

**UNION AGREEMENT**

**Local 855, The International Union  
American Federation of State, County and Municipal  
Employees  
AFL-CIO District Council 66**

**And**

**THE CITY OF LOCKPORT, NEW YORK**

**January 1, 2008 - December 31, 2012**

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## **AGREEMENT**

The City of Lockport, State of New York, and Local 855 of the International Union, American Federation of State, County and Municipal Employees, AFL-CIO, District Council 66, representing employees covered by terms of this Agreement, referred to hereinafter as the Union, do hereby reach Agreement for the purpose of enhancing the material conditions of the employees, to promote the general efficiency of the City of Lockport, hereinafter known as the Common Council, to eliminate as far as possible political considerations from hiring policy and to promote the morale, well-being and security of employees.

### **ARTICLE I LEGISLATIVE APPROVAL**

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

### **ARTICLE II RECOGNITION**

The Common Council recognizes the Union as the exclusive representative of the permanent full time employees of the Department of Public Works excluding those employee positions as set forth in Appendix "A", attached herewith and incorporated herein, for the purpose of collective negotiations with respect to wages, hours and working conditions of employment. The term employee refers to those employees whose titles are specified within the negotiation unit. Part time, temporary, and seasonal employees are excluded from the coverage of this Agreement.

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### **ARTICLE III UNION- MANAGEMENT RELATIONS**

#### **SECTION 1. COLLECTIVE BARGAINING**

All collective negotiations with respect to wages, hours, and working conditions, on behalf of such employees, and other conditions of employment shall be conducted by authorized representatives of the Common Council and authorized representatives of the Union.

#### **SECTION 2. PLEDGE AGAINST COERCION**

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

### SECTION 3. UNION RELEASE TIME

(a) The Union President, or his designee, may be permitted time during regular work hours to handle grievances or other Union business, providing arrangements satisfactory to the Department Heads are made in advance and providing that no more than two (2) persons, including the grievant, are involved at any one time.

(b) In addition, the City agrees to grant time off without charge to accumulated time credits, with pay for the Union President or his designee for the following purposes:

1. To attend functions of the International Union, Council or other bodies with which the Union is affiliated.
- 2 . To attend educational programs reasonably related to the employee's position as a Union representative or municipal workers in the City of Lockport.
3. To attend other functions specifically related to the employee's position as a Union representative for municipal workers in the City of Lockport.

Such leave shall not be granted to more than two (2) employees at any one time, and shall not exceed an aggregate of 26 working days per calendar year. The Union agrees to a maximum of three (3) such days in any calendar month. Notice will be given to affected department heads two (2) weeks in advance, except where not practicable, then as soon as possible.

**ARTICLE IV  
CHECK-OFF OF  
DUES**

**SECTION 1. UNION DUES DEDUCTION**

The Common Council agrees to deduct from the paycheck of each employee who has signed an authorized payroll deduction card a sum certified by the Secretary of Local 855 which are the Union dues. Deductions will be made from the first paycheck received by an employee each month. When no dues are received from an employee in a given month, dues will be deducted from the first paycheck received by that employee; the amount due shall be certified by the Union Treasurer, and the total dues will be delivered to the Treasurer of Local 855. Any present or future employee who is not a Union member and does not make application for membership shall pay to the Union each month a service charge in an amount equal to regular monthly dues of this Union for the duration of the Agreement. The Union agrees to establish a provision for refunding a pro rata share of such agency shop fee deduction to any employee requesting it pursuant to Appendix "B" attached herewith and incorporated herein.

**SECTION 2. INDEMNIFICATION**

The Union shall indemnify and save the City harmless against any and all claims, demands, suits or other forms of liability that may arise by reason of action taken or not taken by the City for the purpose of complying with any of the provisions of this Article

**SECTION 3. CREDIT UNION**

The City shall cooperate with Union and its affiliate AFL-CIO in the establishment of a Credit Union. The City shall deduct authorized amounts from employees' paychecks and forward to the Union or other authorized authority. However, a person signing up for this Credit Union would need to enroll for at least one year period without change in the amount of deduction.

**SECTION 4. C.O.P.E. COMMITTEE FUND**

If any unit employee so requests, the City shall deduct authorized amounts from the employee's pay for the Union C.O.P.E. Committee Fund. The City shall forward the monies deducted to the Union Treasurer separate from the regular check-off.

**ARTICLE**  
**V**  
**SENIORITY**

**SECTION 1. DEFINITION**

Seniority means an employee's length of continuous service with the employer since his last date of hire.

**SECTION 2. BREAK IN CONTINUOUS SERVICE**

The employee's earned seniority shall not be lost because of absence due to legitimate illness, authorized leave-of-absence, or temporary layoff.

**SECTION 3. PROBATIONARY PERIOD**

New employees shall remain probationary and shall not be considered permanent employees until after completion of ninety (90) days of service from the date of last hiring. Probationary employees are subject to the relevant guidelines set forth according to Civil Service law, rules and regulations. Upon satisfactory completion of the probationary period, the employee shall acquire seniority status from the first day of the most recent probationary period.

**SECTION 4. ENTITLEMENT**

Probationary employees shall enjoy the bereavement, jury duty, and holiday benefits and shall be represented by the Union regarding these rights.

**SECTION 5. SENIORITY LIST**

The employer shall furnish the Union President with copies of the Civil Service form which shows change in seniority status of employees covered by this Agreement.

In addition, once per year, the employer will furnish the Union President with a seniority list showing the continuous service of each employee covered by this Agreement.



**ARTICLE VI**  
**LAYOFF**

**SECTION 1. LAYOFF PROCEDURE**

When it becomes necessary to reduce the force in any City department, layoff of noncompetitive employees shall be according to City-wide unit seniority. Strict application of seniority shall prevail, however, unless exceptional circumstances occur of which the Union Committee shall be fully apprised in advance. The local officers, members of the Union Committee, and the elected departmental stewards of the Union shall not be laid off as long as work is to be performed within their departments. The Union shall keep a current list of those entitled to super-seniority on file with the City. The current list shall apply as of the date of formal written notification of layoffs.

**SECTION 2. COMPETITIVE AND NON-COMPETITIVE EMPLOYEES**

A. When a noncompetitive employee is laid off, he shall be permitted to bump citywide within the unit a noncompetitive employee with less seniority in a superior, equal or lower job title provided the displacing employee is qualified for the position into which he moves.

B. Layoff of employees in competitive positions shall be in accordance with current Civil Service Laws and Regulations. Laid off employees in competitive positions shall have the right to bump into noncompetitive positions as per Paragraph A. of this Section, as long as such employee is qualified for the position.

**SECTION 3. RECALL PROCEDURE**

Recall of laid off employees shall be by City-wide unit seniority as long as the employee with the highest seniority is qualified for that position. Recall shall be for a maximum period of four (4) years from layoff. During layoff the City shall maintain his medical benefits for the first two (2) years maximum of the aforementioned recall period (four years) . Each employee, upon layoff, shall furnish to the City Clerk a current address and any subsequent changes. Notification of recall shall be by registered or certified mail to the address last given to the City Clerk. The employee shall have two (2) weeks from date of mailing of the recall letter in which to contact the City Clerk to confirm his availability to return to work.

SECTION 4. NON-FULL-TIME EMPLOYEES

It is understood by the parties that all temporary, seasonal, and part-time employees be laid-off before any full-time unit members.

**ARTICLE VII DISCIPLINE  
AND DISCHARGE**

SECTION 1. RIGHTS

It is agreed that nothing herein shall in any way prohibit the City from discharging or otherwise disciplining any employee regardless of his seniority for just cause.

SECTION 2. PROCEDURE

A. Disciplinary action or measure shall be limited to the following actions, and shall follow the order listed, unless circumstances warrant a departure from the order listed:

1. Oral reprimand (with written confirmation);
2. Written reprimand;
3. Suspension;
4. Discharge

Discipline or notification of a pending discipline shall be imposed within five (5) working days of the alleged violation or within five (5) working days of the City first becoming aware of the alleged violation. The procedure set forth in Paragraph E below, shall be followed, otherwise any discipline shall be deemed invalid.

B. Except in a dangerous situation, each disciplined employee shall, upon request, be allowed to discuss privately his discharge or discipline with his Union steward for a maximum of fifteen (15) minutes. The employer shall make available an area where the employee may do so before said employee is requested to leave the premises.

C. If the employer has reason to reprimand an employee, it shall be done in a professional manner.

D. Any reprimand that is one year old will not be used against an employee except in discipline concerning excessive absences, tardiness, or repetitious actions.

E. When any action or measure is imposed upon or is pending



against an employee, then the employer shall notify the employee and the Union President in writing of the specific reasons for such disciplinary action being imposed and the proposed penalty. The written notification shall contain a detailed description of the charges which shall include dates, times, and places. Notification to the Union President shall be mailed to his home address, by registered mail return receipt requested, within twenty-four (24) hours of notice given to the employee.

F. Any employee shall acknowledge in writing a notice of pending or actual discipline at the time it is presented. Said acknowledgment shall in no way be construed to be an admission or acknowledgment of wrongdoing.

### SECTION 3. IMMEDIATE HEARING

In the event that an employee is discharged or suspended in excess of one (1) day he may grieve such discipline at Step 2 of the Grievance Procedure.

### SECTION 4. ESTABLISHMENT OF WORK RULES

The City may establish and enforce binding rules and regulations in connection with its operation of the department and maintenance of discipline, provided such rules and regulations are not in conflict with the provisions of this Agreement. All work rules shall be fair and uniformly enforced. Copies shall be furnished to the Union. At least ten (10) working days, prior to implementation of amendments or additions to those Work Rules presently in place, the City shall forward a copy of such amendments or additions to the Union President and post in each department affected, a copy of said amendments or additions. It is understood that these are City-wide work rules and not departmental standards.

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## ARTICLE VIII

### GRIEVANCE PROCEDURE

#### SECTION 1. GRIEVANCE PROCEDURE

STEP 1. Should any employee feel that his rights and privileges have been violated, he shall consult with his steward. The Union Grievance Committee shall within seven (7) working days of the alleged violation or within seven (7) working days of becoming aware of an alleged violation submit the facts of the grievance in writing to their respective department heads. The respective department heads shall within seven (7) working days of receipt of the grievance, reply in writing giving their decision.

STEP 2. Should the Union decide that the reply of the department head is unsatisfactory; the Union shall within five (5) working days of receipt of the department head's answer submit the facts of the grievance in writing to the Mayor or the Mayor's designee. The Personnel Committee shall schedule a hearing to be held within ten (10) working days of receipt of the grievance and shall within five (5) working days thereafter submit its written recommendation to the Mayor, a copy of which shall be provided to the Union. The Mayor or his designee shall thereafter issue a written finding within ten (10) working days of the receipt of the Personnel Committee recommendation or in the alternative, may schedule a meeting within five (5) working days and thereafter respond in writing within ten (10) working days of the meeting. Should the City fail to respond at either Step 1 or Step 2 within the defined time period, said grievance shall be deemed sustained. All answers to grievances Step 1 and Step 2 shall contain reasons for denial.

If the Union should fail to respond at either Step 1 or Step 2 of this procedure within the defined time limits, said grievance will be deemed to be withdrawn by the Union.

STEP 3. If the grievance is still unsettled, either party may within ten (10) working days after the reply of the Mayor or his designee by written notice to the other request arbitration.

## SECTION 2. ARBITRATION PROCEDURE

The arbitration proceedings shall be conducted by an arbitrator subject to and in accordance with the procedures established by the Public Employees Relations Board.

The decision of the arbitrator shall be final and binding on the parties, and the arbitrator shall be requested to issue his decision within thirty (30) days after the conclusion of testimony and argument. ~~A Copy is to be sent to the Union, the department head involved and to the Mayor or his designee.~~

No arbitrator functioning under this step of the grievance procedure shall have any power to amend, modify, or delete any provisions of this Agreement.

## SECTION 3. MATTERS RELEVANT TO GRIEVANCE PROCEDURE

The time limit in the grievance procedure may be extended by mutual agreement, in writing. Any step in the grievance procedure may be extended by mutual agreement, in writing. The Union may withdraw grievance at any step of the grievance procedure. Such

withdrawal shall be binding on all employees of the bargaining unit. The costs of the arbitration proceeding shall be paid by the losing party, with the apportionment of costs in a "split" decision to be made by the arbitrator.

#### Section 4. SETTLEMENT

In the event that a settlement is reached or an award sustaining a grievance, either in whole or in part requiring monetary payment by the employer, such payment shall be made within thirty (30) days of the agreement or the award.

### **ARTICLE IX PROMOTIONS AND TRANSFERS**

It shall be the policy of the City to promote when possible to higher job classifications from the ranks of employees.

#### SECTION 1. POSTING OF OPENINGS

The City shall post in a timely manner announcement of all City of Lockport competitive Civil Service examinations in each department that has AFSCME represented employees.

When any unit opening occurs, a notice of such opening shall be posted on all bulletin boards, stating the job classification, range of pay, department, and nature of the job requirements in order to qualify. This posting shall be for a period of ten (10) work days. However, if the vacancy is temporary, that is, for a period of less than sixty (60) days, the posting on all bulletin boards will not be required. For a temporary vacancy (greater than sixty (60) days) in a competitive Civil Service position where no established Civil Service list is available, the City shall fill that vacancy with the senior ~~employee in the next lower job group in the department who meets the~~ qualifications of the job pursuant to Section 3 of this Article and who has bid on it.

#### SECTION 2. APPLICATIONS

During this period, employees who wish to apply for the open position may do so. The application shall be in writing, and it shall be submitted to the employee's department head with a copy being signed and returned to the employee.

#### SECTION 3. QUALIFICATIONS

When making promotions under this section, the following shall be governing factors:

1. Skill and efficiency;
2. Physical ability to perform the job, and
3. Length of continuous service.

In the event the applicants under consideration are judged to possess relatively equal skill, efficiency and physical ability to perform the job, the one with the greater length of continuous service (with the City) shall be promoted.

#### SECTION 4. POSTING OF APPLICANTS

A notice listing those employees who have applied for the position and the employee or employees selected for the position shall be posted by the employer on all bulletin boards within two (2) work days of the selection by the employer and be posted for a period of at least two (2) work weeks.

#### SECTION 5. TRIAL PERIOD

Any employee selected in accordance with the procedure set forth above shall undergo a trial period of a minimum of ten (10) days but not to exceed ninety (90) days; providing, however, that the trial period may be extended an additional ninety (90) days upon written notice from the Department Head to the employee. If it is found that such employee does not meet the requirements and responsibilities of the position to which he has been selected during the trial period or he voluntarily relinquishes such position, then such employee shall be restored to his former position.

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#### SECTION 6. RETENTION OF SENIORITY

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Employees transferring or promoted to a new department shall be credited with continuous bargaining unit seniority. If for any reason the transferred or promoted employee's position is eliminated during the first six (6) months, he shall return to his previous position with full bargaining unit seniority.

**ARTICLE X  
VACATIONS**

The City agrees that full-time employees shall be eligible for vacation as follows:

Subject to the approval of the department head, vacation shall be granted at the time requested by the employee. If the nature of the work makes it necessary to limit the number of employees on vacation at the same time, the employee with the greater seniority shall be given his choice of vacation period in the event of any conflict over vacation period. Vacation time for non-continuous operation employees which has not been scheduled by September 1st of each year may be assigned by the department heads. Vacation time for continuous operation employees shall be chosen by the employees by March 31st of each year, or may then be assigned by the department head. Vacation periods shall be earned as follows:

1. Two (2) regular work weeks after completing one (1) year continuous employment.
2. Three (3) regular work weeks after completing five (5) years of continuous employment.
3. Seventeen (17) work days after completing ten (10) years of continuous employment.
4. Four (4) regular work weeks after completing fifteen (15) years of continuous employment.
5. Twenty-two (22) regular work days after completing twenty (20) years of continuous employment.
6. Five (5) regular work weeks after completing twenty-five (25) years of continuous employment.

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7. Six (6) work weeks of vacation per year to an employee after that employee has completed thirty (30) years of continuous service.
8. Vacation shall not be accumulated from one (1) calendar year to the next. Holidays occurring during an employee's scheduled vacation period shall not be charged against vacation time.
9. The year shall be computed from date of employment.
10. (a) The department head shall schedule vacation in



units of not less than five (5) work days.

(b) Upon the request of an employee, the department head, in his sole and absolute discretion, may, when circumstances permit, allow an employee to use vacation time in units of less than five (5) working days. The department head's determination shall not be subject to the grievance procedure.

11. Upon the death of an employee or his retirement from service, all of the employee's earned vacation time shall be computed on a pro rata basis and paid to him in the case of retirement from service or to his estate in the event of death, in accordance with the normal regular rate of pay the employee was receiving at the time of his death or retirement from service.

12. Effective January 1, 1997: When an employee earns a minimum of fifteen (15) vacation days in a year, the employee shall have the option of electing to receive the cash equivalent for a maximum of ten (10) vacation days in lieu of taking off such earned vacation time, provided the employee gives notice of his election, in writing no later than September 1st of the preceding year. Such notice is necessary for the City to budget the allocation. The City will waive the September 1<sup>st</sup> notification date for any days to be sold back in excess of five (5) days in 1997.

13. Employees hired in the months of October, November or December have until April 30<sup>th</sup> of the following year to use their vacation time upon completing 1 year, 5 years, 10 years, 15 years, 20 years, 25 years, 30 years of continuous employment.

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~~ARTICLE XI SICK LEAVE - ABSENCE~~  
FROM WORK

SECTION 1. DEFINITION

Sick Leave is hereby defined as leave of absence from duty, with pay, granted to an employee by reason of such employee's own sickness or disability. Under no circumstances is sick leave to be construed as additional vacation due an employee; or an excuse for leave of absence with pay, for any other purpose. However, at the discretion of the department head, sick days may be used for serious illness of spouse, child, parents, grandchildren, and spouse's parents provided the employee submits the appropriate documentation which verifies) the serious illness of said family members .



Sick leave shall be construed only as an insurance or a protection to the employee provided by the Municipality against the employee's loss of income due to legitimate sickness or disability, provided that such employee has met certain conditions and has accumulated sufficient sick leave credits to cover the period of sickness or disability allowed or allowable for the calendar year.

## SECTION 2. ACCUMULATION

Each employee shall be allowed to accumulate sick leave credits at the rate of one and one-quarter (1-1/4) working days for each month completed in service, provided, however, that such employee has worked a minimum of twenty days (20) or 160 hours within that month, and further provided, however, that no sick leave credits shall be authorized until the employee has completed six (6) months continuous employment. These credits, together with any previous sick leave credits which would have been usable on that date, shall become cumulative without limit. "Cumulative" is hereby construed to mean the accumulation of all unused sick leave credits for any number of years in which such credits were properly allowed.

The unit of computation of sick leave shall not be less than one half day. Credits cannot be earned for the period an employee is on leave of absence without pay. If an employee is out of work and on Workman's Compensation, the time spent on Workman's Compensation shall be included in computing entitlement to sick leave under Section 2 of this Article. For the calculation of sick leave credits, the time recorded on the payroll with the full rate of pay shall be considered as time "served" by the employee. Every sick leave is granted under the following terms and conditions:

- a. The employee must have sufficient accumulated and unused sick leave credits to cover the period in question.
- b. In order to qualify for sick leave, proof of disability must be provided by the employee, satisfactory to the department head, the employee or his agent must report such sickness or disability the first working day of such absence no later than thirty (30) minutes after the beginning of his scheduled tour of duty to his immediate supervisor or foreman.
- c. The department head may require a physician's certificate for any absence under the following circumstances:
  1. Where the employee has been previously warned of sick leave abuse within the last six months, or
  2. Where the department head has reason to believe that the employee's absence did not meet the requirements of Section 1 of this Article.

Where the illness or disability is of long duration, a physician's certificate shall be required for each seven (7) days of continuous absence. In any case, the department head may require an examination by the City physician or other acceptable evidence that the illness is bona fide.

The department head, in addition to the above, may require the employee to submit to an examination by the City physician, and the department head shall arrange such appointment. Whenever an employee has been on sick leave for thirty (30) successive days, the head of the department must require that the employee be examined by the City physician before he returns to duty, and in the event such employee shall fail to submit or refuse consent to such medical examination, he shall be deemed to have waived his rights under this Article.

In the event that the City physician should find that the employee is able to perform his regular duties, or to perform light duties, and the employee shall refuse to return to performance of his regular duties, or to perform such light duty if the same is available and offered to him, he shall be deemed to have waived his rights under this Article.

- d. Upon proper evidence of a bona fide illness, any employee shall be entitled to draw on his accumulated and unused sick leave credits.
- e. Where an employee received compensation under the WORKMAN'S COMPENSATION LAW on account of disability, he shall elect in writing whether he elects to have sick leave with pay during the period of disability for which he received compensation. Such writing shall be filed with the department head. In the event that he elects to take sick leave with pay during such disability, he shall, for the period of his disability, be paid the difference between what he received as compensation and his regular rate of pay. The time during which he is so paid shall be deducted from his accumulated sick leave time. All Floating Holidays, Personal Days, Vacation Days and Sick Leave Days reimbursed to an employee while off on Workers' s Compensation shall be returned to the employee as sick leave days.
- f. An employee isolated or quarantined because of exposure to communicable disease, may, for the purpose of this regulation be considered absent because of sickness and may be granted sick leave with pay, during such isolation or quarantine, to the extent of his accumulated and unused sick leave time.
- g. Whenever an employee shall be absent on sick leave and