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#### **Contract Database Metadata Elements**

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Employer Name: **Van Buren, Town of**

Union: **International Union of Operating Engineers (IUOE), AFL-CIO**

Local: **545-B**

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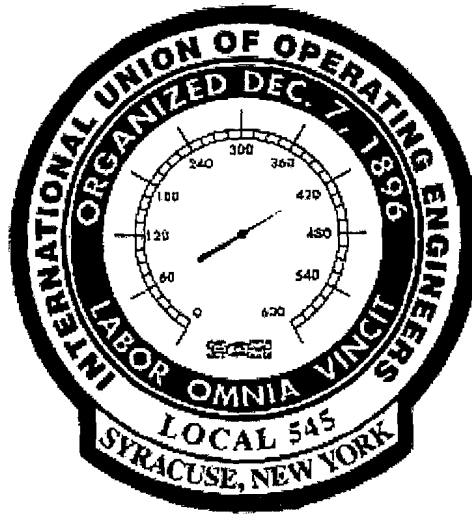
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**COLLECTIVE BARGAINING AGREEMENT**

between

**THE TOWN OF VAN BUREN, NEW YORK**

and

**THE INTERNATIONAL UNION OF OPERATING ENGINEERS,  
LOCAL 545B, ALF-CIO**

January 1, 2009 thru December 31, 2011

**RECEIVED  
NYS PUBLIC EMPLOYMENT  
RELATIONS BOARD**

**JUN 12 2009**

**ADMINISTRATION**

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#### **SECTION 4 - NO STRIKE CLAUSE**

1. The Union and the employees agree that during the life of this Agreement they will not cause, encourage, participate in, condone or support any strike or picketing against the Town, or on any slowdown or other interruption of, or interference with, the normal functions of the Town.

2. The Employer agrees that they shall not conduct a lockout for the duration of this Agreement.

#### **SECTION 5 - AGREEMENT SCOPE**

1. The parties acknowledge that during the negotiations which result in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject matter not removed by law from the area of collective bargaining, and that the understanding and agreements arrived at by the parties after exercise of that right and opportunity are set forth in this Agreement. The parties agree that this Agreement may only be amended during its term by the parties' mutual agreement in writing. Such agreement in writing shall specify the exact portion of the Agreement to be amended and shall be limited to that portion(s).

2. Any and all rights and benefits enjoyed by the Bargaining Unit Employees not embodied in this Agreement shall continue. Nothing contained in this Agreement shall serve to lower the standard of living or lessen the quality of employment currently enjoyed by the Bargaining Unit Employees.

#### **SECTION 6 - MANAGEMENT RIGHTS**

1. The Town retains the sole right to manage its business and services and to direct the working force, including the rights to decide the number and location of its business and service operations, the business and service operations to be rendered, and the methods, procedures and means used in operation of its business and services, and the control of the buildings, real estate, materials and all equipment which may be used in operating its business and services or in supplying its business and services, to maintain order and efficiency in all its departments and operations, including the sole right to hire, assign, transfer, promote, discipline, discharge for just cause, suspend after fair representation for both sides, to establish specifications for each class of positions and to classify or reclassify and to allocate or reallocate new or existing positions in accordance with the applicable law; subject to such regulations governing the exercise of those rights as are expressly provided in this Agreement, or provided by law.

2. The Union recognized its responsibility to act at all times in good faith in carrying out any and all provisions of this Agreement. The Union acknowledges the right of management to direct and control management policies subject to the obligation of the Agreement. Employees will cooperate with management to facilitate efficient operations.

3. All of the Authority, rights, and responsibilities possessed by the Town are retained by it except as expressly limited by other provisions of this Agreement

## **SECTION 10 - BULLETIN BOARDS**

The Town agrees to provide a space for a bulletin board for the posting of Union notices of meetings and similar matters relating to official Local Union business.

## **SECTION 11 - ACCESS TO EMPLOYER PREMISES**

The International or Local Representatives of the Union shall be granted access to Employer work locations during work hours. Such visit shall not interfere with work or normal operations. The Town Supervisor shall be advised of any such visit.

## **SECTION 12 - GENERAL CONDITIONS OF EMPLOYMENT**

1. The work week for all full time employees shall consist of 37.5 hours per week including a 1 hour paid lunch per day. The normal work day shall be 8:30 A.M. to 4:00 P.M. unless otherwise determined by the Department Head, with special accommodations made between 8:00 A.M. to 5:00 P.M as needed only. Lunch periods shall be staggered in such manner to accommodate the public's access to the buildings. Any employee required to work in excess of 2 hours after regularly schedule hours shall be granted a ½ hour paid dinner break. For the purposes of dues, employees working more than 100 hours in a calendar month shall be considered full time employees. Those employees working 100 hours or less per month shall be considered part-time employees.

2. Any and all employees who work more than 40 hours (lunch hours shall be considered as time worked) shall be paid at a rate of 1.5 times their regular hourly rate of pay for each hour worked over 40 hours. Additionally, employees shall be paid at a rate of 1.5 times their regular hourly rate for any work performed on a Sunday, and employees shall be paid at a rate of 2.5 times their regular hourly rate for any work performed on a holiday as defined in Section 18 of this Agreement.

Compensation for scheduled after hour activities:

- (a). Buildings and Grounds – Take truck home
- (b). Parks and Recreation – Take truck home
- (c). Court, Assessor and Codes Clerks - \$10 set fee

3. Each employee shall have the opportunity to designate whether his or her overtime shall be taken in payroll or in comp time. Comp time shall be taken in the same manner earned (an hour and a half comp time for each hour of overtime worked over 40 hours in a work week) while payroll shall be paid under the terms described in Paragraph 2 of this Section.

Comp time shall be granted at the time requested by the employee with concurrence of the Department Head or Town Supervisor. If the nature of the work makes it necessary to limit the number of employees on comp time at the same time, the employee(s) with the greater seniority shall be given his or her choice of day(s).

Under no circumstances shall any bargaining unit employee suffer the loss of pay or comp time due to layoff, voluntary quit or termination of any kind. In the event that termination pay becomes necessary, comp time payment, if due, shall be paid under the terms of this Section 12, item 2. Any comp time not used shall be paid in check at year end at rate it was earned.

4. Any employee who reports for work as the result of being called in to work by a beeper, pager, telephone or similar device, unscheduled and unanticipated shall be paid for 3 hour minimum call in. Employees on sick, vacation, personal or bereavement leave shall not be required to respond to any form of call for work.

5. Employees required to wear specific clothing, shoes or carry equipment of any nature shall have such clothing, shoes or equipment provided by the Town. Clothing shall consist of a daily shirt change, 3 changes of pants weekly and required shoes annually. The Town agrees to provide rain gear including boots (1 pair per calendar year) as well as other safety gear as is necessary.

6. All employees of the Town, regardless of full time or part time, shall be granted 3 days paid leave for in-state bereavement and 5 days paid leave for out of state bereavement, with documentation, after the death of a member of the employee's immediate family, step family or in-law family (example; spouse, child, parent, brother, sister, grandparent, mother-in-law and father-in-law).

7. All employees covered by this Agreement shall be entitled to the provisions of the Family and Medical Leave Act.

8. All new employees hired shall be considered as probationary employees for the first year of their employment. There will be three reviews during the employee's probationary period, which will occur at the following intervals: 30 days, 3 months, 6 months and a final probationary evaluation given not less than 3 weeks prior to the 1<sup>st</sup> anniversary date. When an employee completes 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; however, probationary employees shall receive all benefits afforded to regular employees except that probationary employees' discharge shall not be subject to the grievance procedure. An employee shall be considered probationary only once during his term of employment except as follows:

a. DURATION: An employee who is promoted or transferred into a new position shall be placed on probation for a period of 1 year. At any time during this period, the employer may rescind the promotion or transfer and the employee shall be reinstated to the employee's previous position. At any time during the probationary period, the employee may retreat to the to the employee's previous position. Such action shall not be subject to the grievance procedure or disciplinary procedure. Promoted employees will be paid the full position rate immediately upon promotion. The immediate supervisor may request of the town supervisor and personnel committee that an employee's probationary period be shortened as long as the employee has served at least 9 months of the one year probationary period.

b. MINIMUM QUALIFYING PERIOD: An employee who is promoted or transferred into a new position shall receive 90 days to demonstrate competence in the new position, however, in the event the employee demonstrates gross incompetence, the probation may be immediately ended.

9. All full-time employees shall receive 4 paid personal leave days per calendar year, non-accumulative, with the approval of the Town Supervisor or the employee's Department Head. Arrangements for such leave shall be made by at least 24 hours in advance, except in the case of emergency. Such leave shall be granted without

loss of pay, and shall not be deducted from vacation accruals or any other leave benefits. Personal leave may be taken in half-day increments. Permanent part-time employees shall earn the same to be taken in the manner stated in Section 15 of this Agreement.

10. No employee shall make a false entry, or cause a false entry to be made on his or her attendance record or time sheet. Time sheets are to be done weekly and reviewed and approved by the department head or, in the absence of the department head, by the town supervisor, weekly.

11. To transition a part-time employee to a full-time position, use the following to determine the accrued vacation time, sick time and years of service:

a) Multiply the part-time employee's accrued vacation hours by the part-time hourly wage, divide that number by the new full-time wage, then divide that total by 7.5 to arrive at vacation days earned for the new position.

b) Multiply the part-time employee's accrued sick hours by the part-time hourly wage, divide that number by the new full-time wage to arrive at the sick hours earned for the new position.

c) Take the total part-time hours the employee worked since the date of hire and divide that by 37.5, then divide that number by 52 (weeks) to convert part-time hours to full-time years worked. (i.e.: 7280 PT hours, divided by 37.5, divided by 52 = 3.7.

d) After a full year is worked in the new full-time position, add that year to years calculated in step c) to determine where employee falls when it comes to earning vacation time within the contract.

12. a) Lunch hours must be between 11:00 A.M. and 2:00 P.M. Therefore all employees must complete their lunch break by 2:00P.M.

### **SECTION 13 - SICK LEAVE**

Any employee contracting or incurring any non-service connected sickness or disability, is quarantined by the Health Authorities, or must make medical visits during working hours as a result of any illness or injury, shall receive sick leave with pay.

1. Employees shall be eligible for sick leave after 90 days of service with the Employer.
2. Employees shall earn 7.5 hours of sick leave for each month of service. Sick leave shall be earned by an employee for any month in which the employee is compensated for 20 full work days. Sick leave may be taken in 1/2 hour increments.
3. An employee may be required by the Employer to produce a doctor's certificate after 3 consecutive days of sickness or disability.
4. All time for which an employee is credited with sick leave shall be considered as time worked.
5. An updated compilation of each employee's sick leave shall be posted with each employee's pay check

## SECTION 13A – ACCUMULATION

Employees shall start to earn sick leave after 90 days following the first day of the full month after the date of hire, and they shall accumulate up to 750 hours. Only those employees who complete the probationary period of 90 days shall be entitled to the sick leave benefit (as found in Section 13). Upon retirement or termination, the employee shall be compensated by check for all unused sick leave, for up to 750 hours, at the rate of \$10.00 per hour.

## SECTION 14 - HOSPITALIZATION AND MEDICAL BENEFITS

The Employer agrees to provide hospitalization, i.e., POMCO and Excellus Blue Cross Blue Shield or a plan with equivalent benefits for the employee and his dependents, provided with all available options for the term of this Agreement under listed employee contributions. Employer will notify the union, in writing prior to any change in health insurance carrier for review and approval or disapproval by union.

1. All employees shall select either POMCO or Excellus Blue Cross Blue Shield or a plan with equivalent benefits will be required to contribute 25% of premium per month. Payment will be deducted bi-weekly from employee's paycheck, balance of premium to be paid by the Employer.

2. Full-time bargaining unit members who retire from the department shall be given the option of continuing existing coverage with the Town of Van Buren. This benefit is only available to members retiring after the ratification date of this Collective Bargaining Agreement. Members retiring prior to ratification will retire under the terms of the previous Collective Bargaining Agreement.

Notwithstanding any Section in this CBA, the Town of Van Buren agrees to pay retiring full-time bargaining unit members who elect to continue existing coverage and who have at least fifteen (15) years of cumulative service with the town and up to nineteen (19) years of cumulative service with the town, three percent (3%) of the premium for each year of credited service up to a maximum of fifty-seven percent (57%) [as set forth below].

### TOWN OF VAN BUREN'S RESPONSIBILITY

#### BASED ON 3% FOR EVERY YEAR OF SERVICE

Years of Service	3% per Year
15	45%
16	48%
17	51%
18	54%
19	57%

Upon retirement from the town, full-time bargaining unit members who elect to continue existing coverage and who have at least twenty (20) years of cumulative service with



the Town shall have 75% of their premium paid by the Town. These calculations do not include time worked for any other municipality or any position other than the Town of Van Buren. This benefit shall continue to be provided until the employee obtains their own insurance or becomes Medicare eligible. Once the member is eligible for Medicare the insurance provided by the Town shall switch to secondary gap insurance at the same percentages. All insurance coverages are governed by the specific contracts of insurance. Retirement Plan will be maintained by the employer, until such time as the employee is deceased, at which time the eligibility shall extend to his or her spouse for a period of 12 months. Any employee hired after January 1, 2009 will not be eligible for health benefits after retirement.

3. Contributions by said retired employee or surviving spouse shall be the 25% contribution mentioned in paragraph 1 of this section.

4. The hospitalization and medical provisions of this Agreement shall be available for all employees covered by this Agreement who have completed 30 days of continuously scheduled employment with the Employer.

5. Coverage will terminate upon the absence of the employee from the active payroll for 30 consecutive days or more for any reason other than absence because of sickness or disability. In the case of sickness or disability, coverage will be continued for up to a maximum of 2 years at the above mentioned 25/75%.

6. Permanent part-time employees, those employed 15 hours per week or more for at least 40 weeks per year, shall have made available to them the same coverage as full-time employees and shall contribute 50% of the cost for individual coverage. Cost of dependent coverage shall be the employee's responsibility.

**SECTION 15 - PERMANENT PART-TIME EMPLOYEES**

If a permanent part-time employee is required to work a full day, they shall receive a 1 hour paid lunch period. Permanent part-time employees shall be entitled to the same paid holidays and sick days as full-time employees at the same rate as which the time is earned (e.g., employees who work 4 hour days shall be paid for 4 hours when paid holidays, vacation, bereavement or sick time falls on a regularly scheduled work day. They can also earn comp time through payroll.

Regular hours worked per week	Vacation week equals these hours	Hours of sick time earned each month	Max sick hours to accumulate	Hours of personal time available for each calendar year
17.5	17.5	3.5	350	14
20	20	4	400	16

**SECTION 16 - GUARANTEED WORK DAY**

Any full-time or permanent part-time employee who presents himself for work as scheduled shall be assigned work or be paid for the day or normal part-time hours.

## **SECTION 17- SENIORITY**

There shall be no seniority provisions in this Agreement unless expressly stated. The Town, at its discretion, may consider years of service in filling vacancies and promotion, however, no new employees shall be hired until all employees on layoff status desiring to return to work have been recalled. New job titles shall be recognized as part of this Agreement.

## **SECTION 18 - PAID HOLIDAYS**

The following days shall be recognized and observed as paid holidays:

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

1. Whenever any of the holidays listed above shall fall on Saturday, the preceding Friday shall be observed as the Holiday. Whenever any of the holidays listed shall fall on Sunday, the succeeding Monday shall be observed as the holiday.

2. Employees shall be eligible for holiday pay under the following conditions:

- a) The employee would have been scheduled to work on such day if it had not been observed as a holiday, unless the employee is on a day off, vacation, layoff, sick leave, and the employee worked his last scheduled work day prior to the holiday, unless he is excused by the Employer, or he is absent for any reasonable purpose. The Employer and the Union mutually agree upon reasonable purpose in each case.
- b) Eligible employees who perform no work on a holiday shall be paid 1 day's pay for each of the holidays listed on which they perform no work.
- c) For the purpose of computing overtime, all unworked holiday hours for which an employee is compensated shall be regarded as hours worked.

## **SECTION 19 - VACATION SCHEDULE**

1. Vacation shall be granted at the time requested by the employee. If the nature of the work makes it necessary to limit the number of employees on vacation at the same time, the employee with the greater seniority shall be given his choice of vacation period in the event of any conflict over vacation period.

2. **Employees hired prior to January 1, 1999.** Vacation periods shall be taken each calendar year. As employees reach or advance to a different "level" (i.e., earn additional vacation time based upon years of service), this additional time is earned on the employee's anniversary, and also must be used by the end of the calendar year.

On January 1st of the following year the employee will be credited with, and may begin using, his full vacation benefit as described in the schedule set forth in Section 19 (6). Employees who do not request a vacation period prior to the end of September following the calendar year in which the vacation was earned shall be scheduled for a vacation by the Town Supervisor. The vacation shall be scheduled within the 3 months remaining in the calendar year.

**Employees hired on or after January 1, 1999** shall earn and be credited with vacation time in each anniversary year. Such employees must use their earned vacation time within each anniversary year. Vacation time shall be earned according to the schedule set forth in Section 19 (6) and shall be governed by the same requirements in the above paragraph (vacation time must be requested in the first 9 months of the anniversary year following the year in which it was earned). If not requested, such time shall be scheduled by the Town Supervisor.

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

4. Any employee who is laid off, discharged, retired, or separated from the service of the Employer for any reason, prior to taking his vacation, shall be compensated by check for the unused vacation he has accumulated at the time of separation his current rate of pay.

5. In the case of death of such an employee, such payment shall be made to his estate.

6. All employees covered by this agreement shall be entitled to the following vacation days upon completion of their probationary period calculated from the first day of the first full month following the employee's date of hire. No employee shall suffer a loss of vacation time as a result of the vacation schedule language.

After 1 year of service.....5 work days.  
After 2 years of service.....10 work days.  
After 5 years of service.....15 work days.  
After 9 years of service.....20 work days.  
After 14 years of service.....25 work days.

Notwithstanding any past practice of the Town, an employee's "years of service" (for purposes of determining the number of vacation days to which the employee is entitled) shall be measured from the first day of the first full month following the employee's actual anniversary date of hire, not from January 1 of the year of hire.

Any employee who terminates his employment, except by dismissal for cause, is entitled to the pro-rata vacation time earned in the calendar year in which his employment with the Town is terminated. Any employee who has worked less than 1 year would not be entitled to vacation or pay upon termination.

7. Employees shall be entitled to carry over a maximum of 5 vacation days into the next vacation year.

## **SECTION 20 - JURY DUTY**

Employees shall be granted a leave of absence with pay any time they are required to report to jury duty or jury service. Employees must surrender jury pay to the Town, with the exception of mileage and parking fees. Written notification shall be given to the Town Supervisor when the employee is notified and proof of jury service shall be provided to the supervisor within the pay period within which leave was granted.

## **SECTION 21 - CIVIC DUTY**

Employees required to appear before a court or other public body on any matter not related to their work and in which they are not personally involved as a plaintiff or defendant shall be granted leave with pay for the period necessary. Written notification shall be given to the Town Supervisor when the employee is notified.

## **SECTION 22 - ABSENCE DUE TO INJURY AND WORKER'S COMPENSATION**

1. The Employer shall provide coverage for all employees covered by this agreement under the Worker's Compensation Law of New York State Employer's Law. All injuries shall be reported by the Employee in a timely manner.

2. Employees who are unable to perform the duties of their employment because of injuries received in the service of the Employer, and who receive Worker's Compensation benefits, may receive a supplemental sum equal to the difference of between their wages and their compensation benefits, but such supplemental sum shall be deducted from sick leave credits and/or accrued vacation leave.

3. Department heads shall be responsible for completion of any and all accident forms or reports to be forwarded to the Town Clerk.

## **SECTION 23 - NEW YORK STATE DISABILITY INSURANCE**

1. The Employer shall provide Disability Insurance coverage for all employees covered by this Agreement. The employee's share of contribution shall be \$.60 per week.

2. Employees who are unable to perform the duties of their employment because of injuries or illness (non-job related) and who receive Disability Insurance Benefits may receive a supplemental sum equal to the difference between their wages and their disability benefits, but such supplemental sum shall be deducted from sick leave credits and/or accrued vacation time.

## **SECTION 24 - UNPAID LEAVE**

1. Leaves of absence without pay, and not to exceed 6 months, may be granted for any reasonable purpose. Reasonable purpose in each case shall be agreed upon by the Union and the Town Supervisor.

2. No seniority shall be accrued during an unpaid leave of absence.

## **SECTION 25 - WAGES AND CLASSIFICATIONS**

1. Except as may otherwise be provided for in this Agreement, employees shall be compensated in accordance with the wage schedule established in negotiations effective January 1, 2009 attached to this Agreement and marked Appendix "A".

## **SECTION 26 - PAY PERIOD**

The salaries and wages of employees shall be paid on the same day every other week. In the event this day is a holiday, the preceding day shall be the pay day.

## **SECTION 27 - LONGEVITY SERVICE PAY**

Upon signing this Agreement, each employee hired prior to January 1, 2009 covered by this Agreement shall receive, annually, by separate check issued on the first payroll following his anniversary date, longevity service pay by the following schedule:

8 years of employment but not longer than 13 years - \$150.00.

13 years of employment but not longer than 18 years - \$300.00

Over 18 years of employment - \$450.00

## **SECTION 28 - RETIREMENT PLAN**

The Employer will make available the New York State Employee Retirement System pension plan to each eligible employee. An employee has a vested right to retirement benefits after 10 years of eligible public sector service. In the event an employee leaves after 10 years of service but prior to retirement age, such employee may receive a benefit at retirement age related to those as a public sector employee.

## **SECTION 29 - GRIEVANCE PROCEDURE**

1. It is the intent of the parties hereto to attempt to prevent grievances and to settle those that may occur fairly and promptly. Thus, it is agreed that there be time limits between the initiation of a grievance and the steps of the grievance procedure. The limits set forth in this Section are of the essence. They may, however, be extended by mutual written agreement of

the parties. The failure of the grievance, either the Union or the employee(s) it represents, to proceed within the time limits set forth shall terminate the grievance at that step. The failure of the Employer to answer within the time limits set forth will advance the grievance to the immediate next step of the grievance procedure.

2. A grievance shall mean an alleged violation, misinterpretation, or an improper application of the expressed terms of this Agreement.

3. Nothing contained in this procedure shall prevent the grievant(s) from entering into a personal settlement on his own behalf, dropping the grievance or requesting to be terminated at any time. All of which shall be conveyed to the Union by the grievant(s) in writing.

4. For the purpose of this procedure, workdays will exclude Saturday, Sunday and enumerated holidays.

5. An employee shall have the right to present his grievance in accordance with the procedure established herein, free from interference, coercion, restraint, discrimination or reprisal and shall have the right to be represented by a Union representative at all steps of the grievance procedure.

6. Grievances will be processed in the following manner and within the stated time limits:

#### Step 1

(a) An employee or group of employees who claim to have a grievance may, with the Steward, present his grievance in writing to the Town Supervisor within 7 working days after the occurrence of the alleged violation, or if it concerns an alleged continuing violation, then it must be presented within 7 working days after the alleged violation first became known. All grievances shall be signed by the grievant(s).

(b) Within 10 working days after presentation of the grievance, the Union Steward and/or Business Agent shall discuss the complaint with the grievant(s), Town Supervisor and Town Supervisor's representative and respond in writing to the grievant(s) and the Union.

#### Step 2

(a) In the event that the grievance is not resolved within Step 1, the aggrieved employee(s) of Union may submit within 5 working days from the Union Steward's and/or Business Agent's response, a formal written grievance to the Town Supervisor.

(b) The written grievance shall contain the circumstances of the alleged contract violation, the specified provision of the contract alleged violated, the date of the alleged violation, and the remedy sought.

(c) The Town Supervisor and Representative shall meet with the aggrieved employee(s) and the Union representative to discuss and review the allegations. Within 15 working days of receipt of the Step 2 written grievance, the Town Supervisor must respond in writing to the aggrieved employee(s) with a copy of the Union representative.

#### Step 3

(a) If a settlement is not reached in Step 2, the Union and the Union only may, within 10 working days after the reply of the Town Supervisor is given or is due, by written notice to the Town Board, request arbitration. The Employer and the Union will elect the arbitrator by mutual agreement, from lists submitted to them by the New York State Mediation and Conciliation Service Staff Arbitrators. If arbitration is not requested as set forth in this Step, it shall be deemed waived, and the grievance resolved on the basis of the response of the Town Board.

(b) The decision or award of the arbitrator shall be final and binding on the Town, the Union and the Grievant(s) to the extent permitted by and in accordance with applicable law and this Agreement. The Arbitrator shall have no power or authority to make any decisions which required the commission of an act prohibited by law or which is violation of the terms of this Agreement nor add, subtract from or modify any of the provisions of this Agreement. It is understood that any matter that is not specifically set forth in this Agreement shall not be subject to arbitration. The arbitrator shall not consider any new allegations or charges which have not been presented in Steps 1 and 2.

(c) The arbitrator shall render this award in writing, setting forth findings of fact, reasoning and conclusions on the issues not later than 30 calendar days from the date statements and proofs were submitted to the arbitrator.

(d) The cost of the service of the arbitrator, including expenses if any, will be borne equally by the Town and the Union. Each party will be responsible for compensating its own representatives.

### **SECTION 30 - MEDIATION OF GRIEVANCE**

If the Union referred in timely fashion to a grievance to arbitration, the parties may jointly agree to submit the grievance to mediation in lieu of arbitration in accordance with the following provisions:

(a) Mediation of grievance will be scheduled only on the basis of a joint request for mediation by the Union and the Employer made within 5 working days after the Union has referred the grievance to arbitration, unless the parties mutually otherwise agree in writing.

(b) The mediator shall be selected by mutual agreement to the Employer and the Union.

(c) One representative from each party shall present its position to the mediator provided that the grievant shall have the right to be present at the mediation conference.

(d) If a statement is not presented orally at the beginning of the mediation conference, the parties' representative may, but are not required to, present the mediator with a brief written statement of the facts, the issues, and the argument in support of their position.

(e) Proceedings before the mediator shall be informal in nature. The rules of evidence will not apply and no record of mediation conference shall be made.

(f) The mediator will have the authority to meet separately with any person or persons, but will not have the authority to compel the resolution of a grievance.

(g) If no settlement is reached during the mediation conference, the mediator shall provide the parties with an immediate oral advisory decision which shall include the basis thereof, unless both parties agree that no such decision should be provided.

(h) The mediator's advisory decision, if accepted by both parties shall not constitute a precedent, unless both parties otherwise agree.

(i) If no settlement is reached at mediation, the Union is free to arbitrate the grievance, provided it advises the Employer in writing within 10 calendar days following the mediation conference.

(j) In the event a grievance which has been mediated goes to arbitration, the mediator may not serve as the arbitrator. Nothing said or done by the mediator may be referred to or introduced into evidence at the arbitration hearing and nothing said or done by either party at the mediation conference may be used against the other party in arbitration.

(k) The fees and expenses of the mediator shall be divided equally between the Union and the Employer; provided, however, that each party shall be responsible for compensating its own representatives.

### **SECTION 31 - DISCIPLINE AND DISCHARGE**

1. The only procedure for taking disciplinary action or measures against any employees covered by this Agreement shall be as set forth in the following sections and shall, in addition, apply in lieu of Section 75 and 76 of the Civil Service law for the employees who would otherwise be covered by those sections.

2. Disciplinary action or measures shall include only Oral Reprimand, Written Reprimand, Suspension and Discharge.

3. Disciplinary action may be imposed upon an employee only for failing to fulfill his responsibilities as an employee in a professional manner. When any action or measure is imposed upon or is pending against an employee, then the Employer shall notify the employee, the Union, and the Union steward in writing of the specific reasons for such disciplinary action being imposed and proposed penalty. The written notification shall contain a detailed description of the charges, which shall include dates, times and places and personally delivered to said employee or sent by registered mail. The written notification shall indicate that 1 copy has been sent to the appropriate Union Steward, and 1 copy to the Union. Notification to the Union shall be done within 24 hours of notice given to the employee.

4. Prior to the exhaustion or institution of the grievance procedure applicable to the disciplinary action, an employee may be suspended without pay only if the Employer has reason to believe that the employee's presence on the job represents a potential danger to persons or property, or would severely interfere with operations. However, such determination shall be reviewable by the arbitrator, should the matter become subject of an arbitration proceeding in accordance with this Agreement. In any case, the disciplined employee, upon request, will be allowed to discuss his discharge or discipline with his Steward or other authorized representatives of the Union, and the Employer will make available an area where he may do so before he may be required to leave the premises.



DISPUTES AS TO DISCIPLINE AND DISCHARGE - When the Employer feels there is just cause for disciplinary or discharge action to be taken against an employee, the action may be processed by the Union as a grievance matter at the 2nd step of the grievance procedure within 10 work days of receipts of such notification, and the matter shall be handled in accordance with this procedure through the arbitration step, if deemed necessary by the Union.

REINSTATEMENT - If, in any case where an employee has been suspended pending the outcome of an arbitration proceeding, an arbitrator finds that such suspension or discharge was unwarranted or that penalty was too severe, then the employee shall be reinstated and compensated for all lost time, and all other rights and conditions of employment as may be determined by the arbitrator.

LIMITATIONS - An employee shall not be disciplined for acts which occurred more than 6 months from the date of discovery and prior to the imposition of the discipline.

### **SECTION 32 - GENERAL PROVISIONS**

#### **PLEDGE AGAINST DISCRIMINATION AND COERCION**

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

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

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

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

### **SECTION 33 - UNION ACTIVITIES ON EMPLOYER'S TIME AND PREMISES**

The Employer agrees that during working hours, on the Employer's premises and without loss of pay, appropriate Union representatives who are employees shall be allowed to:

1. Post Union Notices;
2. Distribute Union literature;
3. Solicit Union membership during other employees' non-working time;
4. Transmit communications authorized by the Local Union or its officers to the Employer or his representatives;

5. Consult with the Employer or his representatives, Local Union officers, or other Union representatives concerning the enforcement of any provisions of this Agreement.

#### **SECTION 34 - WORK RULES**

1. The Employer agrees that new work rules or changes in existing rules shall not become effective until they have been agreed upon by the Employer and the Union, and in addition, have been posted prominently on all bulletin boards for a period of 5 consecutive work days.
2. Employees shall comply with all existing rules that are not in conflict with the terms of this Agreement, provided the rules are uniformly applied and uniformly enforced.
3. An unresolved complaint as to the reasonableness of any new or existing rule, or any complaint involving discrimination in the application of new or existing rules shall be resolved through the grievance procedure.

#### **SECTION 35 - TEMPORARY EMPLOYEES**

1. Temporary employees may be hired to supplement the regular permanent work force during seasonal peak periods or emergencies. Said employees are occasional workers in nature and will be used on an as needed basis. Temporary employees will not be utilized to fill vacant positions that are permanent and unless there are not permanent employees available, will only be utilized for entrance level positions.
2. Any employee who is hired on a temporary basis and who is subsequently transferred to permanent status shall be credited with seniority for the purpose of all benefits of this Agreement from the original date of hire as a temporary employee.

#### **SECTION 36 - DISABLED EMPLOYEES**

The Employer shall make every effort to place employees who, through physical sensitivity or otherwise, become partially disabled on their present jobs, on work which they are able to perform.

#### **SECTION 37 - SAFETY ENFORCEMENT**

No employees shall be required to perform work that endangers his or any other employee's health or physical safety or under conditions which are in violation of the health and safety rules, or any local, state or federal health or safety laws. An employee's refusal to perform such work shall not warrant or justify any present or future disciplinary action.

#### **SECTION 38 - SAVINGS CLAUSE**

Should any Article, Section or portion thereof, of this Agreement be held unlawful and unenforceable by a 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 decision, the parties agree immediately to negotiate a substitute for the invalidated Article, Section or portion thereof.

### **SECTION 39 - MAINTENANCE OF BENEFITS**

This Agreement supersedes any and all previous handbooks, books or other documents governing the terms and conditions of employment in the Town. The document known as the Town of Van Buren Handbook, revised 12/18/2007, and/or its contents, shall have no effect on any bargaining unit employee.

### **SECTION 40 - TERMINATION AND MODIFICATION**

This Agreement shall be effective as of the first day of January 2009 and shall remain in full force and affect until the 31st day of December 2011. It shall be automatically renewed from year to year thereafter unless either party notifies the other in writing at least 90 days prior to the termination date that it desires to modify this Agreement. This Agreement may be reopened or modified by written consent of both the Town and the Bargaining Unit.

### **SECTION 41 - DESCRIPTION OF BARGAINING UNIT**

Employees of the Town of Van Buren covered by the wages, terms and conditions of this Agreement are, but not limited to:

Crew Leader: Oversees and directs all department operations including budgeting, time sheets and purchases.

Park Director: Oversees and directs all department operations including recreation programming, facilities operations and scheduling, program advertisement, time sheets and office procedures.

Recreation Supervisor: Plans, organizes and implements programs for the department including summer playground program and self-sustaining programs for adults and children.

Part-Time Clerks: (a). Parks Clerk  
(b). Court Clerk

Full-Time Clerks: (a). Assessment Clerk  
(b). Codes Clerk  
(c). Court Clerk

Laborer 1: Performs work under the direct supervision of the Crew Leader or Laborer 2 or 3, including push mowing, weed eating, ball field maintenance, snow shoveling, snow blowing, cleaning, digging, painting, grading and similar physical tasks.

Laborer 2: Performs, or is capable of performing the work of a Laborer 1 under the direct supervision of Crew leader or Laborer 3 and has working knowledge of small engine repair, vehicle maintenance and operation of machinery.

Laborer 3: Performs, or is capable of performing the work of Laborer 1 and 2 and is capable of skilled trade work including electrical, carpentry, plumbing, masonry, welding and operations of commercial equipment.

Code Enforcement Officer: Enforces the Town Zoning Ordinance, NYS Building Codes and NYS Fire Codes.

Deputy Code Enforcement Officer: Assists the Code Enforcement Officer.

It is understood between the signatory parties of this Agreement that the label or job title given an employee for Civil Service purposes may differ from descriptions used in Appendix "A" or wage schedules of this document. Any attempt to combine or merge job titles is done so only to minimize wage classifications of employees doing the same or similar work. It is also agreed that the parties will inform one another of new hires and/or job classifications to determine their proper place in the bargaining unit.

### **CROSS UTILIZATION AND COOPERATION OF EMPLOYEES**

Due to the size and nature of services provided by the Town of Van Buren, the Union and Bargaining Unit Employees agree that circumstances may exist that require cross utilization of employees. That is to say that an employee may, within reasonable perimeter and similar classifications, be used to supplement or assist in job duties not normally performed by that employee. This pledge of cooperation shall extend to temporary assignments not to exceed 2 weeks and filling in for employees on earned vacation. Out of classification work beyond temporary (2 weeks) or vacation fill in shall be reviewed to determine the proper classification of the employee(s) involved. No employee covered by this Agreement shall suffer a reduction of wages as a result of this policy.

Employees covered by this Agreement are fully aware of their responsibility to the Town and the Taxpayers of Van Buren, as such, every reasonable effort will be made to continue the high standards of services of residents have come to expect.

APPENDIX A - WAGES

Regular hourly rates for members of the bargaining unit are as follows:


	<u>Hourly wage</u> 01/01/2009	<u>Hourly wage</u> 01/01/2010	<u>Hourly wage</u> 01/01/2011
Code Enforcement Officer	25.94	26.71	27.51
Crew Leader	22.36	23.03	23.72
Park Director	22.36	23.03	23.72
Recreational Supervisor	17.61	18.14	18.69
Laborer 1	14.71	15.15	15.60
Laborer 2	15.68	16.15	16.63
Laborer 3	18.29	18.84	19.41
Clerk 1	11.58	11.92	12.28
Clerk 2	15.45	15.91	16.39
Deputy Code Officer	11.58	11.92	12.28

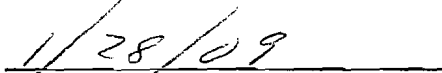
WITNESSETH: We the undersigned, dully authorized Representatives of the Town of Van Buren and the International Union of Operating Engineers, Local 545-B, hereto affix our hands at Syracuse, New York.


INTERNATIONAL UNION OF  
OPERATING ENGINEERS,  
LOCAL 545-B

TOWN OF VAN BUREN

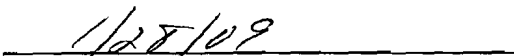
  
Name

  
Title

  
Date

  
Name

TOWN SUPERVISOR  
Title

  
Date