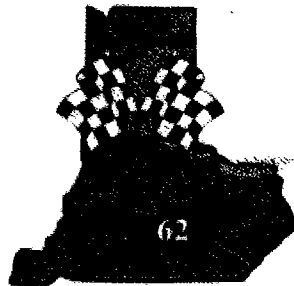


**AGREEMENT BETWEEN**

**THE CITY OF FORT WAYNE, INDIANA**

**AND**



**AMERICAN FEDERATION OF STATE, COUNTY AND  
MUNICIPAL EMPLOYEES, AFL-CIO, COUNCIL 62**

***EFFECTIVE JANUARY 1, 2005 THROUGH DECEMBER 31, 2008***

CITY UTILITIES  
AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES,  
AFL-CIO, LOCAL 1384

January 1, 2005 thru December 31, 2008

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AFSCME Agreement - 2005-2008

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## PREAMBLE

This Agreement is made and entered into by and between the City of Fort Wayne, Indiana, hereinafter referred to as the Employer, and American Federation of State, County and Municipal Employees, Local 1384, AFL-CIO, hereinafter referred to as the Union. Furthermore, whenever the male gender is used in this Agreement, it shall include the female gender where applicable.

Witnesseth: Whereas the City of Fort Wayne owns and operates water and sewage utilities and supplies such services to schools, parks, playgrounds, public buildings, and other municipal facilities, as well as to its regular customers, and,

Whereas, the nature of these services requires continuity of operation,

Therefore, to facilitate the peaceful adjustment of differences that may arise and to promote harmony and efficiency for the mutual benefit of the Employer, its employees, and the general public, the parties to this Agreement have agreed together as follows:

### ARTICLE I - Period of Agreement

Section 1. Working Agreement: (a) This Agreement shall take effect at the conclusion of satisfactory negotiations, and shall continue in full force and effect through the 31<sup>st</sup> day of December, 2008 and from year to year thereafter, unless it is cancelled or amended.

(b) Notice of cancellation or requests for amendment shall be submitted no later than October 1, 2008 or October 1 of any subsequent year, except as provided in Section 1(a). If amendments are desired, the contents of the amendments shall accompany the notice. If agreement has not been reached on or before November 30, 2008, or November 30 of any subsequent year and if either party considers the negotiations to date to be unsatisfactory, then either party shall have the prerogative of issuing a thirty-day cancellation notice to be effective on December 31, 2008, or on the anniversary date of any subsequent year. During this notice period, both parties agree to continue negotiations in an effort to reach a settlement.

(c) Changes in the working agreement agreeable to both parties may be made at any time.

Section 2. Wage Schedules: (a) The wage and salary rates set out in Schedule A shall take effect at the conclusion of satisfactory negotiations, the first pay period in 2005.

(b) Changes in the wage schedule agreeable to both parties can be made at any time.

## ARTICLE II - Union Recognition

Section 1. Recognition: (a) The Employer hereby recognizes the Union as the exclusive representative for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment for its full-time regular and probationary employees working in or out of the General Office in the job classifications listed in Article VIII and in such similar job classifications which may be created hereafter not classified as "Confidential", "Supervisory" or "Professional" by the City Council after 1992.

(b) The Employer agrees not to interfere with the rights of its employees to become members of the Union and shall not in any manner discriminate against any employee because of membership or official position in or lawful activities on behalf of the Union.

(c) The AFSCME Council 62 Staff Representative may participate in any and all meetings pertaining to union business.

Section 2. Fair Share: (a) As a condition of continued employment, all employees whose job classifications are covered by this Agreement and who elect not to become members of the Union (1) shall pay to the Union directly or through payroll deductions, a fair share fee as determined by the Union. Each employee who subsequently enters a bargaining unit job shall begin such payments in the month in which he/she completes his/her first three months of service in such job.

(b) If an employee fails to comply with the foregoing provisions, the Union shall advise him/her by certified letter (with a copy to the Director of Human Resources) that, if he/she doesn't pay or arrange to pay his/her arrears within seven calendar days after receiving the letter, the Union will request the Employer to terminate his/her employment. If the employee has not complied by the end of the period, the Union shall notify the Director of Human Resources, who shall give the employee a further seven-day notice. If the employee has still not complied at the end of that period, he/she shall be removed from employment with the Employer, losing all seniority rights and other rights and benefits established by this Agreement.

(c) The Union agrees to indemnify and hold the Employer harmless from any and all claims or rights of action which may be hereafter asserted by any person now or hereafter employed by the Employer and which arise out of the inclusion or enforcement of the provisions

of this fair share section.

(d) After ninety (90) days, all temporary employees who work more than twenty (20) hours per week will be required to pay the Union either directly or through payroll deduction an amount equal to the regular monthly dues or fees in effect for other employees in the bargaining unit who are members of the Union.

Section 3. Dues Checkoff: (a) With proper authorization, including voluntary written wage assignments from employees who are covered by this Agreement, the Employer shall deduct each month from the earnings of each of said employees an amount representing current regular monthly Union dues and fees and shall remit such monies together with the appropriate records to the designated Union official. Any individual wage assignments may be revoked by the employee by giving proper written notice to the Employer. The Employer will notify the Union of any such revocation. In the event of an overcharge already remitted to the Union, it shall be the responsibility of the Union alone to adjust the matter with the employee overcharged.

In the event of an undercharge, the Employer shall make the necessary additional deductions in the next succeeding month or months. In any case, the Employer's responsibility shall not go beyond exercising normal and usual care in carrying out its obligations under this paragraph. The Union will protect the Employer from any and all further liabilities and claims which may arise under this paragraph.

(b) Any concerted action on the part of the Union, such as strike or slow downs, will result in the Union dues check-off being suspended for one (1) year, starting from the day of such strike or slow down.

Section 4. Bargaining Committee Pay: Each member of the Bargaining Committee, which shall not exceed four (4) in number, shall be compensated at his/her regular straight time rate for each hour spent in attendance at meetings regularly scheduled with the management during his scheduled hours of employment. However, for preparation thereof on the day of negotiations, two (2) hours maximum shall be allowed.

Section 5. Grievance Committee Pay: Members of the Grievance Committee, which shall not exceed a total of three in number at any one time, who are required to transact business with the Employer and are required to be absent from their regular job duties shall be allowed to transact the business without loss of regular pay.

Section 6. Transfer Out of Bargaining Unit: (a) Any employee, after the ratification of this agreement, who voluntarily transfers, is promoted or agrees to an appointment from a classification within the bargaining unit to a supervisory or other excluded classification shall not continue to accrue seniority rights in the bargaining unit after January 1<sup>st</sup>, 2000.

(b) If an employee covered by this Article has transferred out prior to January 1, 2000, they shall be allowed to return to a vacant position within the bargaining unit, they will not be allowed to displace current bargaining unit employees. If there is no vacant position at the time the employee requests to return, the employee shall have the recall rights under Article VI of the Agreement.

### **ARTICLE III - Management Rights and Responsibilities**

Section 1. Except as otherwise provided in this Agreement, the Employer, in the exercise of its functions of management, shall have the right to decide the policies, methods, fair work and safety rules, direction of employees, assignment of work, equipment to be used in the operation of the Employer's business, the right to hire, promote, assign and transfer employees and to release such employees because of lack of work or for just cause. The Employer shall also have the right to discharge, suspend, demote or discipline for just cause. The enumeration of the above management prerogatives shall not be deemed to exclude other prerogatives not enumerated which management may now have. The exercise of these rights by management shall not be used for the purpose of discrimination or injustice against members of the Union, recognizing that all employees are to be treated with fairness and justice.

Any actions that may be taken by management pursuant to this section shall be subject to the grievance procedure as outlined in Article V of this Agreement.

Section 2. Non-discrimination: The parties agree that there shall be no discrimination in employment opportunities because of race, creed, sex, national origin, or age, as provided in Title VII of the 1964 Civil Rights Act, as amended, and the Age Discrimination in Employment Act of 1979. Any conflict between this Agreement and the Americans With Disabilities Act shall be resolved in favor of the Act.

#### **ARTICLE IV - Mutual Undertakings**

1) Management has the right to perform, or subcontract work of a kind or nature that has been historically performed by bargaining unit members, so long as the following provisions are complied with.

- a. Bargaining unit members, as of January 1<sup>st</sup> 1993, who have at least 5 years seniority, and who are affected by any decision to have management perform or contract out work, will be offered no less than 40 hours per week.
- b. Bargaining unit members, as of January 1<sup>st</sup>, 1993 and have at least five (5) years of seniority, who are affected by any decision to have management perform or contract out work shall not suffer a loss in pay or wage rate.
- c. No bargaining unit member, as of January 1<sup>st</sup>, 1993, who has at least 5 years seniority, who are affected by any decision by management to perform or contract out work shall be laid off.
- d. Work performed by its employees in positions designated as confidential, supervisory, or professional by the Common Council, in the year 1992 or thereafter, shall not be considered work of a kind or nature historically performed by bargaining unit employees.

2) The Union shall be notified no less than thirty (30) days prior to management going to the City Council to ask for the position to be changed and the date the proposal is going to be presented.

#### **ARTICLE V - Grievance and Arbitration**

Section 1. Grievance Procedure: The Employer and the Union recognize that, from time to time, grievances, disputes and complaints arise over matters within the purview of this Agreement. Therefore, whenever the Union or any employee covered by this Agreement feels that the Employer has acted erroneously or improperly in interpreting and applying any of the provisions of this Agreement, then the Union or the employee, within thirty (30) calendar days of the Employer's action, may invoke the provisions of this Article V. The grievance shall be processed during the regular working hours in the manner hereinafter set forth.

Step 1: The grievance shall be written and presented by the aggrieved employee and/or Union representative to the manager of the department wherein the incident which gave rise to the grievance occurred. The department manager must give his/her written answer within five (5) working days, weekends and holidays excluded. **During the investigation of a grievance the City agrees to provide any pertinent information, not protected from disclosure by law, requested by the Union within five (5) work days, unless reasonably unable to do so. Time limits may be extended by mutual agreement, which agreement will not be withheld unreasonably.**

Step 2. If no satisfactory settlement is reached in Step 1 within **five (5)** working days, of the receipt of the answer from the manager of the department, the grievance shall be advanced to Step 2 by the Union representative, who will discuss the grievance with the Division director. Within **five (5)** working days of the discussion, the Division director shall give his/her written answer to the Union representative.

Step 3. If no satisfactory settlement is reached in Step 2, the Union shall forward the grievance within ten (10) working days of receipt of the Step 2 answer to the Director of Human Resources. The Director will arrange to meet with the Union Committee within ten (10) working days after receipt of such grievance. Within ten (10) working days following such meeting, the Director will render his/her decision, incorporating the detailed position of the Employer in respect to the grievance. If a satisfactory adjustment has not been reached, either party shall not have more than thirty (30) calendar days to submit the grievance to arbitration. The party that submits the case to arbitration shall notify the other party by written notice.

**Section 2. Time Limits:** In any of the foregoing steps, the time allowed for discussion, adjustment, or appeal to the next step may be extended by mutual agreement **which agreement will not be withheld unreasonably. If the City fails to meet the specified time limit, the grievance is settled on the basis of the Union's demand and if the Union fails to meet the time limit, the grievance is settled on the City's last response.**

**Section 3. Arbitration:** (a) Either party shall apply to the Federal Mediation and Conciliation Service for a panel of seven (7) arbitrators. The Employer and the Union shall each, within fourteen (14) calendar days after receiving the panel, alternately strike one name from the list; the last remaining name shall be the arbitrator.

(b) The arbitrator shall then hear the evidence and, within thirty (30) days of the closing of the hearing, give the decision, with the award or remedy not to exceed that requested in the grievance. Such decision shall be final and binding on both parties.

(c) The arbitrator shall have no authority to add to, detract from, or in any way modify the terms of this Agreement or the wages set out in Article VIII.

(d) The fees and expenses of the arbitration shall be borne equally by the Employer and the Union.

#### ARTICLE VI - Representation

Section 1. Seniority: (a) The seniority of any employees working for the Employer shall mean length of service with the Employer in work now covered by the bargaining unit. When two or more employees share the same seniority date, the employee with the lowest number represented by the last four digits of the employee's Social Security number shall be designated the senior employee.

(b) The seniority privileges of any employee shall terminate under any of the following conditions:

- 1) When employee is laid off for a period of more than two years.
- 2) When a laid-off employee fails to give notice of his intention to return to work within seven (7) working days after the Employer has sent to his last-known address a certified letter requesting employee's return (a copy of such letter must be sent to the Business Agent of the Union.)
- 3) When employee gives such notice but fails to return to work within three (3) days after giving notice of intent to return to work, unless unusual circumstances prevent reporting, or unless notice of resignation must be given to a secondary employer, in which cases maximum two weeks from date letter has been sent will apply.
- 4) When employee submits his resignation to the Employer.
- 5) When employee is discharged for just cause.
- 6) When an employee retires voluntarily.
- 7) When employee violates the terms of a leave of absence.
- 8) When employee is pensioned by the Employer.

- 9) When employee is absent more than three (3) days without reporting the absence to the supervisor, unless there are unusual circumstances that prevent reporting.
- (c) Seniority shall continue to accumulate during suspensions for disciplinary reasons.
- (d) The seniority occupational group shall be:
- 1) Customer Relations:

Cashier	File Clerk
Credit & Collection Specialist	Meter Reader
Customer Relations Rep.	Meter Reader/Truck
Customer Relations Rep./Cashier	Permit Specialist
Customer Relations Rep./Clerical	Receptionist
Customer Relations Rep./Solid Waste	Utility Clerk I
Data Control/Audit-Error Spec.	Utility Clerk II

The Employer shall maintain a current seniority list at all times, and by January 31 of each year, shall submit such list to the Union for review. The Union shall notify the Employer within thirty (30) days of any disagreements with such list. The parties agree to attempt to resolve any seniority list disagreement informally and further agree that any unresolved disagreements over the seniority list shall not be the basis for grievance or arbitration unless and until the use of the seniority list deprives a member of the bargaining unit of either a job opening or some benefit under this Agreement.

The Union agrees to the removal of the following vacant positions from the bargaining unit effective January 1, 2000:

- |                                |   |
|--------------------------------|---|
| Chief Meter Reader             | Work Order Clerk  |
| Credit and Collection Clerk II | <b>Credit &amp; Collection Clerk I (effective 1/1/05)</b> |
| Information Specialist         | <b>Data Control Specialist (effective 1/1/05)</b>         |
| Receptionist/Walk-In           |   |
| Security Guard                 |   |
| Senior Permit Specialist       |   |
| Utility Truck Reader           |   |

However, in the event any such position should be filled in the future, it will again be included in the bargaining unit. If a position is created which has substantially the same duties as

