.

APPENDIX A - WAGES

2007 - (As provided for in Town Budget, Jan, 2007)

2008 – 3%, with \$500 stipend payable in September, 2008.

2009 – 3%, with \$500 stipend payable January 1, 2009.

2010 - 3%

PENDLETON Covered Employees Hired Before January 1, 2008

1	DEPUTY HIGHWAY SUPT./ DEPUTY WATER/SEWER SUPT.			SEWER/V	NTENANCE	7	
	2008	2009	2010	2008	2009	2010	Γ
	21.58	22.23	22.89	20.60	21.22	21.85	

-	EQUIPME	NT OPERAT	OR)	GENERAL MAINTENANCE			
	2008	2009	2010	2008	2009	2010	
	20.91	21.54	22.18	19.52	20.10	20.71	

TRUCK DRIVER			LABORER	ABORER CLASS I			
2008	2009	2010	2008	2009	2010		
20.70	21.32	21.96	17.87	20.00	20.60		

	AUTO ME	CHANIC)	LABORER	CLASS II	
,	2008	2009	2010	2008	2009	2010
	21.01	21.64	22.29	19.42	20.00	20.60

PENDLETON Covered Employees Hired After January 1, 2008

DEPUTY HIGHWAY SUPT./ DEPUTY WATER/SEWER SUPT.			SEWER/W	SEWER/WATER MAINTENANCE		
2008	2009	2010	2008	2009	2010	
16.83	17.42	18.03	15.85	16.41	17.00	

TRUCK DRIVER			LABORER				
2008	2009	2010	2008	2009	2010	Γ	
15.95	16.52	17.11	13.38	13.87	14.37	1	