



**THE COUNCIL OF THE CITY OF BINGHAMTON
STATE OF NEW YORK**

Date: November 16, 2022

Sponsored by Council Members: Scaringi, Resciniti, Riley, Friedman, Burns, Scanlon, Strawn

Introduced by Committee: Employees

RESOLUTION

entitled

A RESOLUTION APPROVING AN
AGREEMENT BETWEEN THE CITY OF
BINGHAMTON AND THE INTERNATIONAL
BROTHERHOOD OF TEAMSTERS LOCAL 317
(SUPERVISORS UNIT) FOR 2023-2026

WHEREAS, pursuant to New York State Civil Service Law Article 14 – Public Employees’ Fair Employment Act, the Mayor and the International Brotherhood of Teamsters Local 317 (Supervisors Unit) have reached an agreement for the calendar years 2023, 2024, 2025, and 2026; and

WHEREAS, the agreement is attached hereto.

NOW, THEREFORE, the Council of the City of Binghamton, duly convened in regular session, does hereby:

RESOLVE that the attached agreement between the City of Binghamton and the International Brotherhood of Teamsters Local 317 (Supervisors Unit) for calendar years 2023, 2024, 2025, and 2026 is approved.

Introductory No. R22-91

Permanent No. R22-91

Sponsored by City Council Members:
Scaringi, Resciniti, Riley, Friedman, Burns, Scanlon,
Strawn

A RESOLUTION APPROVING AN AGREEMENT
BETWEEN THE CITY OF BINGHAMTON AND
THE INTERNATIONAL BROTHERHOOD OF
TEAMSTERS LOCAL 317 (SUPERVISORS UNIT)
FOR 2023-2026

The within Resolution was adopted by the Council of
the City of Binghamton.

Date 11/16/22

City Clerk Richard L. Johnson

Date Presented to Mayor

Date Approved 11/17/22

Mayor J. M. [Signature]

	Ayes	Nays	Abstain	Absent
Councilman Scaringi	✓			
Councilwoman Resciniti	✓			
Councilwoman Riley	✓			
Councilwoman Friedman	✓			
Councilman Burns	✓			
Councilman Scanlon	✓			
Councilman Strawn	✓			
Total	7	0	0	0

Code of the City of Binghamton

Adopted Defeated

Ayes 7 Nays 0 Abstain 0 Absent 0

I hereby certify the above to be a true
copy of the legislation adopted by the
Council of the City of Binghamton at a
meeting held on 11/16/22. Approved
by the Mayor on 11/17/22.

[Signature]

LABOR AGREEMENT

2023-2026

LOCAL 317

INTERNATIONAL BROTHERHOOD OF TEAMSTERS

SUPERVISORS UNIT

THE CITY OF BINGHAMTON

TABLE OF CONTENTS

RECOGNITION.....	PAGE 3
LEGISLATIVE APPROVAL.....	PAGE 3
EMBODIMENT OF AGREEMENT.....	PAGE 3
MANAGEMENT RESPONSIBILITY.....	PAGE 3
UNION DUES.....	PAGE 4
GRIEVANCE PROCEDURE INCLUDING DISCIPLINE AND DISCHARGE.....	PAGE 5
WORKING HOURS AND WORKING WEEK.....	PAGE 7
FIRST LINE SUPERVISION/OVERTIME.....	PAGE 8
SHIFT PREFERENCE.....	PAGE 10
SENIORITY	PAGE 10
LEAVE.....	PAGE 10
HEALTH INSURANCE.....	PAGE 13
WORKERS COMPENSATION – ON THE JOB INJURY.....	PAGE 14
RETIREMENT.....	PAGE 15
PROHIBITION OF STRIKES.....	PAGE 15
LAY-OFF AND RECALL.....	PAGE 15
SAVINGS CLAUSE.....	PAGE 15
WAGES.....	PAGE 16
SAFETY.....	PAGE 18
TERMINATION AND MODIFICATION.....	PAGE 18
DRUG AND ALCOHOL TESTING.....	PAGE 18
APPENDIX “A” – SMOKING POLICY.....	PAGE 20
APPENDIX “B” – DRUG AND ALCOHOL POLICY.....	PAGE 21
APPENDIX “C” – NON-DISCRIMINATION CLAUSE.....	PAGE 22
APPENDIX “D” – EXPERIENCE AND QUALIFICATIONS.....	PAGE 23
APPENDIX “E” – SICK DAY BUY BACK INCENTIVE.....	PAGE 24
APPENDIX “F” – WORK RULES.....	PAGE 25
APPENDIX “G” – MEMORANDUM OF UNDERSTANDING.....	PAGE 30

THIS AGREEMENT entered into by and between the City of Binghamton, New York (hereinafter referred to as the "Employer" or "City") and Teamsters Local 317 of the International Brotherhood of Teamsters (I.B.T.), (hereinafter referred to as the "Union") under Article 14 of the Public Employees Fair Employment Act of the State of New York.

SECTION 1 - RECOGNITION

The City hereby recognizes the Union as the sole and exclusive representative for the purpose of collective bargaining with respect to rates of pay, hours of employment and other terms and conditions of employment for the following positions: Supervisor, General Equipment Repair; Street and Sanitation Supervisors and Assistant Supervisor(s), Signal Supervisor, Building and Shops Supervisor, Parks Maintenance Supervisor(s) and all Water/Sewer Systems Supervisor(s).

SECTION 2. LEGISLATIVE APPROVAL

It is understood by and between the parties that any provision 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.

SECTION 3. EMBODIMENT OF AGREEMENT

This document constitutes the sole and complete agreement between the parties, and embodies all the terms and conditions governing the employment of employees in the unit. The parties acknowledge that they have had the opportunity to present and discuss proposals on any subject, which may be subject to collective bargaining. Any prior commitment between the City and the Union or any individual employee covered by this Agreement is hereby superseded.

SECTION 4 - MANAGEMENT RESPONSIBILITY

It is recognized that the management of City government, including control of its properties and maintenance of order and efficiency, is solely a responsibility of the City. Accordingly, the City retains the rights, including but not limited to: to select and direct the working forces, including the right to hire, discipline for just cause, suspend for just cause, or discharge for just cause, to assign, promote or transfer, to determine the amount of overtime to be worked, to relieve employees from duty because of lack of work or other legitimate reasons, to decide the number and locale of its facilities, stations, etc, to determine the work to be performed within the unit, maintenance and repair, the amount of supervision necessary, machinery and tool equipment, method, safety measures to be utilized, schedules of work together with selection, procurement, designing, engineering and control equipment and materials, to retain the services of others, by contract or otherwise except as they may be otherwise specifically limited in this Agreement, and to make reasonable and binding rules which shall not be inconsistent with this Agreement.

The Employer agrees that the primary responsibility of supervisors is the supervision of permanent full-time and part-time City employees. The Union agrees that the primary responsibility of the supervisor is the enforcement of work rules and other policies that shall from time to time be established by the employer. Supervisors are required to translate production goals into specific job assignments, the issuance of orders to support same, the making of adjustments from predetermined plans, within limits of discretion, in order to make the production goals operable in light of changing conditions and the resolution of day-to-day problems.

SECTION 5 - UNION DUES

Employees have the right to join, not join, maintain or discontinue their membership in the Union. All employees who are employed by the Employer in the recognized unit shall have Teamsters Local 317 as their bargaining representative for the purposes of negotiating and enforcing the contract regardless of whether or not they are members of the Union. Employees who join the Union and remain members in good standing shall enjoy the full benefits of Union membership. Employees who are members of the Union are required to pay Union dues. For present employees, payment of Union dues shall commence no later than thirty (30) days following the effective date of execution of this Agreement, whichever is later, provided the City's Office of the Comptroller has received the required "dues check-off form" from the employee. For new employees, the payment shall start no later than thirty (30) days following the date of employment, provided the City's Office of the Comptroller has received the required "dues check-off form" from the Employee.

DUES AND OTHER DEDUCTIONS

Dues Check-off: The Employer agrees to deduct from the pay of all employees who join the Union and complete the "dues check-off form" the dues, initiation fees and/or uniform assessments of the Union and agrees to remit to the Union all such deductions prior to the end of the month for which the deduction is made, or by the end of the next pay period. The amount to be withheld shall be a fixed amount per pay period per employee and shall not fluctuate with hours worked or any other variable function, except for in cases of promotion or new title as applicable.

The Union shall certify to the Employer each month in writing a list of its members working for the Employer who have furnished to the Employer the required "dues check-off form", together with an itemized statement of dues, initiation fees, or uniform assessments owed and to be deducted for such month from the pay of such member. The Employer shall deduct such amount from the first pay check following receipt of statement of certification and dues check-off form and remit to the Union in one lump sum.

The Employer shall notify the Union of the names of all new bargaining unit employees hired since the last list was submitted and remove from payroll the names of

employees who are no longer employed, within 30 days of a final resignation, termination, according to New York State law.

Should the City's office of the Comptroller receive written notice from an individual employee that the individual revokes their affirmative consent to payroll deductions for Union membership, or otherwise provides written notice of the individual's withdrawal from such membership, no further deduction from pay shall be authorized.

The City will notify, in writing, the Union upon notification from said employee and advise the employee to notify the Union directly as their failure to do so may violate the Taylor Law. If the Union is notified by said employee, the Union will notify the Comptroller's Office in writing. An employee can notify the Union by sending a letter stating their intent to resign, along with their name, address, telephone number, and signature by United States Postal Service First Class Mail to: Local 317 International Brotherhood of Teamsters, 566 Spencer Street, Syracuse, NY 13204.

The City agrees to withhold group disability and group life insurance premiums from the pay of each member of the unit who authorizes said withholding in writing to the Comptroller.

The total amount of the aforementioned deductions shall be transmitted each pay period to the designated financial officer of local 317, together with a list of employees from whom the deductions were made.

The Union agrees to indemnify and hold harmless the City from any cause of action, claim loss, or damages incurred as a result of this section. Assignees shall have no right or interest whatsoever in any money authorized to be withheld until such money is actually paid over to them. Upon forwarding payment of said deductions by mail to the assignee's last known address, the City and its officers and employees shall be released from all liability to the employee-assignors and to the assignees under such assignments.

No payroll deductions authorization shall be recognized and no deduction shall be made from any paycheck of any employee in this bargaining unit for any other labor organization that purports to engage in collective bargaining.

SECTION 6 - GRIEVANCE PROCEDURE INCLUDING DISCIPLINE & DISCHARGE

Any grievance or dispute which may arise between the parties, including the application, meaning or interpretation of this Agreement and matters relating to discipline and discharge, shall be settled in the following manner:

Step 1:

Within ten working days from the date of the occurrence of the event of action prompting the grievance, or within ten (10) working days after the employee(s) becomes aware of the event or occurrence prompting the grievance, the Union Steward, with or without aggrieved employee(s), shall meet with the Deputy

Commissioner or Commissioner to discuss and attempt to dispose of the grievance or dispute. Said meeting shall be arranged within five (5) working days of the time notification of the grievance or dispute is first given to the Deputy Commissioner or Commissioner. Within ten (10) working days of said meeting, the Deputy Commissioner or Commissioner shall answer the grievance in writing.

Step 2.

(A) If the grievance or dispute is not resolved in Step 1, it shall then be submitted in writing within ten (10) working days by the local Union President or any pre-designated officer of the Union to the Commissioner for action under Step 2. A meeting between two representative(s) of the Union, the employee(s) and two representatives of the City will be held to discuss the grievance or dispute within ten (10) working days from the date the written request is presented to the Commissioner. The Commissioner will answer the grievance in writing within ten (10) working days from the date of the meeting.

(B) The aggrieved employee and the Union shall be notified in advance of the time and place of said meeting, and said employee shall attend the meeting.

(C) The Union representative(s) and said employee may meet at a place designated by the employer on the premises of the employer immediately preceding the meeting.

(D) With prior approval of the Deputy Commissioner or Commissioner, the local president, or his representative, shall be allowed reasonable time off from his job, without loss of time or pay, to investigate a grievance that he is to discuss with the Employer; and such approval shall not be unreasonably withheld.

Step 3:

(A) If the grievance or dispute is not resolved in Step 2, it shall then be submitted in writing within ten (10) working days by the local union president or any pre-designated officer of the Union to the Office of the Corporation Counsel with a copy to the Personnel Director for action under Step 3. A meeting between two representatives of the Union, the employee(s) and the Corporation Counsel and the Personnel Director will be held to discuss the grievance or dispute within ten (10) working days from the date the written request is presented to the Corporation Counsel. The Corporation Counsel or the Personnel Director will answer the grievance in writing within ten (10) working days from the date of the meeting.

(B) The aggrieved employee and the Union shall be notified in advance of the time and place of said meeting, and said employee shall attend the meeting.

(C) The Union representatives and said employee may meet at a place designated by the Employer on the premises of the Employer immediately preceding the meeting.

(D) With the prior approval of the Deputy Commissioner or Commissioner, the local president, or his representative, shall be allowed reasonable time off from his job, without loss of time or pay, to investigate a grievance which he is to discuss with the employer; and such approval shall not be unreasonably withheld.

Step 4:

(A) If the grievance or dispute has not been resolved at Step 3, either party may apply for arbitration within 15 working days from the date the Union receives a written answer to the grievance dispute. Such party shall request Public Employees Relations Board (PERB) to provide a list of arbitrators in accordance with PERB rules of procedure.

(B) The decision of said arbitrator shall be binding on both parties to this Agreement. The Employer and the Union shall share the fees and expenses of said arbitrator equally, except as hereinafter provided in sub-division (D).

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

(D) In the event the arbitrator finds the position of either party to the arbitration proceeding to be without merit, the arbitrator shall have the authority to direct that said party bear the cost of the arbitration proceeding to the extent of the cost or fees due the arbitrator.

If either party fails to comply with the foregoing limitations of time, the grievance shall be deemed to have been answered in the negative and the grievance will automatically advance to the next level. All time limits specified above may be extended by mutual agreement, not to be unreasonably withheld by either party.

The City agrees that no member of this unit shall be suspended or discharged without just cause for such action. The City shall have the right to enforce the following disciplinary steps for documented cases where a supervisor in this unit knowingly fails to report to, or notify, the Commissioner of DPW or his designee, of a failure on the part of any city employee to follow OSHA/PESH safety rules:

- 1st Offense - Written Warning
- 2nd Offense - 2-day Suspension
- 3rd Offense - Discharge

SECTION 7 - WORKING HOURS AND WORKING WEEK

A. The normal workweek shall consist of five (5) consecutive eight-hour days, Monday through Friday inclusive.

B. All employees shall be scheduled to work on a regular shift, and each shift shall have a regular starting and quitting time.

C. The City will provide a one week notice prior to making any changes to work schedules. Changes in work schedules shall not be made arbitrarily and shall be made only to meet the operational needs of the City.

D. The Employer shall have the right to establish a ten-hour four-day (4) workweek in all City operations deemed necessary by the City. The mandatory overtime provision would not apply to four-day (4), ten-hour shifts.

SECTION 8 - FIRST LINE SUPERVISION/OVERTIME/COMP TIME

A. When the City determines that overtime is necessary, it shall offer such overtime work, on a rotation basis, to the supervisor who normally performs such work during regular hours. A supervisor who is offered overtime work on this basis, but declines or is unavailable when called, shall be considered to have worked for purposes of attempting, as far as possible, to equally distribute overtime. Snow removal and ice control are not duties regularly or normally assigned to supervision and shall be exempt for the other provisions of this section. Assignment of supervision to snow removal and/or ice control shall be as follows:

- In the Department of Public Works, winter night shift may be Sunday through Thursday, 6PM – 2:30AM (five (5) consecutive eight hour days).
- Between 6 AM and 6 PM, overtime for snow will be first offered to the Street Maintenance Supervisor from the Streets Department who normally works day shift hours. If more than one Supervisor in the Streets Department normally work day shift hours, callouts for overtime will be done by seniority and rotation between them.
- If no Street Maintenance Supervisors from the Street Department are available, snow overtime will then be offered to the remaining Street Maintenance Supervisors in the Department of Public Works who normally work day shift hours, by seniority and rotation.
- If no Street Maintenance Supervisors from the day shift hours are available, snow overtime will then be offered to the Street Maintenance Supervisors who work night shift hours, by seniority and rotation.
- Between 6 PM and 6 AM, overtime for snow will be first offered to the Street Maintenance Supervisor who normally works night shift hours. If more than one Supervisor normally work night shift hours, callouts for overtime will be done by seniority and rotation between them.
- If no Street Maintenance Supervisors from the night shift are available, snow overtime will then be offered to the Street Maintenance Supervisor

from the Streets Department who normally work day shift hours, by seniority and rotation.

- If no Street Maintenance Supervisors from the Streets Department who normally work day shift hours are available, snow overtime will then be offered to the remaining Street Maintenance Supervisors in the Department of Public Works who normally work day shift hours, by seniority and rotation.

B. Overtime will be offered to the supervisor that normally performs the work that is next on the callout list for the bureau affected. If no supervisor, from the aforementioned list, accepts, then the assistant supervisor from that bureau will be called next. If the assignment is still not accepted then the backup supervisor list will be called. If it is still not accepted then the backup assistant supervisor list will be called. If the assignment is still unfilled the City shall then assign the work to the bureau supervisor in inverse order of seniority.

If an assistant supervisor position needs to be filled by overtime, the overtime will be offered to the assistant supervisor whose name is next on the bureau callout list for assistant supervisor. If no assistant supervisor, from the aforementioned list, accepts the assignment, then the supervisor list from that bureau will be called. If it is still not accepted then the backup supervisor list will be called. If still not accepted then the backup assistant supervisor list will be called. If the assignment is still unfilled the City shall then assign the work to the bureau assistant supervisor in inverse order of seniority.

C. If a supervisor assigned overtime has completed his overtime hours per pay period maximum, the City may assign overtime to the supervisor who has not completed his overtime hours per pay period maximum, and whose name appears directly above the person who has so completed his maximum hours overtime per pay period. All employees covered by this Agreement shall be paid at a rate of one-and-one-half times their regular rate of pay for all hours worked in excess of forty hours in any workweek.

D. The Employer agrees that should any three (3) or more regular full-time employees be required to work overtime, said employees shall be supervised by the supervisor(s) who are regularly assigned to the particular job; and, if not available, then the Employer may assign employees from the lower supervisory title, if qualified. Supervisors called for emergency duty will be guaranteed a minimum of four (4) hours per pay emergency call-out. If an employee reports in for duty within one-half hour of the time called, they shall be paid from the time called.

E. The accumulation of comp time is a rolling 40 hours, and it is at the employee's option whether to accumulate comp time or be paid for the overtime. Comp time and overtime are paid at 1.5 times the hours worked. The accumulation of comp time will be from December 1st to November 30th of each year. Any accumulated unused comp time will be paid out on, or about, December 15th in a separate check.

The use of comp time must be pre-approved unless in the case of a bona fide emergency and the proper Commissioner must be notified. If unable to reach the Commissioner, his or her designee must be notified. If no answer, then a voicemail must be left.

SECTION 9 - SHIFT PREFERENCE

Where possible, shift preference shall be offered to qualified supervisor(s) by seniority. If no one volunteers, the least senior qualified supervisor (s) shall be assigned.

SECTION 10 – SENIORITY

A. For the purpose of sections 9 and 10, seniority shall accrue from the date an employee receives a permanent civil service appointment to a position included in this bargaining unit and for as long as said employee retains permanent appointment, as defined by civil service law in this bargaining unit.

B. Permanent vacancies, which are vacancies created by death, permanent transfer, retirement or termination that the employer desires to fill shall first be offered to permanent employees in the unit based on seniority, experience and qualifications. The position will be posted. Temporary appointment shall be filled at the employer's discretion.

C. The Employer agrees to call for an open competitive exam for positions within the bargaining unit.

SECTION 11 - LEAVE

A. ANNUAL LEAVE

1. Employees with less than seven (7) years of service shall have their vacation credited, according to the chart below, on their anniversary date of hire. Employees with seven (7) or more years of service will have their vacation credited on January 1 of each year, according to the chart below.

COMPLETED YEARS OF CONTINUOUS SERVICE	TOTAL ANNUAL LEAVE DAYS THAT MAY BE EARNED OR ACCUMULATED
1-5	10
6-10	15
11-17	20
18 or more	25

2. No employee shall take any vacation day(s) without the prior approval of the Commissioner or Deputy Commissioner. Vacation can be used any time during the year with prior permission.

3. Employees successfully making a good faith effort to schedule vacation leave before December 31, shall be allowed to hold over until the following year, inclusively, a maximum of ten (10) days of vacation at the discretion of the Department Head. In addition, up to 5 days of vacation can be sold back at the end of the year (ie. 5 days of the 10 days).

4. Any job title that has more than one supervisor requesting leave for the same date(s), seniority in the job title is the sole determining factor.

5. Nothing therein shall infringe upon the Employers right to deny specific vacation requests.

6. Employees continuously on the payroll of the employer for at least seven (7) years shall be entitled to receive credit for annual time at the beginning of each year thereafter, and shall not be required to accumulate the same.

7. Should an employee fail to be on payroll (ie. Not receive pay) for fourteen (14) days in a calendar month, such employee shall not accrue leave time.

8. Employees internally promoted within the bargaining unit of Teamsters Local 317 from Blue Collar to the herein Supervisors Unit with 10 or less years of continuous service with the City, shall receive the additional leave days granted to them under the Blue Collar contract at the time of their promotion until they reach 11 years of continuous service.

B. PERSONAL LEAVE

Each employee will receive, upon request, up to five (5) personal leave days a year with pay.

C. SICK LEAVE

1. All employees covered by this Agreement shall earn sick leave credits at the rate of one day for each month employed in City service, when paid for fourteen (14) days in a calendar month.

2. All unused sick leave may be accumulated without limit.

3. Sick leave shall not be unreasonably denied. A courtesy call to the Commissioner, or designee, is required though, if calling in for a sick, or personal day.

4. Employees who are absent for three (3) days or more may be required to submit a doctor's certificate attesting to the nature of the illness. Employees suspected of

abusing sick leave privileges may be required to submit a medical certificate in substantiation of each absence claimed due to illness regardless of duration.

5. The employee's option at retirement will be to take 50% of the employees accumulated sick time, up to a maximum of 150 days, in cash (i.e. if the employee has 150 days at time of retirement, each day taken in cash shall be paid at 1/2 day of pay and he will receive 75 days of additional pay on the final paycheck). An additional option is that the employee, at time of retirement, may elect to apply 100% of the 150 days maximum toward the employee's post retirement share of health insurance costs and receive no cash payment at all. Finally, an employee may elect to take some combination of sick leave days in cash (less than 75 days at 1/2 pay) and the remainder of days will be applied at 100% toward the employee's post retirement share of health insurance costs (i.e. if an employee who has a full 150 days of sick time at retirement elects to take half in cash and half in insurance, the employee would receive the equivalent of 75 days pay out toward the employee's post retirement share of health insurance costs and 37.5 days of pay on the employee's final paycheck). Within 90 days of the implementation of this Agreement, the Union and the City agree to discuss and implement guidelines for the administration of such funds applied toward post retirement health insurance that must conform to all applicable federal and state laws.

6. Any employee not using sick time in a consecutive six (6) month period within a calendar year shall receive an additional sick day (maximum of one (1) each year) to be added to the employee's accumulated sick leave bank.

7. Employees may use up to a total of five (5) accumulated sick leave days annually due to illness of the employee's spouse or dependent children. "Spouse" shall mean a person to whom the employee is married within the laws of New York State. "Dependent children" shall mean a person eligible to be claimed by the employee for the purposes of federal income tax filing.

D. HOLIDAYS

1. All employees covered by this Agreement shall receive paid holidays as follows:

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

2. All hours worked on any of the above listed holidays shall be compensated at the rate of one-and-one-half times the regular rate of pay, plus the regular holiday pay for that day.

3. Should overtime call-outs be necessary on Easter Sunday, Christmas, and/or Thanksgiving the compensation shall be at two times the hourly rate, plus Holiday pay.

E. LEAVE OF ABSENCE:

1. Leave without pay:

(a) Serving in an elected position in the Union provided such leave is not barred by law.

(b) Personal illness - 1 year.

2. Leave with pay.

(a) Military Leave: Employees who are in any branch of the armed forces reserve and/or National Guard shall receive up to 22 working days of paid leave as provided in the Military Law of the State of New York.

F. EDUCATIONAL LEAVE & REIMBURSEMENT

1. Employees may request reimbursement for courses taken after working hours specifically related to the performance of their job duties; provided, the Employer approved such request. The Commissioner or Deputy Commissioner will forward all said requests to the Mayor with a recommendation, if any. The Employer agrees to pay employees for any time spent in Employer-mandated educational seminars at the employee's regular rate of pay.

2. CDL Reimbursement: Effective as of the signing and implementation of this Agreement (but not retroactively), the City will reimburse members of this bargaining who are required to hold and utilize a Commercial Driver's License (CDL) the full amount for the cost of the CDL license. The individual supervisor requesting such reimbursement shall submit an appropriate receipt and a copy of their new or renewed CDL license in order to be eligible for payment.

SECTION 12 - HEALTH INSURANCE

A. The employee will be responsible for paying 20% of the premium for each year across the term of the contract (January 1, 2023 – December 31, 2026). Health insurance benefits shall be maintained through the New York State Teamsters Council Health & Hospital Fund (Syracuse, New York). Such benefits shall be as described in the participation agreement entered into between the City and the Fund (i.e. the HRA (HSA), Prescription Drug, Dental and Vision Plans). The deductible will be \$2,600 for single and \$5,200 for 2 person or family. The deductible will be fully funded in two (2) equal payments. The payments will be one half in January and one half in July each year.

- B. The plan is New York State Teamsters Council Health and Hospital Fund. The City will contribute the aforementioned funds for the HRA; any additional co-insurance will be the employee responsibility or the Fund's, not the City's.
- C. These employee contributions shall be taken bi-weekly by the City from employee paychecks and shall be subject to pre-tax treatment under the City flex plan. Coverage and premium cost shall be based on the employee's election of individual, two (2) person or family coverage in the appropriate plan year. The Employer shall have no obligation to make any other payment. ie. Copays, etc.
- D. An employee who encounters medical problems involving costs above the then funded amount for the current year, may make a request to the Comptroller by signing the applicable form, to advance the remaining funds for the year. Advancement funds can be requested for a covered family member also. Payment will be processed with applicable payroll cycle.
- E. If an employee, who has received an advance, leaves employment with the City for medical necessity for himself or a covered family member (uses appropriate form) prior to the next scheduled advance date, the employee will not have to repay the advance to the City. In all other circumstances an employee will be required to repay the advance.
- F. The New York State Teamsters Council Health & Hospital Fund (Syracuse, New York) shall be the only health insurance program currently offered to unit employees. An employee who retires has the right to choose among the health plan options provided for retirees by the Teamster Council Health and Hospital Fund (Syracuse, New York). Health maintenance organizations are specifically excluded as an option to active unit employees.
- G. It is understood that the City is only a contributor to the Fund, up to the maximum herein agreed upon, and not a sponsor or participant nor does the City guarantee payment of benefits provided or to be provided by the Fund.
- H. All employees in this bargaining unit covered by the New York State Teamsters Council Health & Hospital Fund (Syracuse, New York) shall be eligible for up to twelve (12) weeks of health insurance coverage under the Family Medical Leave Act in accordance with the rules and regulations of the U.S. Department of Labor and the City's Family Medical Leave Act Policy issued and dated 9/26/95.

SECTION 13 - WORKERS COMPENSATION - ON THE JOB INJURY

The applicable worker's compensation law will cover each employee covered by this Agreement.

SECTION 14 – RETIREMENT

The City will continue coverage for all employees covered by this Agreement under the New York State Employee's Retirement Plan, Section 75 (i).

SECTION 15 - PROHIBITION OF STRIKES

It is recognized that the need for continued and uninterrupted operation of the City's departments and agencies is of paramount importance to the citizens of the community and that there should be no interference with such departmental operations.

Adequate procedures having been provided for the equitable settlement of grievances arising out of this Agreement, the parties hereto agree that there will not be any strikes, slowdowns, lockouts, mass resignations, mass absenteeism, or other similar action which would involve suspension of or interference with normal work performance. Further, the Union agrees that its officers, members, agents, or principals will not engage in, encourage, sanction or suggest any strikes, slowdowns, lockouts, mass resignations, mass absenteeism, or other similar action which would involve suspension of or interference with normal work performance.

The City shall have the right to discipline or discharge an employee participating in a strike slowdown, or other such interference.

SECTION 16 - LAY-OFF AND RECALL

Any lay-offs or recalls of employees covered by this bargaining unit will be handled in accordance with the applicable rules of the Municipal Civil Service Commission and in accordance with the Civil Service Law. The City will continue to contribute payment for health insurance coverage (City 90% of premium costs and laid-off employee 10% of premium costs) for a period of sixty (60) days following an actual layoff (as defined in the applicable rules of the Municipal Civil Service Commission and applicable Civil Service Law).

SECTION 17 - SAVINGS CLAUSE

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

SECTION 18 – WAGES

A. Hourly rates:	2023 (2.75%)	2024 (2.75%)	2025 (2.25%)	2026 (2.00%)
Assistant Supervisor	28.52	29.31	29.97	30.57
Starting Supervisor (less than 1 year as a supervisor)	29.12	29.92	30.59	31.21
Supervisor (more than 1 year as a supervisor)	30.20	31.03	31.73	32.36
Bureau Chief	31.42	32.29	33.01	33.67
Auto mechanic Fore person	28.23	29.00	29.65	30.25

If an employee was an assistant supervisor prior to becoming a supervisor, their starting supervisor rate of pay would be only for six months. Upon completion of their probation they would go to the full supervisor's rate of pay.

B. Longevity increment:

YEARS OF CONTINUOUS SERVICE (BEGINNING)	TOTAL LONGEVITY INCREMENT
10 th year - 14 th year	\$500.00 longevity
15 th year - 19 th year	\$800.00 longevity
20 th year - 24 th year	\$1,000.00 longevity
25 th year - 29 th year	\$1,300.00 longevity
30 th year	\$1,500.00 longevity
35 th year	\$1,600.00 longevity

Calculation of continuous years of serves shall be the beginning of each applicable year; for example, supervisors and assistant supervisors beginning with the 10th year of service with the City and through the 14th year of service with the City shall receive a longevity increment of \$500.00.

Beginning with the first pay period in 2007, the above longevity increments will be added to the regular hourly rate of pay in Section A above and such increased regular rate of pay will be used to calculate overtime. Longevity increments will be added to the regular hourly rate of pay on the anniversary date of the year of service. For example: In 2007 an Assistant Supervisor has a regular rate of pay of \$18.81. If he/she is in his/her 19th year of service, the regular hourly rate of pay will be \$19.19 per hour (\$18.81 plus longevity increment of \$800 divided by 2,080 hours is an added .38 per hr = \$19.19). Overtime calculated at "one and one-half times the regular rate of

pay” would be \$28.79 per hour. The pay period immediately after an employee’s 20th anniversary will reflect a longevity increment of \$1,000, thereby increasing the regular hourly rate of pay to \$19.29 per hour (\$18.81 plus longevity increment of \$1,000 divided by 2,080 hours is an added .48 per hour = \$19.29). Overtime calculated at “one and one-half times the regular rate of pay” would be \$28.94 per hour. The above longevity increments will not be included to calculate any salary increase negotiated between the parties.

In the last year of a supervisor’s or assistant supervisor’s service with the City when retiring, the retiring employee shall receive a pro-rata share of the applicable longevity based on the full months completed during the calendar year in which the supervisor or assistant supervisor retires.

C. In addition to the established wage rates, the City shall pay an hourly premium of fifty cents (.50) per hour for all hours paid to employees who work a regular shift between 3:00 p.m. and 11:00 p.m. and seventy-five cents (0.75 per hour to employees who work a regular shift between 11:00 p.m. and 7:00 a.m. The shift differential is to be included in all hours paid as part of the base rate.

D. Premium Pay. The parties agree that Supervisors (members of the bargaining unit) who actually worked and served during the COVID-19 pandemic, beginning from March 2020 to the end of the State of Emergency on June 24, 2021, were designated by the City as and currently are Essential Workers in Critical Infrastructure Sectors (including but not limited to Sanitation, Disinfection, Cleaning, Maintenance, Solid Waste or Hazardous Materials Management, Response, and Cleanup, Public Water & Sewer Services, Road Infrastructure) which includes regular physical handling of items that were handled by, or are to be handled by the public, or coworkers of the individual that is performing the work, and have, and continue to support the urgent COVID-19 response efforts to continue to decrease the spread of the virus and bring the pandemic under control, as well bore and continue to bear high exposure to those infected with the COVID-19 virus and the subsequent variants. Additionally, both parties recognize that all members who actually were available, who did actually work and were actually subject to the risks of COVID, and in the interests of retaining such employees, shall be entitled to premium pay, as these members, have been and continue to be required to work and were and are exposed to additional risks due the pandemic and the ongoing health emergency. If a member did not work and was not subject to the hazard of COVID-19 (i.e. a member out on leave under Worker’s Compensation), they will not be eligible for such hazardous duty/ premium pay. In consideration of the above, the parties agree that these earned wage and salary increases in the form of "Premium Pay" for these essential workers is warranted to Unit members as additional support to those who have borne and will bear the greatest health risks because of their service in these critical infrastructure sectors. Such premium pay shall be in the total amount of \$5,000, payable in two \$2,500 checks for 2020 and 2021, respectively. Such payments shall be made within 30 days of Contract Ratification. New hires in 2020 and 2021, payments shall be prorated from their date of hire. Retirees prior to April 1, 2020 are not eligible for premium pay. Retiree members

who retired between April 1, 2020 and June 24, 2021 shall receive such earned wages in the form of premium pay based off of the time period work in their year of retirement.

SECTION 19 - SAFETY

Both parties recognize the importance of safety in the work place and agree to participate in the development and implementation of safety related programs.

Safety Clothing: A \$360 safety clothing and equipment, allowance will be paid to each member in a separate check in April of each year, no later than the end of the second pay period in April, at the same time as their regular paycheck.

Public Facing Clothing: Supervisors who may have to represent the City in public may be provided with City clothing at no cost to the employee and requested to wear such clothing at the discretion of their Department Head, so long as the Department Head has provided a sufficient amount of clothing for the employee to be reasonably able to do so. This provision shall not be disciplinary in nature, absent a pattern of unprofessional conduct related to work dress, as Department Heads are permitted to set applicable dress codes per Department and associated job position.

Supervisors will be allowed to take City vehicles home in emergency or special circumstances with approval from their respective Commissioner or Department Head.

SECTION 20 - TERMINATION AND MODIFICATION

This Agreement shall be effective as of January 1, 2023 and shall remain in full force and effect until December 31, 2026.

SECTION 21 -DRUG AND ALCOHOL TESTING

All members of this unit shall be subject to the same City drug and alcohol policy, including random drug and alcohol testing, that is currently in effect for CDL drivers.. The "Memorandum of Understanding" between the City and the Union providing for a "last chance" agreement shall also be applicable to this unit. Further, effective January 1, 2003, any employee who produces a "dilute" urine specimen as determined by the testing laboratory, shall be immediately subject to hair analysis drug testing. Such hair testing shall be conducted for the prior 30 days only, in accordance with procedures developed by UHS. Failure to submit to such hair analysis shall be deemed a refusal to test and subject the employee to disciplinary action. Random drug and alcohol testing shall be performed at onsite facilities in DPW, Parks and Water.

APPROVED AS TO FORM:


Brian M. Seachrist
Corporation Counsel

IN WITNESS WHEREOF, the parties hereto have set forth their hands and seals this 26 day of October, 2022

For Teamsters, Local 317:



Robert Firmstone
Teamsters, Local 317



Committee, Vincent DiRose



Committee, Kurt Brown



Committee, James O'Malley

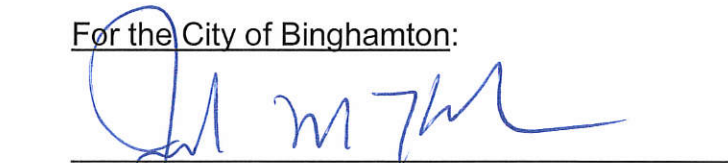


Committee, Christopher Williams



Committee, Nicholas Ballard

For the City of Binghamton:



Mayor Jared Kraham
City of Binghamton



Sharon A. Sorkin (Chief Negotiator)



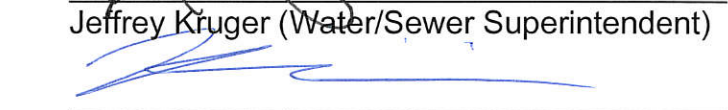
Chuck Shager (Comptroller)



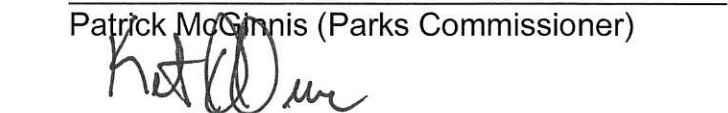
Daniel Maerkl (DPW Commissioner)



Jeffrey Kruger (Water/Sewer Superintendent)




Patrick McGinnis (Parks Commissioner)



Kent Drake-Deese (Personnel & Safety)

ATTEST:


Brian M. Seachrist, Notary Public

Brian M. Seachrist
Notary Public, State of New York
No. 02SE6072338
Qualified in Broome County
Commission Expires May 21, 2024

APPENDIX "A"
SMOKING POLICY

Mandatory non-smoking policy under legislation signed into law July 1, 1989 requiring:

- (a) As of January 1, 1990 - No smoking in publicly accessible places.
- (b) As of April 1, 1990, - Smoke-free workplace.

APPENDIX "B"
DRUG AND ALCOHOL POLICY

WHEREAS, the use of alcoholic beverages and/or illegal drugs while on duty constitutes a threat to the health and safety of fellow employees and the general public; and

WHEREAS, the Drug Free Workplace Act requires the City of Binghamton as a direct recipient of a federal grant. To certify that it will provide a drug-free workplace as defined in the act; and

WHEREAS, it is in the best interest of the public and of the employees to provide a clearly delineated and uniform drug and alcohol policy;

All employees are forbidden to use or possess alcohol or illegal drugs at any time during the workday or anywhere within the work place.

Further, workers are forbidden to engage in any sale or other transaction involving illegal drugs on the City premises.

Any department head or Commissioner who has a reasonable suspicion that an employee is in an impaired or intoxicated condition may mandate that employee to be tested for drug or alcohol levels. Testing will be provided by United Health Services at the employer's expense. If the employee is found to be impaired or intoxicated or if the employee refused to be tested, he will be subject to disciplinary action. If the test reveals no impairment or intoxication he will return to his shift without any loss of time or salary.

Any violators of this policy shall be subject to disciplinary action as provided by contract or statute.

Employees working directly with federal funds and subject to the Drug Free Workplace Act will receive an additional policy sheet governing the acts requirements.

Employer will attempt to call the designated Union representatives who shall be present at the drug and alcohol testing site within one hour after the incident. Should a representative of the Union either be unavailable, unreachable or fail to appear within the aforesaid hour, then the employee shall be required to take the required test, or be subject to disciplinary action, including discharge. The employer's determination to require a drug and alcohol test shall be made by either the Director of Personnel and Safety, a Deputy Commissioner or the Commissioner of Public Works.

APPENDIX "C"

NON-DISCRIMINATION CLAUSE

The Employer and the Union agree not to discriminate against any individual with respect to hiring, compensation, terms of conditions of employment because of such individual's race, color, religion, sex, national origin or age, nor will they limit, segregate or classify employees in any way to deprive any individual employee of employment opportunities because of race, color, religion, sex, national origin, age or political affiliation.

The company and the union agree that there will be no discrimination by the company or the union against any employee because of his or her membership in the union or because of any employee's lawful activity and/or support of the union.

APPENDIX "D"
EXPERIENCE AND QUALIFICATIONS

Whenever the words "experience and qualifications" appear in this Agreement they shall be interpreted to mean as follows:

1. Experience shall mean that the first consideration shall be given to applicable experience gained from relevant service with the City of Binghamton.
2. Qualifications shall mean the minimum qualifications as set down by the Civil Service Commission in accordance with the New York State Rules and Regulations and a satisfactory relevant work history with the City of Binghamton.
3. Provided an internal candidate meets the experience and qualifications above, they should be hired over any external candidate, if in compliance with Civil Service eligibility list requirements.

APPENDIX "E"

SICK DAY BUY BACK INCENTIVE PLAN

In order to provide an incentive for employees to accumulate and maintain an adequate amount of sick leave, the City has initiated a "sick day buy back plan". Under this plan employees who do not use sick days will be compensated by the City purchasing back some of the days not used that were earned in the relevant year.

The sick day buy back incentive plan shall be implemented only at the employee's written request which must be provided to the employer by January 1st of each year of the contract, to receive payment for sick days accumulated in the previous year.

In order to qualify for the plan the employee must first accumulate and not use six (6) days of sick leave in the relevant year. Any sick days not used in excess of the six days of accumulation will be bought back by the City at the employee's regular rate of pay. Pays will be made once a year and included in the final January paycheck of the succeeding year. Only employees hired prior to June 1st of each year would qualify for the program in that year.

Buy-back Example:

Sick Days Accumulated:	Sick Day Bought Back
0-6	0
7	1
8	2
9	3
10	4
11	5
12	6
13	7

APPENDIX "F"

WORK RULES COVERING INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL #317 SUPERVISORY UNIT EFFECTIVE AS OF JANUARY 1, 2003

The following disciplinary work rules and procedures have been agreed to by and between the City of Binghamton and Teamsters, Local #317 pursuant to Section 4 of the collective bargaining agreement between the parties. This document will be considered an amendment to the current collective bargaining agreement between the parties and any successor agreement that shall be negotiated. These work rules are applicable to all members of the Local #317 covered by the supervisory unit.

These work rules are intended as a guide to supervisors concerning what is acceptable, and what is not acceptable, regarding their own conduct in the work place. This document is not intended as a complete and comprehensive listing of all possible disciplinary offenses. Good judgment and common sense will prevail in such matters.

The "roll over" period for all disciplinary actions where progressive disciplinary action is warranted is 12 months, except where this document provides otherwise. This means that when any disciplinary action short of discharge is imposed, the next step of progressive discipline for a similar offense may be imposed within 12 months from the date of the last step of discipline. Absences before or after a holiday are an exception to this rule as indicated below.

Routine offenses such as absenteeism, tardiness and other minor offenses shall be subject to progressive discipline as follows:

- 1st Offense* – Verbal Counseling with Documentation to Employee and File
- 2nd Offense* - Letter of Reprimand;
- 3rd Offense* - A fine equivalent to one day's pay plus 15 day loss of overtime eligibility;
- 4th Offense* - A fine equivalent to two day's pay plus 30 day loss of overtime eligibility;
- 5th Offense* - Termination.

Progressive discipline shall not apply to infractions for serious offenses when suspension or discharge is deemed appropriate.

1.) No Soliciting

Soliciting by a supervisor or another employee for personal gain or for any activity not sponsored or pre-approved by the City during the work hours of either the supervisor or another employee is prohibited.

2.) Unauthorized Distribution

The distribution of advertising material, handbills, printed or written literature of any kind without the express permission of an authorized City official is prohibited. This shall not apply to union postings on authorized bulletin boards.

3.) Identification/Time/Fuel Cards

Supervisors will be required to have in their possession at all times during the workday their City-issued employee identification/time/fuel card. This card will be swiped at the beginning and end of the work shift in order to record time worked on the shift. Failure of a supervisor to properly punch in or out or to have their card in their possession at all times during the workday will subject the offender to the disciplinary progression outlined above.

Each supervisor shall be responsible for the security and proper use of his or her ID/time/fuel card and under no circumstances should it be given to anyone else (including another supervisor or employee) for use by another person.

Any supervisor found to be swiping another employee's time card at the beginning or end of the work shift, as well as the employee whose card is used to do so, will both be guilty of falsification of records. Both offenders will be subject to termination. Similarly, any supervisor found to be responsible for the diversion or misuse of City fuel for any reason other than City business shall be guilty of theft and subject to termination.

A supervisor whose card is damaged or lost and must be replaced within any ear period will receive:

- the first replacement at no charge;
- the second replacement for a fee of \$10.00;
- the third and any more replacements at a fee of \$50.00 each.

4.) Improper Use of Parking Facilities

The improper use of City-owned parking facilities and/or failure to heed posted parking regulations on City property is hereby prohibited. This is applicable to both City vehicles and personal vehicles operated by supervisors, during the work shift.

5.) Leaving Assigned Work Area

No supervisor may leave their assigned work area or work station (i.e. City of Binghamton) during work hours without the express knowledge and consent of their immediate manager. A supervisor who does so will be subject to progressive disciplinary action as outlined above.

6.) Abusive Behavior

Threatening, intimidating, coercing, interfering or using abusive language with other employees, supervisors, managers or members of the public in the performance of their assigned duties is hereby prohibited and will not be tolerated.

7.) Sleeping During Work Hours

A supervisor found sleeping during work hours shall be subject to appropriate disciplinary action.

8.) Disregard of Safety Rules

Where a supervisor disregards a serious or life-threatening safety rule or where the disregard of any safety or health rule or regulation results in injury to the supervisor, a coworker or a member of the public, the supervisor will be disciplined accordingly.

9.) Insubordination

Any supervisor who refuses or deliberately fails to obey a direct order or instructions from a duly authorized City official shall be disciplined accordingly, depending on the circumstances of the insubordination such as safety concerns. If safety is a concern, it must be stated at the time the order is given.

10.) False Reports

Any supervisor who falsely and intentionally files a report of misconduct against another employee will be subject to appropriate disciplinary action.

11.) Damage to Property

Any supervisor found to have damaged or wasted City property - either deliberately or through a negligent act - shall be disciplined accordingly. Similarly, any supervisor found to have caused deliberate damage to the property of others during work hours including, but not limited to, coworkers shall also be subject to termination. The City shall evaluate each incident on a case-by-case basis.

12.) Fighting

Fighting or other such violent behavior in the workplace will not be tolerated and will subject any supervisor involved in such behavior to immediate removal from the work place and subsequent termination. Supervisors have an obligation to take reasonable steps necessary to stop any fighting that the supervisor is witness to or becomes aware of. All such incidents must be brought to the immediate attention of a duly authorized City official.

13.) Falsification of City Records

The falsification or deliberate forgery of City employment, medical, payroll or any other work-related City document will be grounds for termination of the responsible supervisor(s).

14.) Reporting to Work Impaired

Supervisors are expected to report to work able to perform all of their assigned duties and to set an example for the employees under their supervision. Any supervisor found to be impaired or unable to perform due to the use of alcohol or drugs - either before or during work hours - will be subject to immediate removal from the workplace and subsequent termination. Supervisors who may have a problem with alcohol or drugs are expected to make an appointment with the employee assistance program at 754-1048.

15.) Possession, Sale or Distribution of Illegal Drugs on City Property

Any supervisor who is found to possess, sell or distribute any illegal substances during work hours and/or on City property will be subject to immediate removal from the workplace and subsequent termination.

16.) Theft or Misappropriation of Property

Any supervisor found to have stolen or misappropriated property owned by the City of Binghamton shall be subject to termination. Similarly, the theft of property of others including, but not limited to, the personal property of coworkers will also be considered grounds for termination.

17.) Immoral or Indecent Conduct

Any supervisor found to have engaged in immoral or indecent conduct during work hours and/or on City property shall be subject to discipline.

18.) Illegal Gambling on City Property

Any supervisor found to be engaging in illegal or illicit gambling during work hours and/or on City property at any time will be subject to discipline.

19.) Possession of Weapons on City Property

No supervisor shall bring any type of weapon into the workplace. A weapon shall be defined as any object that can be used to cause violence or harm to others such as handguns, rifles, knives, brass knuckles, numchucks, or other such objects intended solely for the infliction of harm to others. If there is any doubt as to whether a particular object shall be deemed a weapon under this work rule, the supervisor bears the sole responsibility and must bring the particular object to the attention of the department head or a designee immediately. The supervisor will consult with the Department Head, if necessary, in order to clarify whether the object will be authorized or not.

20.) Work Stoppages or Interference With Production

Any supervisor who instigates, encourages or participates in the stoppage or interruption of work production during normal work hours shall be subject to immediate removal from the workplace and subject to discipline under the provisions of the New York State Taylor Law.

21.) Criminal Convictions

Where an supervisor has been found guilty in a court of competent jurisdiction of any criminal act related to the supervisor's employment with the Employer or where any supervisor confesses to such acts in open court under immunity from prosecution by such court, the disciplinary action taken by the Employer shall not be subject to the grievance and arbitration procedure set forth in this Agreement.

22.) Supervisory Responsibilities

No supervisor shall, directly or indirectly, undermine the authority vested in City management under Section 4 - Management Rights of the collective bargaining agreement by circumventing or otherwise going outside the established chain-of-command when dealing with complaints, problems, issues, etc. that arise during the course of performing their supervisory duties.

All supervisors shall be held accountable to follow the established protocols for the direction and assignment of employees under their supervision. Whenever departure from such established protocols creates liability for the City, the supervisor shall be subject to appropriate disciplinary action.

APPENDIX "G"

MEMORANDUM OF AGREEMENT

The City of Binghamton (City) and Teamsters, Local #317 (union) recognize the extremely serious nature of substance abuse by any employee in safety-sensitive work. Therefore, the parties agree to the following procedures as a supplement to the City's drug and alcohol testing policy implemented on January 1, 1996:

1. An initial positive result on a random alcohol/drug test will result in the discharge of the employee. However, if the discharged employee enters the City's Employee Assistance Program (EAP) within thirty (30) calendar days of notification of the positive result and a.) successfully completes all aspects of an EAP-recommended treatment program to the sole and exclusive satisfaction of the City's Personnel and Safety Director or his designee and b.) tests negative on a return-to-work alcohol/drug test(s) within no more than one hundred and eighty (180) calendar days from the date of discharge, he/she will be reinstated to his/her former position. The time between the date of discharge and the time of reinstatement will be treated as a disciplinary suspension without pay, benefits or seniority. The union agrees the City will in no way be responsible for the costs associated with such an employee's treatment except to the extent the employee exercises his/her COBRA rights and/or to the extent EAP services are utilized and are already prepaid by the City;

2. Every discharged employee, who satisfies all of the conditions within the time limitations and other conditions set forth above and thereafter seeks and is granted reinstatement, shall enter into and sign a **Return to Work and "Last Chance"** Agreement which fully sets forth the terms and conditions for being reinstated to work, including all terms and conditions set forth in this **Memorandum**. Failure on the part of the discharged employee to fully abide by all of the terms and conditions of a **Return to Work and "Last Chance" Agreement** as determined solely by the City's Personnel and Safety Director or his designee will subject the discharged employee to an immediate forfeiture of any further right to reinstatement and, if already reinstated, any violation will subject the reinstated employee to immediate summary discharge. All such employee discharges will be final and binding without recourse or appeal through the grievance/arbitration procedure contained in the collective bargaining agreement between the parties or to any state, federal or local agencies, courts or any other administrative tribunal or procedure. The City's Personnel and Safety Director or his designee shall be the sole and exclusive arbitrator of any disputes or disagreements as to whether an employee has complied or failed to comply with all of the terms and conditions of his/her **"Last Chance" Agreement**;

3. Every **Return to Work and "Last Chance" Agreement** will provide that such a reinstated employee shall be subject to alcohol/drug testing at any time

(whether working or off-duty but not more than once a month) upon request by the City in addition to all other DOT-mandated alcohol/drug testing. Any such reinstated employee who either refuses or fails for any reason whatsoever to submit to a drug/alcohol test pursuant to a **Return to Work and "Last Chance" Agreement** will be subject to immediate summary discharge at the sole and exclusive discretion of the City's Personnel and Safety Director or his designee. The reinstated employee shall be billed for and pay for all such additional alcohol/drug testing for up to five (5) years after his date of reinstatement. Failure on the part of the reinstated employee to pay the testing agency in a timely manner for the costs of such tests will be grounds for discharge under his/her **"Last Chance" Agreement** at the sole and exclusive discretion of the Personnel and Safety Director or his designee;

4. A second positive test result on any alcohol/drug test, whether mandated by the City pursuant to this **Memorandum** or DOT-mandated (random, reasonable suspicion, return-to-work, post-accident, etc.) at any time in the future subjects the reinstated employee to immediate summary discharge at the sole and exclusive discretion of the City's Personnel and Safety Director or his designee. The City's Personnel and Safety Director or his designee shall act as the sole and exclusive arbitrator to make a final and binding resolution and decision regarding any and all disputes which arise out of any discharge of a reinstated employee as the result of a positive test result or the refusal or failure of any reinstated employee to submit to a drug/alcohol test. Neither the employee nor the union on his/her behalf will seek to appeal any resolution or decision of the City's Personnel and Safety Director or his designee through the grievance/arbitration procedure contained in the collective bargaining agreement between the parties or to any state, federal or local agencies, courts or any other administrative tribunal or procedure. It is the intention of the parties to strictly enforce this provision, with no exceptions being made;

5. The Teamsters, Local #317 hereby agrees that the policy titled "Alcohol and Drug Testing Policy" implemented by the City of Binghamton on January 1, 1996 is hereby given full force and effect and is modified only with respect to the terms and conditions contained in this **Memorandum of Agreement**. Further, the parties to this **Memorandum of Agreement** agree that the **Memorandum of Agreement** previously entered into by the parties in April of 1996 shall be null and void as it is the parties' expressed intent to supercede the April 1996 document with this current **Memorandum of Agreement**.