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SC / 7479

AGREEMENT

between

TOWN OF TONAWANDA

and the

HOURLY EMPLOYEES' ASSOCIATION

OF THE

TOWN OF TONAWANDA

4/1 12/31

2007-2008

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JUL 26 2007

**NYS PUBLIC EMPLOYMENT
RELATIONS BOARD**

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THIS AGREEMENT, entered into this 29th day of March 2006, by and between the TOWN OF TONAWANDA, County of Erie, New York, hereinafter referred to as the "TOWN" and the HOURLY EMPLOYEES' ASSOCIATION OF THE TOWN OF TONAWANDA, hereinafter referred to as the "ASSOCIATION."

WITNESSETH:

WHEREAS, the parties hereto desire to provide, through this Agreement, for the promotion of harmonious relations between the Town and the Association; the establishment of an orderly, peaceful and equitable procedure for the resolution of differences arising hereunder, and the establishment of hourly rates of pay, and other terms and conditions of employment compatible with the joint responsibilities of the Town and its employees to serve the public.

WHEREAS, the further purpose of the parties is and shall be to promote the highest degree of efficiency in the conduct of the Town's services to its taxpayers.

WHEREAS, this Agreement has been negotiated pursuant to the provisions of the Public Employees' Fair Employment Act, and is governed by the provisions of New York State Law, and also non conflicting local laws of the Town.

WHEREAS, "IT IS AGREED BY AND BETWEEN THE PARTIES THAT ANY PROVISIONS OF THIS 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."

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Town and the Association, through their duly authorized representatives agree as follows:

ARTICLE I

RECOGNITION

1.01 The Town recognizes the Association as the sole and exclusive bargaining agent for the purpose of negotiating collectively in the determination of, and administration of, grievances arising under the salaries, wages, hours of work and other terms and conditions of employment of full time, hourly paid, personnel regularly employed in the various departments of the Town, (excluding seasonal, part time and temporary employees) on job titles within the negotiating unit identified below.

The negotiating unit is defined as including the full time, hourly paid job titles in Exhibit A below, within the departments of the Town listed in Exhibit B, below:

- A.
- Auto Mechanic AA
 - Auto Mechanic A
 - Auto Mechanic B
 - Heavy Equipment Operator AA
 - Heavy Equipment Operator A
 - Heavy Equipment Operator B
 - Laboratory Assistant A
 - Laboratory Assistant B
 - Laboratory Assistant C
 - Laboratory Assistant D
 - Laborer AA
 - Laborer A
 - Laborer B
 - Laborer C
 - Laborer D
 - Maintenance Worker AA
 - Maintenance Worker A
 - Maintenance Worker B
 - Motor Equipment Operator A

Motor Equipment Operator B
Motor Equipment Operator R
Senior Maintenance Worker AA
Senior Maintenance Worker A
Senior Maintenance Worker B
Sign Shop Fabricator A
Sign Shop Fabricator B
Tool Room Keeper
Tree Trimmer A
Tree Trimmer B
Tree Trimmer Trainee
Wastewater Cleaner
Wastewater Treatment Plant Assistant AA
Wastewater Treatment Plant Assistant A
Wastewater Treatment Plant Assistant B
Wastewater Treatment Plant Assistant C
Wastewater Treatment Plant Assistant D
Wastewater Treatment Plant Assistant E

- B. 1. Technical Support Department
2. Highway Department
3. Youth, Parks & Recreation Department
4. Police Department
5. Water Resources Department

Such recognition of the Association by the Town extends to the Association the right of unchallenged representation status, pursuant to the applicable provisions of the Public Employees' Fair Employment Act.

C. The following departments shall have divisions:

1. Youth, Parks & Recreation
2. Water Resources

When additional divisions are established, the Town will negotiate the impact. The Town will not involuntarily transfer employees between divisions.

1.02 The Association agrees that it will not interfere with, coerce, or intimidate any employee into joining the Association. The Association recognizes that no employee is required to join the Association, but that every employee has the right to choose of his own free will, as to whether or not he will or will not join the Association.

1.03 The term "full time" as used in this Agreement shall mean an employee who is regularly employed for a period of not less than thirty-five (35) hours per week on a year-round basis and termed as full time by the Town Board.

1.04 In the event the Town establishes new job titles in this bargaining unit, the Town agrees to negotiate with the Association over the rate of compensation.

ARTICLE II

MANAGEMENT

2.01 The Town and the Association recognize that subject only to the provisions of this Agreement, the management, direction and control of the Town's business, operation and personnel are exclusively the function of the Town.

It is the intention hereof, that all rights, powers, prerogatives and authorities are retained by the Town, except those that are specifically abridged or modified by this Agreement.

Examples of such rights, but not limited to, are: to select, hire and promote employees; fix and determine their qualifications, duties, job titles and compensation; to determine the necessity for filling a vacancy; to create new jobs and classifications and to abolish any job or classification; to transfer employees from one job, classification, or assignment to another; to demote, suspend, discharge and discipline employees; to train employees; to sub-contract work; to assign, supervise and direct employees in their work; to determine the work to be done; to release employees because of lack of work or for other proper legitimate reasons; adjust the size of the working force, fix operating and personnel schedules; and to make rules for the conduct of the work and the maintenance of safety, order, discipline, efficiency and the protection of property, and issue any other order or directive intended to carry out the managerial responsibilities and duties imposed upon the Town Officials by law.

2.02 Departments and/or department heads as referred to in this Agreement are used with the understanding that these terms simply define the natural division of manpower and its supervision and do not infer that the departments have legal status.

ARTICLE III

ASSOCIATION REPRESENTATION

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

3.02 Employees selected by the Association to act as Association Representatives shall be known as "stewards." The names of employees selected as stewards and the names of other Association Representatives who may represent employees, shall be certified in writing to the Town by the Association. There shall be no non-working stewards.

3.03 The Association Grievance Committee shall be composed of the President, Chief Steward, and steward representing the department where the grievance originated. But the Association may substitute an Association Executive Board member for the department steward.

3.04 The Town shall deduct membership dues from the bi-weekly pay checks of each employee covered by this Agreement, who is a member of the Association and who has filed with the Town Personnel department, an appropriate dues deduction authorization card. The membership dues deduction shall be made from each of twenty-six (26) payroll checks per year. The membership dues deducted shall be remitted monthly to the designated Financial Officer of the Association.

3.05 Any present or future employees represented by the Hourly Employees' Association of the Town of Tonawanda, who are not Association members and who do not make application for membership by the first day of their employment or who do not become members of the Association by the first day of their employment shall have deducted from their wage an amount equivalent to the dues levied by the Association. The Town shall make such deductions and transmit the sum so deducted to the Association, provided however, the Association has established and maintained a procedure providing for the refund to any employee demanding the return of any part of an agency shop fee deduction which represents the employee's pro rata share of expenditures by the Association in aid of activities or causes only incidentally related to terms and conditions of employment.

The Association shall indemnify and hold harmless the Town and its officials or employees from any cause of action, claim, loss or damages incurred as a result of the Town's deduction of an agency fee from any employee. The Association shall have no right or interest in any agency fee deduction until such collected monies are actually paid to the Association. Upon forwarding by mail of payment of the agency fee deduction to the last known address of the Association, the Town and its officers and employees shall be relieved from all liabilities to deduct such fees and deliver such deductions to the Association.

3.06 The Town agrees that during working hours, on the Town's premises, or at a work site, and without loss of pay, appropriate Association Representatives, who are employees, shall be allowed to:

1. Post Association notices.
2. Consult with the employer, his representative, appropriate Association representative or employees, concerning the enforcement of any provisions of this Agreement.
3. Distribute information or communications to the employer or his representative.
4. Attend negotiating meetings.

An Association Representative shall request permission from the department head prior to enacting the above. Should approval be unreasonably withheld by the department head, the Association Representative can appeal their request to the Personnel Supervisor.

3.07 Bulletin Boards will be provided for the sole use of the Association. The following locations of bulletin boards may be used by the Association for the purpose of providing information to the employees of: notice of meetings, posting of seniority lists and job opportunities:

1. Brighton Park (1)
2. Brighton Park Arena (1)
(Nov. 1 - Apr. 1)
3. Highway Department (1)
4. Lincoln Park (1)
5. Lincoln Park Arena (1)
(Nov. 1 - Apr. 1)
6. Police (1)
7. Wastewater Plant (3)
8. Parkside Community Center (1)
9. Sheridan Park (1)

- 10. Water Sewer maintenance (1)
(Belmont)
- 11. Water Treatment Plant (1)
- 12. Recreation Office (1)
- 13. Technical Support Dept. (1)
- 14. Memorial Hall (1)
- 15. Municipal Building (1)
(Maintenance Room)
- 16. Sr. Citizen's Bldg. (1)
- 17. Aquatic Center (1)

3.08 Non-Discrimination: The employees included in this agreement shall receive the full protection of its provisions, regardless of race, color, creed, sex, political persuasion or age as provided by either State or Federal Law.

ARTICLE IV

GRIEVANCE PROCEDURE

4.01 The parties shall make a sincere and determined effort to settle meritorious grievances in the voluntary steps of the grievance procedure, and to keep the procedure free of unmeritorious grievances.

A grievance which may arise between the parties over the application, meaning or interpretation of this Agreement, shall be settled in the following manner:

STEP I An employee covered by this agreement, with his Association Department Steward, or in the absence of the Department Steward an executive board member may be substituted, may file a grievance in writing to his department head. Such grievance must be filed within thirty (30) calendar days of the original occurrence of the grievance. The department head or his designee shall respond in writing to the grievance within ten (10) calendar days.

STEP II If the grievance still remains unresolved, it shall be presented by the authorized Association Representative to the Personnel Supervisor or the Town's designated representative, in writing, fifteen (15) calendar days after the response of the department head is due. The Director of Labor Relations shall discuss the grievance with the Association Grievance Committee within fifteen (15) calendar days of the receipt of said grievance and respond, in writing, within ten (10) calendar days of such meeting.

STEP III In the event the grievance is not satisfactorily settled within this period, either party can then take the grievance to arbitration, upon service of written notice to the other party of intention to do so, within thirty (30) calendar

days after the close of discussions. In the event neither party files such notice, the grievance shall be considered closed, and not subject to further appeal.

The arbitration proceedings for grievances, shall be conducted by an arbitrator to be mutually selected by the Town and the Association from a panel of arbitrators supplied by the Federal Mediation and Conciliation Service. The parties shall select an arbitrator by each party alternately crossing off an arbitrator until the name remains, after commencing procedure by a coin flip. The remaining name shall be the mutually selected arbitrator. Each party shall have the option of rejecting one (1) panel of arbitrators. The decision of the arbitrator shall be final and binding on the parties, and the arbitrator shall issue his/her decision within thirty (30) calendar days after the conclusion of testimony and argument.

No arbitrator functioning under Step III of the grievance procedure shall have any power to amend, modify or delete any provision of this agreement. Expenses for arbitration services and proceedings shall be borne equally by the Town and the Association. However, each party shall be responsible for compensating its own representatives. If either party desires a verbatim record of the proceedings, it may cause such a record to be made, provided it pays for the record and makes a copy available without charge to the other party and to the arbitrator.

- 4.02 A step in the grievance procedure may be bypassed by mutual agreement, in writing.
- 4.03 Time limits outlined in the grievance procedure will be rigidly applied, unless an extension is provided by mutual agreement, in writing.

4.04 Any grievance committee meeting held during the employees' working hours with the Town, shall be without loss of wages for grievance committee members present at such meetings.

4.05 In the event a grievance applies to more than one (1) department, or is a policy grievance, the grievance may be submitted directly to Step II of the grievance procedure. Time limits for filing a grievance shall be the same as noted in Step I.

ARTICLE V

SENIORITY

5.01 Each employee's original date of employment or his date of re-employment following a break in his length of continuous service shall determine his "Seniority" date with respect to total service with the Town for purposes of longevity, vacation and retirement benefit entitlements.

5.02 An employee's "Seniority" date for the purpose of advancement will be determined by his length of continuous service in his Home Department. That department from which an employee draws his pay check shall be considered his Home Department. An employee's departmental seniority shall terminate upon his transfer to another department.

5.03 An employee's length of continuous service shall be broken by voluntary resignation, discharge for just cause, or retirement. However, if an employee returns to work in any capacity within one (1) year, the break in continuous service shall be removed from his service record.

a. An employee may return to this Bargaining Unit prior to his/her completion of the probationary period or six (6) months, whichever is sooner. Seniority is frozen at the time of leaving the Bargaining Unit.

5.04 **Layoff** When it becomes necessary to reduce the work force, the Town shall notify the initially affected employees and the Association, ten (10) days prior to such layoff. Regular full time employees shall be laid off in the inverse order of their total Town seniority.

a. When an employee is laid off due to a reduction in the work force, he must exercise his seniority rights to bump

(replace an employee with less seniority) any employee in the same job classification, or any lower classification, within his department, provided the remaining personnel have the ability to accomplish the available work.

b. When the affected employee has exhausted his bumping rights within his department, he shall next exercise his seniority to bump the lowest seniority employee within Town service in any department in any title which is equal to or lower in pay of the employee's permanent title.

An employee shall maintain his current salary if the bumping process results in the employee bumping into his same title. An employee who bumps into a lower paying position in another department shall bump into the highest salary step of the lower paying job title (not above his salary) provided the employee previously held the job title or within the same career ladder, as below:

- 1) Laboratory Assistant
Laborer
- 2) Auto Mechanic
Senior Maintenance Worker
Maintenance Worker
M.E.O.
Laborer
- 3) H.E.O.
Senior Maintenance Worker
Maintenance Worker
M.E.O.
Laborer

- 4) Tree Trimmer
Laborer
- 5) Wastewater Treatment Plant
Assistant
Laborer
- 6) Sign Shop Fabricator
MEO
Laborer

If an employee who bumps into a lower paying position in other departments not within the same career ladder and who has not previously held the job title shall be paid the lowest pay for such job title (excluding Laborer B unless employees' permanent title is Laborer A). If the employee has the right to bump into any department other than his home department, the employee may be placed in any department upon the direction of the Personnel Supervisor.

"Equal to or lower in pay" shall be defined as a title that has a salary range that includes the employee's current permanent title rate.

e. It is further understood when an employee bumps another employee, and within a period of ten (10) working days, the department head determines the employee cannot perform the job, such employee will then be placed on the preferential recall list. The decision of the department head is not subject to the grievance procedure.

d. An employee may opt to accept layoff rather than exercise his bumping rights against an employee with less seniority in another department. If the employee takes such option, the employee's rights are limited to his home department.

e. When an employee is notified of his effective date of layoff from Town service, this will also be the effective date for suspension of additional benefits.

5.05 Recall - An employee who is laid off from Town service shall be placed on a Town-wide preferred hiring list, and an employee who is laid off from his home department shall be placed on an additional preferred hiring list for that department. Employees on a departmental preferred list shall be offered the opportunity to be recalled to their former home department prior to any non-employee being offered any position within that department within the bargaining unit for which the employee is qualified for six (6) months from the date of such removal from the department. Employees will have six (6) calendar days to accept this recall opportunity to their former home department.

a. Employees shall be recalled from the preferred list according to their Town seniority to any position in the Town that is equal to or lower paying (note limitations in Section 5.04 above.)

b. The Town will notify the laid off employee by certified mail, at his last known address, that he has been offered recall in line with his continuous Town service to one of the above titles. If the employee fails to respond to the recall notice to the department head having jurisdiction over the title of recall, within seven (7) days after receiving the certified letter, he shall be regarded as a "quit."

c. When an employee is recalled to other than his home department, and within a period of fifteen (15) work days after starting on the job, the department head determines the employee

cannot perform the job, the employee shall be replaced on the preferred list and the next employee shall be recalled. The decision of the department head is not subject to the grievance procedure.

d. In the event an employee is unavailable to return to work on the date directed by the department head, he shall be on the bottom of the preferred list. If such employee is unavailable the second time he is requested to report to work by the department head, he shall be removed from the list.

e. Recall rights for an employee in his home department who has not been recalled after a layoff shall expire eighteen (18) months from the date of the layoff or sooner if he had less than the eighteen (18) months' seniority, then he shall be removed after the amount of time he had in seniority.

f. Recall rights for an employee in other than his home department who has not been recalled after a layoff shall expire six (6) months from the date of the layoff and sooner if he had less than six (6) months' seniority, then he shall be removed after the amount of time he had in seniority.

g. An employee who is laid off from Town service as per paragraph 5.04 c is not eligible for recall to that department, but remains on a preferred list for all other departments.

h. If an employee returns to a former department, his department seniority shall be established at the seniority that the employee had when he left that department,

5.06 The "Department Seniority" list shall be brought up to date at least annually.

5.07 A newly appointed employee shall be entitled to shift premium, bereavement leave and jury duty allowance during his probationary period. Eligibility for the remaining benefits covered under the agreement (except use of the arbitration for discipline) shall begin on the first of the month following six (6) months of probation. Part-time, seasonal and temporary employees are not eligible for benefits. Probationary employees shall not be eligible for rotating overtime, except when the permanent employees' list has been exhausted.

5.08 All new employees shall be considered as probationary employees for a minimum of eight (8) weeks and a maximum of fifty-two (52) weeks. When an employee completes six (6) months of his probationary period, he shall be entered on the seniority list retroactive to his date of hire. There shall be no seniority among probationary employees for the first six (6) months. Probationary employees do not have access to the arbitration stage of the grievance procedure for disciplinary matters.

ARTICLE VI

WORK DAY AND WORK WEEK

6.01 The regular work week consists of five (5) days of eight (8) consecutive hours a day, Monday through Friday, except in those various departments where work on days other than Monday through Friday must be accomplished to maintain Town services; such other days so assigned shall then be construed as normal work days. The lunch period will be thirty (30) minutes.

6.02 A coffee break period of twenty (20) minutes per day will be provided to the employees. The scheduling of this coffee break period shall be by the department head. It is agreed that abuse by an employee or employees of this clause, by way of extending the break beyond its allotted time, the unauthorized use of public equipment, or the causing of undue disruption of Town services, shall be just cause for disciplinary action under the terms of this Agreement.

6.03 Change of Schedule

a. Upon seven (7) days' notice to the employees affected and the President of the Association, the Town may change the work day to eight (8) consecutive hours with a paid non-work one-half (1/2) hour. (Example: 7:30 - 4:00 to 7:30 to 3:30) Such one-half (1/2) hour lunch period may be taken at a place designated by the Town. Such place must be sheltered and have sanitary facilities.

b. The changed work schedule must be on a department or division-wide basis. No departments have divisions that are recognized for the purpose of this agreement except the following:

1. Highway
 - a. Sanitation
 - b. Forestry
 - c. Sign Shop
 - d. Highway
 - e. Mechanic Shop
2. Water, Sewer and Building Maintenance
 - a. Water
 - b. Sewer
 - c. Building Maintenance
 - d. Meter Shop
3. Parks
 - a. Lincoln
 - b. Brighton
 - c. Sheridan
 - d. Youth Center
 - e. Senior Citizen Center

c. Any department may be further sub-divided if agreed to, in writing, by the Personnel Supervisor and the President of the Association.

6.04 **New Shift** If the Town creates a new shift within the department, employees must be asked on a voluntary basis first. If not enough employees are recruited by this method, Management will appoint employees by inverse order of seniority as far as practical.

ARTICLE VII

COMPENSATION

7.01 Job titles and the hourly rates of pay for the term of this Agreement shall be as follows:

| <u>JOB TITLE</u> | <u>HOURLY RATE</u> | |
|----------------------------|---------------------------|--|
| | <u>Eff.</u> | <u>Eff. 1st pay period</u> |
| | <u>1/1/07</u> | <u>5/2008</u> |
| Auto Mechanic AA | 23.10 | 23.79 |
| Auto Mechanic A | 22.69 | 23.37 |
| Auto Mechanic B | 21.60 | 22.25 |
| Heavy Equipment Oper AA | 23.10 | 23.79 |
| Heavy Equipment Operator A | 22.92 | 23.61 |
| Heavy Equipment Operator B | 22.46 | 23.13 |
| Laboratory Assistant A | 24.25 | 24.98 |
| Laboratory Assistant B | 22.97 | 23.66 |
| Laboratory Assistant C | 21.84 | 22.50 |
| Laboratory Assistant D | 20.15 | 20.75 |
| Laborer AA | 20.15 | 20.75 |
| Laborer A | 19.87 | 20.47 |
| Laborer B | 18.14 | 18.68 |
| Laborer C | 16.45 | 16.94 |
| Laborer D | 15.07 | 15.52 |
| Maintenance Worker AA | 21.43 | 22.07 |
| Maintenance Worker A | 21.00 | 21.63 |
| Maintenance Worker B | 20.15 | 20.75 |

| | Eff. | Eff. <u>1st pay period</u> |
|----------------------------|---------------|---------------------------------------|
| | <u>1/1/07</u> | <u>5/2008</u> |
| Motor Equipment Operator A | 21.43 | 22.07 |
| Motor Equipment Operator B | 21.00 | 21.63 |
| Motor Equipment Operator R | 20.59 | 21.21 |
| Senior Maint Worker AA | 23.10 | 23.79 |
| Senior Maint Worker A | 22.92 | 23.61 |
| Senior Maint Worker B | 22.46 | 23.13 |
| Sign Shop Fabricator A | 21.67 | 22.32 |
| Sign Shop Fabricator B | 21.45 | 22.09 |
| Tool Room Keeper | 20.15 | 20.75 |
| Tree Trimmer A | 21.79 | 22.44 |
| Tree Trimmer B | 21.43 | 22.07 |
| Tree Trimmer Trainee | 20.65 | 21.27 |
| * Wstwater Cleaner | 12.78 | 13.16 |
| Wstwater Tr. Plt. Asst AA | 21.95 | 22.61 |
| Wstwater Tr. Plt. Asst A | 21.49 | 22.13 |
| Wstwater Tr. Plt. Asst B | 20.68 | 21.30 |
| Wstwater Tr. Plt. Asst C | 20.39 | 21.00 |
| Wstwater Tr. Plt. Asst D | 18.11 | 18.65 |
| Wstwater Tr. Plt. Asst E | 16.38 | 16.87 |

* There shall be no effect on current employees in the positions 12/31/03).

Heavy Equipment Operator Class A Pay rate at HEO A or .25 cents per hour over employee rate whichever is higher. Hour for hour pay with a minimum of three (3) hours pay.

7.02 (a) Employees hired in the job title of Laborer D will be raised to the job title of Laborer C after completing sixteen (16) months of continuous service, effective the start of the next pay period. Employees in job title of Laborer C, after completing sixteen (16) months of continuous service in that title, shall be raised to the job title of Laborer B, effective the start of the next pay period. Employees in job title of Laborer B, after completing sixteen (16) months of continuous service in that title, shall be raised to the job title of Laborer A, effective the start of the next pay period.

Management may advance an employee more rapidly than noted above in its sole discretion.

(b) Employees hired as a Wastewater Treatment Plant Assistant "E" shall be automatically promoted to Wastewater Treatment Plant Assistant "D" after sixteen (16) months. After sixteen (16) months as a Wastewater Treatment Plant Assistant "D" promoted to Wastewater Treatment Plant Assistant "C". Wastewater Treatment Plant Assistant "B", "A" and "AA" shall be merit increases. If after becoming Wastewater Treatment Plant Assistant the employee requests and is granted a change in job duties outside of the wastewater operations, he/she will revert back to the appropriate laborer classification step commensurate with his/her length of service.

7.03 It is agreed that those employees on shift work shall receive a shift differential in pay in the amount of fifty (\$.50) cents per hour over the regular rate. If the salaried unit is increased from the rates in effect after January 1, 2001, such increases shall also apply to this bargaining unit.

Employees whose normal schedule is the day shift and who work overtime shall be paid at the overtime rate, but shall

not receive shift differential. Other shift employees shall continue to be paid shift differential on overtime, except call-back situations.

7.04 Salary checks that are issued incorrectly by an amount equal to eight (8) hours pay or more solely because of the Town's error, shall be adjusted and a new check shall be issued within five (5) work days.

7.05 All employees in the Highway department who are required to report to work before their normally scheduled starting time and who work between midnight and their normally scheduled starting time shall be paid a premium rate of one dollar and seventy-five cents (\$.75) per hour plus normal hourly rate for all such hours.

7.06 HOLIDAY PAY - Employees covered by this agreement shall receive a regular day's pay for the following holidays even though not worked:

| | |
|------------------|---------------------------------|
| New Year's Day | Veteran's Day |
| Patriot's Day | Thanksgiving Day |
| Good Friday | Christmas Day |
| Memorial Day | (1/2 day before Christmas Day) |
| Independence Day | (1/2 day before New Year's Day) |
| Labor Day | Employee's Birthday |
| Columbus Day | Floating Holiday |

It is agreed that the employee, to be entitled to holiday pay, must have worked on his last scheduled work day immediately preceding the holiday and on his first scheduled work day immediately after the holiday, unless an employee's absence on either of these days is an excused absence with pay within terms of this Agreement.

With respect to the half-day holidays immediately before Christmas and New Year's Day, the parties agree that there will be no abuse on these occasions to the extent of attempting to secure unwarranted overtime conditions.

The holidays listed in this Article shall be observed

on the days on which they fall, provided that when one of these holidays falls on a Sunday, the Monday following shall be observed as the holiday, and when it falls on a Saturday, the preceding Friday shall be so observed.

If an employee's birthday falls during the week, he shall have the option of taking either the day or the nearest Monday or Friday. If a holiday falls on the employee's birthday, the employee has the right to take the day of his choice, provided he first has the department head's approval, except the employee may take such day any five (5) working days before or after the employee's birthday if a twenty-four (24) hour notice is provided to the department.

If a holiday occurs during the calendar week in which a vacation is taken by an employee, the employee's vacation period shall be extended one (1) additional day.

The Floating Holiday shall be determined at the employee's discretion, provided, however, that twenty (20) calendar days' notice is given to the department head. If more than one (1) employee applies for a specific day, the most senior employee will be given the day off. The department head may authorize additional employees off at his sole discretion.

7.07 Overtime - Overtime beyond the regular day's work and beyond the regular work week shall be paid at the rate of time and one-half the employee's regular hourly rate of pay. The employee's regular work week shall include those paid absences legally accounted for.

Employees responding to an emergency call back will be compensated at the rate of time and one-half (1-1/2) for a minimum of two (2) hours.

Employees shall receive two (2) hours' notice when requested to work overtime whenever practicable.

Various means of equalizing overtime in different departments of the Town is recognized as the means of equalization. Overtime in the Parks Department shall be

equalized pursuant to current practice in effect on April 1, 2003. Refusal or non availability on the part of the employee for overtime work will count toward this equalization as though he had worked. Each department head will post his equalization policy. If the department head desires to change the current departmental policy, he/she shall discuss such changes with the department steward and the President of the Association, or his/her designee, prior to such change being implemented. The new policy shall be posted on the department bulletin board for a minimum of seven (7) calendar days prior to implementation and a copy given to the department steward and President of the Association.

A record of overtime hours worked by each employee shall be posted on the department bulletin board as soon as practical following every pay period, but in no event more than monthly. On or before 7/01/04, the Highway Department shall set up a system to post overtime following each pay period.

Overtime work shall be voluntary, but an employee is expected to work a reasonable amount of emergency overtime.

7.08 Employees shall be granted two (2) hours off with no loss of time or pay for volunteer blood donations to Red Cross or Community Blood Programs. Department head approval will first be obtained, to insure the least amount of disruption to Town services.

7.09 Volunteer Firefighters shall be allowed to answer fire calls during working hours when such action is practical and does not endanger or impair Town services or equipment. When fire calls are responded to, it is understood that the volunteer firefighters shall be required to return to their work promptly.

7.10 Rain Gear shall be provided by the Town to employees whose work requires them to perform their duties in inclement weather. Upon issue of rain gear to the employee,

the employee will then be responsible for such rain equipment. If any replacement of rain gear is necessary as a consequence of negligence on the part of the employee, then a fair charge for the equipment shall be made against the employee.

Glove liners shall be provided in the Water Department for employees as needed, if the employee turns in used glove liners.

7.11 **Longevity Pay** - Each employee shall be entitled to longevity pay in accordance with the following schedule. Longevity payments shall be made by the Town each calendar year on the first or second payday in November, at the Town's discretion. Employees who retire prior to the payment of longevity in that year shall receive longevity in their final pay check.

| <u>Longevity Pay Schedule</u> | <u>1/1/02 thru 1/1/05</u> | <u>1/1/06</u> |
|--------------------------------------|----------------------------------|----------------------|
| Five (5) years of service | \$ 500.00 | \$ 600.00 |
| Seven (7) years of service | 700.00 | 800.00 |
| Ten (10) years of service | 800.00 | 900.00 |
| Fifteen (15) years of service | 900.00 | 1000.00 |
| Twenty (20) years of service | 1000.00 | 1100.00 |

7.12 All permanent employees working at least eighty (80) percent of the current year shall be eligible for the benefits as are provided in this Agreement, such as vacations, holidays, etc. All paid time off shall be considered days worked for the purpose of this paragraph.

If an employee is out of work and on worker's compensation (receiving or not receiving sick leave) shall be considered as days worked for the purpose of section 7.12.

Employees who quit with less than two (2) weeks' notice, or who are terminated for cause, shall not be entitled to be paid for accumulated unused vacation or longevity pay.

7.13 Section 125 Benefits

The Town shall institute a Section 125 Plan applicable to all deduction permissible under the law effective 4/1/97. The Employer shall pay the start up costs and the employees shall pay the monthly service cost. The Town may select the Service Company.

7.14 Commercial Driver's License (CDL)

Effective 1/1/2000, the Town will pay the difference between a regular driver's license and a CDL license when it is up for renewal for any employee that is required to have a CDL license and is in the drug and alcohol testing pool.

ARTICLE VIII

LEAVE OF ABSENCE

8.01 Sick Leave - Sick leave days are defined as leaves of absence with pay granted to an employee incapacitated and unable to work because of illness or injury.

a. Each employee shall have his sick leave account credited with an additional one (1) day of sick leave credit per payroll period, provided that during each such payroll period he has worked nine (9) out of ten (10) working days. Paid days off shall be considered as days worked for the purpose of this section, except sick leave days.

b. However, his sick leave account shall be debited one (1) full day for each sick leave day used. Partial days shall be debited to the nearest half day used.

c. Payment for sick leave will start with the first day of verified illness on four (4) occasions per year, excluding worker's compensation absences of five (5) consecutive days or more; thereafter, the first day of sick leave may or may not be paid, whatever the reason may be, completely at the department head's discretion, and not subject to the grievance procedure. However, the employee may appeal this action with or without his steward to the department head. It is further understood that after the fourth (4th) occasion, excluding worker's compensation as noted above, the first day of sick leave may be paid by the department head by applying one of the employee's personal leave days. The department head's application of personal leave days will be subject to the grievance procedure up to and including Step II. An employee may elect to take a personal leave day for this time. Nothing in this procedure should be construed to mean the Association is required to process a grievance which lacks merit.

d. An employee on sick leave due to an occupational injury or disease which is compensable under the Workmen's Compensation Law, shall have his sick leave charged one-third

(1/3) of a day for each day the Town receives reimbursement from the State Insurance Fund or other agency duly authorized.

However, when the Town is notified of the reimbursement for all days so charged, no deduction from sick time would be made. This paragraph shall not apply if the Town is self insured.

In the manner above, each employee's sick leave account will be adjusted as he uses or earns sick leave credits.

At the end of each calendar year, henceforth, the number of days remaining unused in his sick leave account shall be forwarded and credited to him on each succeeding January 1st. To such amount, he will continue to add and subtract sick leave days as they are earned or used. Unused sick leave days shall be accumulated to a maximum of 200 days. If the employee used more than eight (8) sick days in any year during the last two (2) years of service prior to retirement the entire amount of sick days used during that year (including the first eight days) shall be deducted from the first 165 days. This modification of deduction shall not apply to employees who use sixty (60) or more sick days in a year.

At the time of retirement, his unused sick leave days shall be applied as additional service credit pursuant to Section 41-j of the New York State Employees' Retirement System.

In all cases, when an employee becomes sick or injured and cannot perform the duties of his position, he shall immediately notify his department head of such condition. If the employee's absence continues for more than two (2) days, the request of a Doctor's statement, attesting to the employee's incapacitating illness or injury and inability to work shall be discretionary on behalf of the department head. However, after two (2) occasions per year of absence, the department head may request a Doctor's statement on the first day of illness or injury.

The Town shall have the right to have the Town Physician examine or re-examine the employee at such time as it deems necessary, upon prior notice to the employee and the Union

President or designee.

New employees shall not be entitled to any sick leave credits until they have completed six (6) months of their probationary period. After completion of six (6) months, employees will be given sick leave credit retroactive to date of hire in accordance with the "one day per payroll period" formula described in paragraph "a" above, with sick leave thereafter credited and debited, as provided in the preceding paragraph.

After an employee has completed one (1) year of continuous service, and has exhausted all his sick leave credit, the Town Board can review the complete case, and at their discretion, can consider a special sick leave allowance.

An employee on sick leave shall not absent himself from his residence or place of confinement during his scheduled hours of work, except for necessary visits to his physician, or for such treatment as may be prescribed. An employee wishing to be absent from his residence or place of confinement for medical reasons as prescribed by his doctor, shall notify his department head, or the department head's designee. The department head or his designee may authorize additional reasons for non-confinement.

8.02 Bereavement Leave - In the event of death in an employee's family, such employee, upon his request, shall be granted a paid leave of absence as follows:

| | <u>Family</u> | <u>Leave allowed</u> |
|----|---------------|---|
| I | Spouse | Four (4) work days (from date of death) |
| | Brother | |
| | Children | |
| | Sister | |
| | Parents | |
| II | Father-in law | Four (4) Consecutive Calendar days (Paid only for Scheduled work days occurring up to and including the funeral) |
| | Mother-in-law | |
| | Grandchildren | |
| | Grandparents | |
| | Step Children | |
| | Step parents | |

| | |
|---------------------|---------------------------|
| III Son-in-law | Day of Funeral |
| Daughter-in-law | (if a scheduled work day) |
| Brother-in-law | |
| Sister-in-law | |
| Grandparents-in-law | |

The employee shall notify his immediate supervisor of any such absence at the earliest opportunity prior to the time he is scheduled to report for work. He shall state the reason for such absence and the number of days he will be absent from work because of such death.

This bereavement leave shall only be for the purpose of attending the wake and funeral of the deceased member of the family.

Bereavement leave shall not be extended due to a holiday in Sections II and III above.

8.03 Jury Duty - An employee who has exercised good citizenship by serving on a jury, and who is scheduled to work and is summoned (not volunteers) will be excused for such service, and if he is actually required to attend and serve, will be paid his base rate of pay, up to eight (8) hours per day. Fees paid at per diem rate from such service on jury duty will be paid to the Town. Employees may retain mileage, meals or related fees paid for jury service. An employee on call for jury duty, who is not required to serve on any day, must report for work as scheduled. This provision applies only to jury service performed Monday through Friday. Employees will notify their department head of such absence and accompany such request with a copy of the court order or jury summons. Payment of the per diem fees shall be made by check to the "Town of Tonawanda Supervisor" and the employee shall give such check to their department head within sixty (60) days of the date of such jury service.

8.04 Leave of Absence - Granted by the Town Board, not over one (1) year, except where employee is employed by the

Town Board.

8.05 Military Reserve Service Leave - All employees eligible for benefits under Sections 242 and 243 of the Military Law of the State of New York shall be granted such benefits in full accordance with the Law.

8.06 Personal Leave - Personal leave shall mean a leave of absence from his scheduled work, granted to an employee to perform a personal business transaction.

Personal Leave may be drawn only if approved in advance by the department head, where the circumstances are such that it will not unduly interfere with the department functions and operations.

Advance written application for personal leave shall be made at least thirty-six (36) hours in advance thereof, to the department head or his designee on a form supplied by the Town.

There will be no personal leave for any employee who has worked less than six (6) months. The number of days of personal leave granted to an employee shall not exceed four (4) days in a calendar year and shall not be accumulative.

Any personal leave days not used by an employee shall be applied to sick leave credits of the employee at the end of the calendar year.

8.07 Employees have the option to sell back a maximum of five (5) days of unused personal and/or vacation time. The sell-back price shall be at the individual employee's rate of pay.

Employees with fifteen (15) or more years of service may "sell back" an additional five (5) days. If such long-term employee desires to sell such additional five (5) days, he/she must inform the department head prior to August 1st of the previous year, but employees may withdraw such request on or before April 1st of the subsequent year.

8.08 Sick Leave Incentive - An employee who works his regular work schedule during any month shall be credited with four (4) hours monetary compensation. All accumulated monetary compensation shall be paid in the first pay period of December. In lieu of monetary compensation, an employee may request compensatory time off, provided that such request is made to and is approved by the department head or his designated representative. Such request to receive compensatory time off may be made in the month following the month the compensatory time off is earned.

Employees shall earn sick leave incentive for each month of service unless the employee uses a sick leave day or the employee is disciplined for three (3) consecutive days or more.

Sick Leave incentive shall not be lost for any absence, as provided in this contract (vacation, holidays, bereavement, lateness, home early, Workmen's Compensation hearings) except sick leave, Workmen's Compensation or discipline as noted above.

ARTICLE IX

DISCIPLINE

9.01 Disciplinary action may be imposed upon an employee only for failing to fulfill their responsibilities as an employee.

9.02 The Association hereby agrees to waive all rights of current or future employees within the bargaining unit in processing disciplinary action through Sections 75 and 76 of the Civil Service Law. The Town and the Association agree to substitute the following procedure to replace rights for such employees under Sections 75 and 76. This procedure shall also apply to employees not entitled to coverage under Sections 75 and 76 of the Civil Service Law.

9.03 If a department head, supervisor or Town Official has reason to reprimand an employee, it shall be done in a manner that will not embarrass the employee before other employees or the public.

9.04 Prior to suspending an employee, the department head designated representative will allow the employee to have his Union steward present when he is being notified. Notice of suspension shall be given to the department steward in writing.

When an employee is disciplined (except oral warning) a department steward shall be present. If more than one steward is assigned to the department, the employee may choose which steward is to be present. Discipline documents will be given to the employee and steward with a copy to the Association President.

9.05 An employee will be allowed to submit a grievance pertaining to the following types of discipline only through Step II of the Grievance Procedure:

Oral reprimand, written reprimand, suspension of two (2) days or less.

9.06 Effective January 1, 2007, an association member shall be given a copy of any warning, reprimand, suspension, or disciplinary action entered into his/her personnel file, within seven (7) days of action taken. There will be no record or reference to a complaint in an association member's personnel file that are found to be unfounded by the Town or the grievance procedure.

ARTICLE X

VACATION

10.01 The Town will grant annual vacations with pay to employees hired prior to 6/1/85 on a calendar year basis as follows:

Seven (7) years of accrued service - Fifteen (15) working days

Twelve (12) years of accrued service - Twenty (20) working days

Fifteen (15) years of accrued service - Twenty-five (25) working days

The Town will grant annual vacations with pay to employees hired after 6/1/85 on a calendar year basis as follows:

Twelve (12) months of accrued service- Ten (10) working days

Ten (10) years of accrued service- Fifteen (15) working days

Fifteen (15) years of accrued service- Twenty (20) working days

Requests for vacations are to be made by April 15th, otherwise vacation weeks will be assigned by the department head, except that employees will be permitted to take vacation in one (1) day increments to a maximum of five (5) days per year. Employees may request additional time to be taken in one (1) day increments, but must be approved by the department head.

As far as practical, vacations shall be scheduled at the periods requested by the eligible employees. Vacations will be assigned with due consideration of the employee's total length of service.

10.02 Vacation leave is not accumulative, and if not taken, shall expire at the end of each calendar year, except that an employee may carry over five (5) work days where it does not jeopardize department schedules. However, if the work schedule of the Town is such that the employee cannot take his vacation in the calendar year, it may be used in the following calendar year at the discretion of the department head.

10.03 In the event of the death of such an employee before he has received vacation compensation, such payment shall be made to his estate.

10.04 An employee who retires from service of the Town for any reason, prior to taking his vacation, shall be compensated in cash for the unused vacation he has accumulated at the time of retirement.

ARTICLE XI

INSURANCE

11.01 Health Insurance

Subject to the limitation in the employee's options on medical insurance the Town shall offer the following medical insurance coverage. If the health insurance carrier unilaterally changes the coverage offered, the Town is not responsible to maintain the specified coverage herein. However, the Town is responsible to maintain the most comparable medical coverage offered as specified herein by the health insurance carrier.

A. The Town shall offer Blue Cross Blue Shield coverage both single and family coverage where applicable identified as follows: Hospital Contract 42-43 with rider R-8 dependent to age 23; R-46 - pre-care plus; R-48 - out of area hospitals; Medical contract 60-61 with riders R-4 outpatient emergency care; R-21 psychiatric care; R-22 ambulatory care; R-48 out of area medical benefits; major medical riders BCMM-7 rider FF \$100.00/\$200.00 family with rider 8; drug rider C \$5.00 co-pay with RX rider 8. Effective 4/01/04 the major medical rider is to be increased from \$100.00/\$200.00 to \$250.00/\$500.00; the drug rider is increased from \$5.00 co-pay to \$10.00 co-pay. Prescription Rider to Age 23.

B. The Town shall have the option at any time to include or discontinue within the Blue Cross Blue Shield policy, the Independent Health Gold (Encompass A-1) Plan, Community Blue II or Health Care Plan/Choice Care Premier Plan a \$250.00 hospitalization deductible rider. Such deductible shall be self-insured by the Town. Employees incurring the hospitalization deductibles or a portion thereof shall be reimbursed by the Town within ten (10) days of submission. Effective 4/01/04 the Town shall have the option at any time to include or discontinue within the Blue Cross/Blue Shield policy, the Independent Health Encompass B-1 Plan, Community Blue II or Univera \$10.00 Office Visit/\$50.00 Emergency Room Co-Pay Plan a \$250.00 or \$500.00 hospitalization deductible rider. Such deductible shall be self-

insured by the Town. Employees incurring thereof shall be reimbursed by the Town within ten (10) days of submission.

C. If the monthly premium rates effective January 1, 2002 for the above identified insurance coverage increased during the life of the Agreement more than 25%, the increase over the 25% will be negotiated by the Town of Tonawanda Police Club to determine who will pay the additional premium rate.

D. (a) The PPO plan offered by the Town of Tonawanda is a fully insured product filed under Article 43 with the New York State Department of Insurance. Blue Cross and Blue Shield of Western New York, Inc. is the carrier that was selected, effective April 1, 2006. The Town of Tonawanda plan has a \$5.00 co-payment for all office visits and a paid in full hospital benefit which includes all hospitals in Western New York. The prescription co-payment is three (3) tier (\$1/\$10/\$20). The prescription benefit also has a mail order which allows members to obtain a ninety (90) day supply filled for two co-payment amounts. All New York State mandates apply to this product.

(b) Employees hired on or after 4/01/04 shall have the following health insurance option:

1. PPO Plan

E. The Town reserves the right to change health insurance companies provided the coverage is equivalent and the claim processing is comparable.

F. When an eligible employee under the Collective Bargaining Agreement chooses to enroll in a Health maintenance organization the Town offers, and the monthly premium rate is over the Town's general plan, as provided in the first paragraph of this section, the Town will assume the additional cost, except as provided in Section 5.07 and the next paragraph.

G. Employees hired prior to January 1, 1997 shall have

their health insurance premium fully paid by the Town.

H. Employees hired after January 1, 1997, shall pay a portion of their health insurance premium as follows:

- a. After probation to the first month following four years of service-25%
- b. Fifth year of service and thereafter fully paid by the Town subject to limitations described in 11.02B.

I. Employees hired on or after April 1, 2004 shall pay a portion of their monthly health insurance premium as follows:

- (A) 25% first four (4) years - applies to employees hired prior to 4/01/04.
- (B) For employees hired on or after 4/01/04 - 20% first four (4) years, Then starting with the fifth year: \$145.09 Family/\$51.78 Single per month. Example, ($\$51.78 \times 12$ months divided by 26 pays = per pay deductions.)
- (C) All such payments shall be deducted on a per payroll basis.

J. When an active full time regular employee dies while in the employment of the Town, his/her surviving spouse, provided they do not re-marry, shall receive benefit of the deceased employee's health insurance coverage for a maximum of six (6) months upon the employee's death, at Town expense.

K. The Town shall have the option of providing two (2) single health insurance policies, instead of a family plan, for married employees who have no dependent children. In the event a family plan is needed, due to dependents, the change from single will be done as soon as possible.

L. Employees who retire must enroll in Medicare Part B when eligible.

11.02

A. All employees hired after January 1, 1997 must select medical coverage only from the PPO described above. If a new employee hired after January 1, 1997 selects Traditional Blue

Cross/Blue Shield coverage, that employee must pay the difference between the premium of the PPO coverage and the premium of the Traditional Blue Cross/Blue Shield coverage.

B. Employees hired prior to 1/1/97 that have selected HMO coverage have an opportunity to obtain traditional coverage as specified herein after 1/1/97, during any open window period, without cost to that employee as long as the employee is selecting traditional Blue Cross/Blue Shield coverage for any of the following reasons:

1. Upon Retirement of the employee or in the event the employee wishes to change to traditional Blue Cross/Blue Shield coverage after retirement. If the employee has previously received a bonus for opting out of Blue Cross/Blue Shield Indemnity Plan for that year, the employee will be required to repay the bonus.
2. The employee has a family member covered by the employee's medical coverage that is leaving or has left the geographical area covered by the HMO.
3. Requests of employees hired prior to 1/1/97 and family members to move to traditional coverage will be granted for proper medical coverage of serious medical conditions other than provided by an HMO. These other cases will be reviewed on a case-by-case basis by a committee consisting of two (2) Town representatives selected by the Town and two (2) Association representatives selected by the Association. The majority will rule in these cases. If the Committee does not agree there is no majority, then the matter will go to expedited arbitration pursuant to Article IV of the Collective Bargaining Agreement to determine the question of whether there is a serious medical condition that requires traditional coverage for proper medical coverage as provided in this paragraph.
4. The Town's position to encourage current employees as

of 12/31/96 to select HMO medical coverage was not intended to harm or to be the detriment of any current employee as of 12/31/96. The intent is for employees to be allowed to return to traditional coverage for a bonafide reason only.

5. Any employee who retires, and request Traditional coverage due to the portability, shall select the PPO if it offers similar portability and the employee has no other reason to need Traditional Blue Cross/Blue Shield under Section 11:02 B.

C. In the future, during an open enrollment period following ratification of this agreement, if an employee or future retiree hired on or before January 1, 1997, has Traditional medical coverage and switches to the PPO, then that employee or future retiree may change back to Traditional coverage, without cost to them as long as satisfying any one of the above.

D. In the future, during open enrollment period following ratification of this agreement, if an employee or future retiree hired before January 1, 1997, is in an HMO as of December 31, 2002, and they wish to change to Traditional coverage in the future, without cost to them, then that employee or future retiree must qualify by satisfying any one of the above.

E. Otherwise, those employees or future retirees hired before January 1, 1997 and do not meet one of the three criteria stated above, can only obtain Traditional coverage by paying the difference between the PPO coverage and Traditional coverage.

F. Those employees or future retirees hired after January 1, 1997 can only obtain Traditional coverage by paying the difference between the PPO coverage and Traditional coverage.

G. Those future retirees hired after January 1, 1997 that qualify for medical coverage as a retiree as described in Section 11.03 below that move away from the Western New York geographical area and the PPO offered by the Town provides the portability of

proper coverage to the new geographical area then the Town agrees to pay for an HMO offered in the new geographical area but only to the extent that the Town's obligation is the cost of the PPO offered by the Town. For those future retirees hired on or after April 1, 2004 the same applies except those future retirees still must contribute as provided in Sections 11.01(J) and 11.03.

11.03 (a) The payment of health insurance premiums shall be made on behalf of an employee who is retired and collecting a New York State Retirement allowance or is receiving an Ordinary/Accidental Disability Retirement allowance and had ten (10) years of credited service with the Town and is not employed where similar health insurance is available to his/her without cost, except that when such employment terminated, his/her rights shall be reinstated. Premiums are to be paid during the life of the retired employee or his/her spouse upon the employee's death, but only until he/she remarries or dies. An employee would not be eligible for this benefit if their spouse was receiving substantially the same coverage at no cost and could cover our retiring employee. If an employee or spouse is not initially eligible for this benefit because the employee or spouse is receiving substantially the same coverage, but circumstances change where coverage is no longer available without cost, then employee or spouse would be eligible for Town payment of health insurance.

(b) All new employees hired on or after April 1, 2004, shall have the payment of health insurance premiums made on their behalf as a retiree if the employee has ten (10) years of credited service with the Town and is retired and collecting a New York State Retirement allowance. Further, said new employees hired on or after April 1, 2004, shall make a contribution as set forth in 11.01 J of their monthly health insurance premiums as retirees.

(c) If a National Health Insurance Program is enacted, the above provided payment shall cease for retired employees.

11.04 The Town and the Association acknowledge that they have created a dental Health and Welfare Fund to be administered by the Association by the signing of a separate document which is incorporated and made part of this contract. The parties further acknowledge that the Town is required to pay \$400.00 per year per employee into the FUND pursuant to the terms of the fund agreement.

11.05 Double Coverage - The Town agrees to pay employees a payment of Four Hundred (\$400.00) dollars for dropping individual coverage and Nine Hundred (\$900.00) dollars for dropping dependent coverage per year. Such option must be exercised during the month of November, to be effective the following January 1. This same procedure shall apply to an employee opting back into the Town plan. This payment can be made only when the employee signs a statement that the employee has or will procure health insurance through the spouse's employment, other employment of the employee, or a private insurance plan. Such payment shall be made on or about April 1 of each year. If the employee wishes to rejoin the plan within the year, the employee must repay the pro rata portion of the payment (Example: 6 months, \$200.00 - Individual and \$450.00 - Dependent) and show a change in circumstances regarding the alternative health plan (non-voluntary loss of coverage). The Town agrees to let the employee back into the plan after one (1) year. Payment under this Section shall be made within thirty (30) days of the effective day of dropping the Town's plan.

If a husband and wife are both employed by the Town, then they shall be eligible for only one family plan coverage policy, eligible to cash in that one policy pursuant to this Section.

Employees who exercise their option under this Section shall be eligible for Section 11.03 at time of retirement. Employees who quit prior to the end of the year shall repay the pro rata portion of such payment.

Post probation employees hired after 8/1/85 with less than three years of service with the Town are entitled to Section 11.05 at 75% of the stated amount.

Post-probation employees hired after 1-1-97 with less than four (4) years of service with the Town are entitled to Section 11.05 at seventy-five percent (75%) of the stated amounts.

ARTICLE XII

RETIREMENT BENEFITS

12.01 The Town agrees to provide and thereafter maintain the non-contributory plan of retirement benefits under Section 75-i (Improved Career Retirement Plan), Section 60-b (Guaranteed Minimum Death Benefit) and Section 41-j of the New York State Employees' Retirement System.

12.02 A \$25,000.00 term life insurance policy will be provided. Premiums to be paid by the Town. Retirees shall have the right to convert to individual policy if the retiree pays the premium.

ARTICLE XIII

OCCUPATIONAL VACANCIES

13.01 The term "promotion" as used under this article, means the permanent advancement of an employee to a higher paying position. Employees in higher grade positions may bid down to fill a vacancy.

13.02 Whenever an opportunity for promotion to a permanent job vacancy occurs in any existing job classification, or as a result of the development or establishment of a new job classification, a notice of such job opportunities shall be posted on all bulletin boards in all departments, stating the job classification, the rate of pay and nature of the job requirements in order to qualify. Such job postings shall be for a period of not less than five (5) working days.

If an employee holding a permanent job title, that requires posting, is going to be off for a period exceeding sixty (60) calendar days for illness or unpaid leave of absence, and the Town determines to fill such vacancy over sixty (60) days, it shall be posted in the department only. Upon the return of the absent employee, the person holding the temporary vacancy shall return to his/her former position and rate.

During the job posting period, employees in any department who wish to apply for a job vacancy, including employees on layoff, may do so. The application shall be in writing, and it shall be submitted to the employee's department head.

The department head shall fill such job openings or vacancies from among those employees who have applied within the department and who meet the standards of the job qualifications. In the event two or more employees within the department are qualified, then the most senior employee will be given the appointment. Employees not within the department that the job vacancy exists shall be considered along with applicants who are not currently Town Employees.

A notice listing the employee selected for the position shall be posted by the department on all bulletin boards within the department where the job vacancy existed, no less than three (3) work days from the date of appointment. A copy of such posting shall be sent to the Secretary and President of the Association.

The parties agree that the titles of laborer and maintenance worker are not subject to the procedures of this article.

13.03 No employee will be involuntarily transferred from one department to another for disciplinary reasons.

13.04 Employees desiring to be laterally transferred to other jobs shall submit an application, in writing, to the Director of Labor Relations; receipt of which will be acknowledged. The application shall state the reason for such requested transfer.

13.05 Any employee selected in accordance with paragraph 13.02 shall undergo a trial period of a minimum of eight (8) weeks to a maximum of thirteen (13) weeks from the time of starting in the new position. The parties may mutually agree to extend such period to a maximum of twenty-six (26) weeks. If it is determined by the Town that such employee does not meet the requirements or responsibilities of the position to which he has been promoted, during the trial period, then such employee shall be restored to his former position. Any dispute of qualifications of an employee(s) selected shall be subject to the grievance procedure under the terms of this Agreement.

13.06 When a Maintenance Worker A or B is assigned by the department head to perform the duties of an Operator in the Water Treatment Plant or the Sewage Treatment Plant for a period of eight (8) hours or more, he shall receive an additional sum of twenty (20¢) cents per hour for all hours worked in such assignments.

13.07 When an hourly employee is assigned by the department head to perform the duties of a Crew Chief for a period

of four (4) hours or more, he shall receive an additional sum of sixty-five (65¢) per hour, for all hours worked in such assignments. (A Crew Chief who is assigned, will be paid no less than the highest paid hourly unit employee in such crew).

13.08 The Highway Superintendent or his representative may assign an employee holding a lower paying job than Motor Equipment Operator to the temporary title of "T-Driver" meaning "Temporary Motor Equipment Operator." When such employee is designated to the "T-Driver" assignment for a period of three and one-half (3-1/2) hours or more during an eight (8) hour working shift, such employee shall receive the Motor Equipment Operator hourly rate.

The employee group available for this assignment shall be selected in the following manner:

1. A notice shall be posted on the Highway department bulletin board, stating the job requirement in order to qualify, and the number of positions that will be selected. Such posting shall be for a period of not less than five (5) work days.

2. A notice listing the employee selected to be available for the assignments shall be posted by the department head.

Under normal conditions, assignment of employees from the available group will be by seniority.

It is further understood that this paragraph pertains only to the Highway Department.

13.09 A.

1. An employee who is assigned by his/her immediate supervisor and does perform the job duties of a job title paid more than the employee's regular rate, for three (3) consecutive hours or more, shall receive the pay rate of the higher job title, (lowest rate in the higher title that provides an increase to the employee's normal rate of pay) for hours worked in said assignment.

2. This section will apply only to hourly unit bargaining titles.

3. Any training period shall not entitle an employee to out-of-title rate. Working in the same title in place of an employee with a higher job rate does not entitle the employee to out-of-title pay. (Example: Laborer - M.W.C. - M.W.B. - M.W.A. - M.W. AA) The training period is defined as a period of time when one (1) employee who is qualified and being paid the appropriate rate of pay for a piece of equipment, is present at the job site and teaching another employee how to operate that piece of equipment. Such training period cannot last longer than forty (40) hours without the approval of a member of the Executive Board.

4. An employee who works as a Heavy Equipment Operator and/or a specialized equipment operator shall be paid out-of-title pay at the H.E.O. (Dump) rate of pay. The equipment to be classified as heavy equipment and specialized equipment are the following pieces of equipment: Bulldozer, Pan, Sweeper, Paver, Vactor, Crane (wheel mounted), Closed-circuit TV, Snow blower, 10 Ton Rollers and Back Hoe (12 & 16 ft. reach) in the Water and Sewer Department and in the Highway Department for curb and sidewalk removal. The Vactor in the Highway Department shall not receive HEO pay if not used in the full manner of the Water Resources Department.

5. It is further understood normal maintenance repair (oil changes, greasing, minor electrical, etc.) does not require out-of-title pay for Auto Mechanic.

Changes in the out-of-title section shall be referred to the out-of-title committee for recommendations to revise that section.

13.09 B.

1. An employee who has a grievance relating to out-of-title work shall submit a grievance through the normal grievance procedure as to Step I. Step II shall be

the out-of-title committee which shall review the alleged non-payment of out-of-title work and provide a written report to the employee of agreement or non-agreement to the employee's allegations. If the out-of-title committee agrees to payment, the employee shall be paid at the next regular pay period. If the committee does not agree with the employee, the Grievance shall be forwarded to the Director of Labor Relations which shall be Step III of this procedure. Step IV of the procedure shall be Arbitration.

2. However, if an employee grieves the question of out-of-title work as Senior Maintenance Worker, the grievance may not proceed to the Arbitration stage of Grievance Procedure, unless the employee worked on a day that the regular Senior Maintenance Worker was at work.

3. A grievant who utilizes this procedure shall have the following rights: his presence during all evidence testimony presented to the committee, a right to his or her own evidence before the committee, and have a representative of his choice present at the meeting with the committee.

The out-of-title committee shall consist of four (4) members appointed by the Association and four (4) members appointed by the Town.

- 13.10 All eligible employees under the terms of this Agreement may bid on vacancies in the title of Laboratory Assistant. Successful applicants shall be placed at the lowest applicable Laboratory Assistant rate which would represent a promotion to the successful applicant; but in no event, higher than the (c) step.

ARTICLE XIV

GENERAL

14.01 The requirement for residency of the employees within the boundaries of the Town of Tonawanda shall be in accordance with Local Law 3-76.

Effective January 1, 2007, an employee who has completed fifteen (15) years of full time service with the Town, may reside outside the Town but within a thirty (30) mile radius of the Town's facility at 525 Belmont Avenue (excluding Canada). Any employee residing outside of the Town of Tonawanda must be able to report for work within one (1) hour of notification in the event of a call in. An employee who has not yet completed fifteen (15) years of full time service with the Town must reside within the Town of Tonawanda. It is understood and agreed that any employee residing outside of the Town of Tonawanda will not be permitted to take a Town vehicle to that residence. It is further understood that in the event of a call in, an employee residing outside of the Town:

1. Will not be compensated for travel time that occurs between the employee's residence outside of the Town and the site of the work assignment; and
2. May be bypassed so that the Town may fill its personnel needs more expediently.

14.02 The department heads shall, as far as practical, require only authorized personnel to operate equipment.

14.03 Employees shall be accorded the full benefits of the New York State Law covering employees honorably discharged from military service. Military service shall be considered employment by the Town as it affects seniority, promotions, sick leave and other benefits, except that no compensation shall be paid or payable to an employee for time spent in military service.

14.04 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 Association shall share equally with the Employer, the responsibility for applying this provision of the Agreement.

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

14.05 Any benefit presently in effect for employees covered by this Agreement will be retained and remain in force as if such benefit is a part of this Agreement, except where such benefit has been abridged by this Agreement, or where it has been otherwise mutually agreed between the Town and the Union.

14.06 In the event of public transportation difficulties, severe storms, floods, or "Acts of God," an individual's or a group of employees' tardiness may be excused by the department head. Should the department head or designee notify an employee or employees that a function or department is closed due to the above, no compensation would be required. Notification to the employee will be made as soon as possible.

14.07 Safety Committee - A Safety Committee shall be established consisting of six (6) members; three (3) members appointed by the Director of Labor Relations and three (3) members appointed by the President of the Association. The recommendations of such committee shall be submitted to the Director of Labor Relations. The Director of Labor Relations and the President of the Association will meet at least quarterly to review the safety record of the Town and the performance of the joint safety committee.

14.08 Safety Items - The Town will determine the need of proper safety items. Such items shall then be provided to the employees, including probationary employees.

ARTICLE IV

SAVINGS CLAUSE

15.01 Should any article, section or portion thereto of this Agreement be held unlawful and unenforceable by any Court of competent jurisdiction, such decision of the Court shall only apply to the specific Article, Section or portion thereof, directly specified in the decision. Upon the issuance of such a decision, the parties agree immediately to negotiate a substitute for the invalidated Article, Section or portion thereof.

ARTICLE XVI

TERM OF AGREEMENT

16.01 This Agreement, except as may be modified within the individual Articles/Section hereto, shall be effective beginning January 1, 2007 and remain in force and effect until December 31, 2008.

16.02 The parties agree that notice to negotiate for a renewal of this Agreement, or an amendment(s) thereto, shall be in writing and delivered one hundred eighty (180) days prior to December 31, 2008.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed, each by its duly authorized Officials and Representatives.

TOWN OF TONAWANDA, NEW YORK

By: *Ronald W. Moline*
Supervisor

By: *Marian M. Gardner*
Personnel Supervisor

HOURLY EMPLOYEES' ASSOCIATION OF THE TOWN OF TONAWANDA

By: *Paul Nymanskyt*
President

Date Executed 3/29/06