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AGREEMENT BETWEEN

**THE CITY OF HORNELL, NEW YORK**

AND

**THE CITY BUILDING EMPLOYEES ASSOCIATION**

CITY OF HORNELL, NEW YORK

SHAWN D. HOGAN, MAYOR

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

RECEIVED 3/16/10

ASSOCIATION NEGOTIATION COMMITTEE

MARGARET LYNCH, PRESIDENT

ALEXANDER KOWTUN

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**AGREEMENT BETWEEN**  
**THE CITY OF HORNELL, NEW YORK**  
**AND**  
**THE CITY BUILDING EMPLOYEE'S ASSOCIATION**  
**EFFECTIVE DATE APRIL 1<sup>ST</sup>, 2009**

AGREEMENT, made this 1<sup>st</sup> day of April 2009 by and between the City of Hornell, New York, hereinafter designated as the "Employer", and the City Building Employee's Association, hereinafter designated as the "Association".

## **AGREEMENT**

### **PREAMBLE:**

**THE CITY OF HORNELL, NEW YORK**

**AND**

**THE CITY BUILDING EMPLOYEE'S ASSOCIATION**

Made this First day of April, 2009, between the City of Hornell, a Municipal Corporation in the County of Steuben, State of New York, a political subdivision of the State of New York, hereafter designated as the "Employer or Governing Body", and the City Building Employee's Association hereafter designated as the "Association".

It is mutually agreed as follows:

WHEREAS, the individual members of the Association are to regard themselves as public Employees and are to be governed by the highest ideals of honor and integrity.

NOW, THEREFORE, in consideration of the mutual agreement, 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

For the purpose of this Agreement, the following definitions shall apply:

1. **ASSOCIATION** shall mean the recognized Employee organization known as the City Building Employees' Association.
  
2. **EMPLOYEES** shall mean technical and clerical Employees of the City of Hornell who regularly work a minimum of thirty (30) hours per week. (Excluding work-study students and other individuals employed under special programs.)
  
3. **CITY** shall mean the City of Hornell, New York.
  
4. **EMPLOYER** shall mean the City of Hornell, New York and/or any part of the management thereof.
  
5. **GRIEVANCE** shall mean any dispute between the Association and/or individual Employee and the City with respect only to the meaning or interpretation or provision of this Agreement.

## **ARTICLE I**

### **Section 101. RECOGNITION**

The City, by resolution dated September 26, 1977, recognizes the City Building Employee's Association as the sole and exclusive bargaining agent for all members of that unit in collectively negotiating the terms and conditions of their employment and for the settling of grievances and disputes arising concerning the interpretation of application of this contract.

### **Section 102.**

Individuals holding City positions by Appointment of the Common Council shall be covered by the terms and conditions of this agreement except where the terms and conditions of this agreement are inconsistent with the power and authority of the appointing body. In the event of inconsistencies, the power and authority of the appointment body shall prevail.

### **Section 103.**

Any individual hired for a full time permanent position after April 1, 1993 must be a resident of the City of Hornell, or is so within six (6) months of permanent appointment.

## **ARTICLE II**

### **Section 201. DURATION**

It is mutually agreed that the provisions of this agreement shall remain in effect from April 1, 2009 until March 31, 2012.

## **ARTICLE III**

### **Section 301. NO STRIKE AFFIRMATION**

The Association affirms, pursuant to Section 207, paragraph 3, of the Taylor Law, that it does not assert the right to strike against any government, to assist or participate in any such strike or to impose an obligation to conduct, assist or participate in such strike.

### **Section 302. AGREEMENTS BETWEEN PUBLIC EMPLOYEES AND EMPLOYER ORGANIZATIONS**

It is agreed by and between the parties that any provision of this agreement requiring legislative action to permit its implementation by amendment of 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.
- (F) In accordance with Chapter 677 of the 1977 Laws of the State of New York, Employees who are on the payroll and who are not members of the Association shall have deducted from their salary an agency shop fee which shall be an amount equivalent to the amount of dues payable by a member.
- (G) The Association agrees to indemnify and hold harmless the City from any causes of action, claims, and loss or damages incurred as a result of this Article.

### Section 402. CITY RIGHTS

The provisions of this agreement shall be expressly limited to the salaries, benefits and other conditions of employment of the City Building Employees Association of the City and shall not be construed to restrain or limit the City in the full and absolute management of its affairs, except as modified by the provisions of this agreement or any subsequent agreement or working conditions agreed to by both parties.

## ARTICLE V

### Section 501. RULES AND REGULATIONS

It is specifically understood and agreed that all Employees shall abide by the Rules and Regulations of the Employer and Civil Service Board. It is further understood and agreed that the Employer may adopt such other rules as necessary when not in conflict with this agreement. Both parties shall mutually discuss any changes in the rules and regulations. Major rules shall become effective fifteen (15) days after posting by the Employer.

## ARTICLE VI

### Section 601. GRIEVANCE PROCEDURE

For the purpose of this agreement, disputes shall be subject to the grievance procedure as outlined below: A dispute concerning the application and/or interpretation of this agreement is subject to all steps of the grievance procedure including arbitration.



## **Section 601A.**

Prior to Step I of the grievance procedure, the Employee shall have the option of solving the problem through the existing City Labor Management Committee within ten (10) days.

## **Section 602.**

**Step 1.** The Employee or the Employee and the Association's grievance representative shall present the grievance orally to the Employee's immediate supervisor within twenty (20) working days after the Employee knows should have known 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 may appeal in writing to the Mayor 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 the receipt of the written appeal. The written grievance shall contain specific reference(s) to the section of the agreement, which the Employee and/or his Associations representative feels have 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, the Association in writing may make an appeal to the Common Council within ten (10) workdays of the receipt of the Step 2 decision. The Common Council 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.** The Association President or his designee may bring an appeal from an unsatisfactory decision at Step 3 and a request for arbitration. 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 the Association shall initiate arbitration's serving upon the Employer a notice in writing of its 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 by 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) calendar days 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.**

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

**ARTICLE VII**

**Section 701. HOURS OF WORK**

Employees in this unit shall work the following hours Monday through Friday of each week except on designated holidays, with one hour off for lunch, the time of which is left to the discretion of the department head, unless otherwise defined and with the mutual agreement of the Employer.

HOURS: 8:30 A.M. - 4:30 P.M. Labor Day to Memorial Day  
8:30 A.M. - 4:00 P.M. Memorial Day to Labor Day

**Section 702A. OVERTIME**

Employees required to work in excess of forty (40) hours per week shall receive compensation at the rate of time and one-half (1 1/2). Any overtime worked beyond the regular workweek and up to forty hours, the Employee shall receive compensation at the rate of the regular hourly rate. The hourly rate is to be computed by dividing the bi-weekly salary for the period in which the hours are worked, by the hours scheduled for the period. Except in an emergency, the department head that is not a member of the unit, or the Mayor must approve all overtime.

**Section 702B. COMPENSATORY TIME OFF**

In lieu of monetary compensation for time worked beyond the scheduled hours of work, an Employee may choose to be credited with "Comp time". The Employee shall receive compensatory time off at 1-hour "comp time" for every extra hour worked up to 40 hours, and 1 ½ hours "comp time" for any hours worked beyond 40 hours.

**Section 702C. COMPENSATORY TIME ACCUMULATION**

Employees, if they so choose, may carry over a maximum of forty hours compensatory time from one year to the next. However, "comp time" accumulation cannot exceed 40 hours at any given time.

**Section 703. BUSINESS HOURS**

City Hall will be opened for business from 9:00 A.M. until 4:30 P.M. Labor Day to Memorial Day, and 9:00 A.M. until 4:00 P. M. Memorial Day to Labor Day.

**ARTICLE VIII**

**Section 801. CLASSIFICATION & SALARY**

Appendix "A" indicates Employee's classification, labor grade and salary schedule.

**Section 802. RATES OF PAY**

The rate of pay to an Employee for each day shall be one-tenth (1/10<sup>th</sup>) of his bi-weekly pay.

**Section 803. PAY PERIOD**

It is understood and agreed that the City Building Employees elect to remain on the bi-weekly pay schedule for the length of this Agreement.

**Section 804. LONGEVITY**

The Employer shall grant longevity to the Employees:

- After five (5) years of service - \$350.00
- After ten (10) years of service - \$475.00
- After fifteen (15) years of service - \$500.00
- After twenty (20) years of service - \$600.00
- After twenty-five (25) years of service - \$750.00
- After thirty (30) years of service - \$1,000.00

**Section 805. SALARIES**

It is understood and agreed that the salaries of the Employees covered by this Agreement shall be in accordance with Appendix "A."

**Section 805A. INCREMENTS**

In the event an Employee moves from one step to another, he/she shall receive the minimum salary of the new position, start with new increments, and keep any longevity previously earned.

**Section 805B.**

The following titles requiring additional work and time over and above his/her regular job duties and responsibilities shall receive compensation as follows:

Fair Housing Officer	\$400.00/year
Deputy Chamberlain	\$650.00/year
Deputy City Clerk	\$650.00/year
Registrar of Vital Statistics	\$300.00/year
Deputy Registrar of Vital Statistics	\$250.00/year
Sub Registrar	\$200.00/year

This amount does not become a part of the Employee's base pay.

**Section 806. MILEAGE REIMBURSEMENT**

Any Employee having to use his/her personal vehicle for any City business shall be reimbursed for mileage. This mileage reimbursement will be paid in accordance with the current IRS rate.

## **Section 901. HOLIDAYS**

The City Building Employees shall be entitled to twelve (12) holidays each year. The designated holidays shall be:

New Year's Day	Labor Day
Martin Luther King Day	Columbus Day
President's Day	Veteran's Day
Good Friday	Thanksgiving Day
Memorial Day	Thanksgiving Friday
Independence Day	Christmas Day

- A. It is further understood and agreed that the Employee must work the scheduled work day before or after each holiday, even though in different work weeks to qualify for holiday pay.
- B. It is further understood and agreed that authorized sick, personal and vacation leave shall count as a scheduled workday under this provision.
- C. In the event that one of the aforementioned holidays falls on a Saturday, the holiday will be celebrated on the proceeding Friday. In the event that one of the holidays falls on a Sunday, the holiday will be celebrated on the following Monday. In any case, the City Building will be closed in celebration of any of the aforementioned holidays.
- D. If Christmas falls on a Thursday the City Building will be closed Friday (ie. 2014). If Christmas falls on a Tuesday the City Building will be closed on Monday (ie.2012)

## **Section 902. VACATION**

A. Vacation for each Employee shall be as follows:

- (1) Upon completion of one (1) year of service - two (2) weeks
- (2) Upon completion of five (5) years of service - three (3) weeks
- (3) Upon completion of twelve (10) years of service - four (4) weeks
- (4) Upon completion of twenty (20) years of service - five (5) weeks

### **B. Preference**

The length of service shall determine preference. Employer shall reserve to the department head the right to assign vacation based on operational need, giving consideration where practical to Employee's choice according to length of service. Employees shall be encouraged to take full vacation allotment in the year earned. An Employee may carry over not more than ten (10) days, which must be taken in the next calendar year.

### **C. Vacation Buy Back**

Each Employee can elect to sell two weeks of his/her vacation back to the City. Employee must notify City by July 1st of same year. Payment of same is to be made in December.

- A. An Employee who retires shall be paid for any unused vacation, not to exceed five (5) weeks. It is understood and agreed that the two (2) weeks carry over is not included in, or is part of the five (5) weeks.

## **Section 903. PERSONAL LEAVE TIME AND NOTIFICATION**

Employees shall be entitled to four (4) personal leave days with full pay each year. These days may be taken in fractions if necessary. Arrangements for taking such days, when possible, should be made with the department head or Mayor. No personal leave time shall be carried over from one calendar year to the next.

#### A. Personal Leave Time Buy Back

Each employee can elect to sell back any unused personal leave time at a rate of 80% of cash value.

#### **Section 904A. EMERGENCY LEAVE**

In the event personal and family sick leave has been used up, additional time in emergency, or illness within the immediate family can be agreed upon by the department head at the time of such emergency or as soon after the emergency as is practical. The immediate family shall be defined to mean mother, father, children, spouse, sister, brother, grandparents, aunt, uncle, niece, nephew, corresponding in-laws, legal guardian, or more distant relative if residing in the Employee's home.

#### **Section 904B. BEREAVEMENT LEAVE**

Bereavement leave of three (3) days will be granted for the death in the immediate family of the Employee. Immediate family shall consist of the person as described in Section 904A. above.

#### **Section 905. LEAVE OF ABSENCE FOR SCHOOL**

The Employer and the Association mutually agree that in the event it is determined that a particular Employee merits leave of absence to attend a school or college which will make the Employer and the Employee benefactors, it shall be so decided on an individual basis at the time of the event. Permission for such leave is to be granted by the Mayor and in no case shall the length of time exceed one year. It is further mutually understood and agreed that such leave of absence shall be without pay.

#### **Section 906. EDUCATIONAL REIMBURSEMENT**

The City will reimburse an Employee one hundred percent (100%) of the tuition cost for a special course, related to the improvement of the Employee's job performance, upon the successful completion of such a course (C or better). It is understood that the course must be a "core" course directly related to the Employee's regular job or duties. The taking of such a course shall be with the prior, written approval of the Mayor. This paragraph is in no way related to Section 905.

#### **Section 907. SICK LEAVE**

When an Employee of the unit is absent from duty on account of injury or sickness, sick leave may be granted for a period of thirty (30) calendar days commencing with the first day of absence and the Employer shall carry in full force and effect for the duration of this Agreement insurance coverage providing such Employee so absent, 80% of his gross salary to a maximum weekly benefit of Two Hundred and Fifty Dollars (\$250.00) during a period of absence not exceeding fifty-two (52) weeks thereafter; payment of said insurance shall remain as now in effect. The City will pay for 80% of the cost of such coverage and the Employee will pay the remaining 20%.

If a person is sick for more than three (3) consecutive days, they must present a doctor's verification of illness upon return to work. The CBEA understands that this section of the contract does not provide for unlimited sick leave.

Employees with more than twenty (20) years of service shall be paid full pay for ninety (90) days and 70% of his gross salary to a maximum of \$300.00 for up to nine months thereafter.

Any Employee using less than five (5) sick days during the calendar year will be credited with an additional day of personal leave the following calendar year.

#### **Section 907A. FAMILY SICK**

Doctor or dental appointments for self or immediate family members shall be classified "Family Sick Leave". The intent of this section is specifically for the individual Employee, his/her spouse, and his/her dependent children, when doctor or dentist appointments have been made during work hours.

Any other emergencies that arise refer to Emergency Leave. No more than five (5) days are to be used in a year's time and it may be used in increments. (This also includes hospital stays of immediate family members.)

**Section 908A. HEALTH PLAN**

The City agrees to pay 85% and the Employee will pay 15% of the cost of health insurance, which includes Vision and Major Medical coverage along with Dental Rider, for all current unit members. As of April 1, 1991, this insurance coverage will include Sepectrum 2000 Dental plan with the City paying 70% and the Employee paying 30% of this Dental rider. As of April 1, 1992, the City will pay 85% and the Employee will pay 15% of this additional dental rider. The City has the option to provide alternate health coverage with equal or better benefits.

As of April 1, 1990, any new unit member will pay 30% of all insurance coverage and the City will pay 70%.

Prescription Drugs – Generic drugs must be dispensed. The only exception will be if no Generic equivalent exists.

**Section 908B. HEALTH INSURANCE BUY OUT**

If an employee elects not to be covered under the health/dental insurance coverage provided by the City, the City will pay \$600.00 for a Single Plan or \$1200 for a Family Plan per year to the employee as an insurance buy-out, but only if this results in a savings for the City. To be eligible for the buy-out, an employee must show record of coverage by other suitable health/dental insurance. If an employee has coverage provided by the City through another family member, he/she shall not be entitled to the buy-out.

**Section 910. RETIREMENT**

Tier I Employees	75"1" Career Plan
Tier III Employees	Article 14 - COES
Tier IV Employees	

Upon retirement, the City shall pay 50% of the Employee's health insurance and 35% of dependent coverage. If upon retirement there is only the Employee and spouse and no other dependent, two 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 910A. DISABILITY INSURANCE**

Employee agrees to pay a flat rate of \$1.44 per pay for disability insurance beginning December 1, 2008.

**Section 910B. RETIREMENT INCENTIVE**

The City will pay that Employee an incentive bonus of \$5,000.00 with a one-year prior notification on the Employee's part.

**Section 911. TORT LIABILITY ACTION**

In the event an Employee of the CBEA shall become a defendant in any suit or course of action sought against him/her as a result of a situation based upon the proper performance of his/her duties, the City shall provide such Employee with a defense attorney without cost to such Employee.

**Section 912. AWARD FOR DAMAGE**

In the event an award is granted as a result of a suit based upon the proper performance of his/her duty, such award shall be borned by the City

**ARTICLE X**

**Section 1001. CONTRARY TO LAW**

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

**Section 1002. PAST PRACTICES AND AGREEMENTS** It is mutually agreed and understood that all past practices and agreements within the Hornell City Building Employees Association not altered, amended or rescinded by this Agreement shall continue to abide by both parties to this Agreement. The foregoing constitutes an entire agreement between the parties and no verbal statement shall supercede any of its provisions.

**ARTICLE XI**

**Section 1101.** This Agreement shall constitute the full and complete commitments between both parties and may be altered, changed, added to, deleted from or modified only through the voluntary, mutual consent of the parties in a written and signed amendment to this agreement.

**Section 1102.** 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 years, unless specifically stated elsewhere.

**Section 1103.** This Agreement shall become effective April 1, 2009 and shall terminate by their duly authorized representatives.

**CITY OF HORNELL, NEW YORK**

**CITY BUILDING EMPLOYEES' ASSOCIATION**

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

\_\_\_\_\_  
Margaret T. Lynch, President

\_\_\_\_\_  
Alexander Kowtun

## APPENDIX B

Section 805 B of the contract between the City of Hornell, New York and the City Building Employees Association effective April 1, 2009 through March 31, 2012 reads as follows:

“The following titles requiring additional work and time over and above his/her regular job duties and responsibilities shall receive compensation as follows:

Fair Housing Officer	\$400.00/year
Deputy Chamberlain	\$650.00/year
Deputy City Clerk	\$650.00/year
Registrar of Vital Statistics	\$300.00/year
Deputy Registrar of Vital Statistics	\$250.00/year
Sub Registrar	\$200.00/year

This amount does not become a part of the Employee's base pay”.

It is understood and agreed that this section can remain in the contract only as long as the Common Council sees fit to appoint unit members to these positions. Since these positions are Council appointments, it is understood that they are not mandatory subject for negotiations. It is also understood that the payments for these job duties will be made on or near December 1<sup>st</sup> of each contract year.

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Shawn D. Hogan, Mayor

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Margaret T. Lynch, President  
CBEA



