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STATE EMPLOYMENT  
RELATIONS BOARD

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**COLLECTIVE BARGAINING AGREEMENT  
BETWEEN**

**DELAWARE COUNTY ENGINEER**

**AND**

**AFSCME OHIO COUNCIL 8, Local 3981**

**Effective from Ratification until June 30, 2014**

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## ARTICLE 1- PREAMBLE

THIS AGREEMENT is entered into between the Delaware County Engineer (the "Employer"), subject to the approval of the Delaware County Board of Commissioners, and Local 3981, and Ohio Council 8 of the American Federation of State, County and Municipal Employees, AFL-CIO ("Union"). This Agreement establishes the wages, hours, terms and conditions of employment between the parties. The parties intend the terms of this Agreement to supersede any Ohio Revised Code provision on the subject, including recent changes to Ohio Civil Service Law.

## ARTICLE 2 - RECOGNITION

A. Bargaining Unit. To the extent required by law, the Employer recognizes the Union as the sole and exclusive collective bargaining representative for all employees included within the bargaining unit described as: Mechanics; Highway Worker I, II, III, IV; and Building/Grounds Maintenance. Excluded are all management-level supervisory, confidential, casual and seasonal employees as defined in the Act, as well as all other classifications of employees not included within the certified bargaining unit.

B. Sole and Exclusive Representative. Recognition of the Union as the sole and exclusive representative of members of the bargaining unit shall be for the term of this written contract. The Employer shall not recognize any other organization, person or union as representing any employee or classification included within the bargaining unit during the term of this Agreement.

C. Employee Rights. Both parties agree that all employees in the bargaining unit have the right to join, participate in, or assist the Union and the right to refrain from joining, participating in, or assisting the Union without intimidation or coercion. Membership in the Union shall not be a condition of employment.

D. Position Descriptions. The Employer will provide, if requested, a position description for each employee of the bargaining unit. If the Employer decides to create or modify a position description during the term of this Agreement, the parties will meet to discuss the content of the description and the inclusion of the new position in the bargaining unit. If the parties are unable to come to agreement on the inclusion of the position in the bargaining unit, the Union may seek whatever recourse it has before the State Employment Relations Board.

## ARTICLE 3 - NON-DISCRIMINATION

The Employer, the Union, and the employees of the Engineer will not discriminate with respect to race, color, national origin, religion, sex, ancestry, union activity, refusal to participate in union membership or activities, or protected age group defined by federal law. Any employee engaged in harassment or discrimination will be subject to corrective action, up to and including discharge. Any perceived discrimination or harassment must be reported to the Engineer immediately. The parties further agree that neither the Employer nor Union shall unlawfully discriminate against any individual on the basis of his or her membership or participation or lack

of membership or lack of participation in the Union. The Employer shall further have the right to take any action it deems necessary to comply with the requirements of the Americans with Disabilities Act including EEOC and court interpretations of the Act. Making reasonable accommodations to employees with a qualifying disability, including providing and requiring light duty work as recommended or endorsed by a physician, is not subject to the grievance procedure.

#### ARTICLE 4 - NO STRIKE/LOCKOUT

A. No Strike. The Union and employees covered by this Agreement agree that they will not engage in, initiate, authorize, sanction, ratify, support or participate in any strike, slowdown, stay-in, or other curtailment or restriction of or interference with the work in or about the Employer's premises or any job site in Delaware County, Ohio on which county services are being performed, nor will the Union or any employees honor any picket line or strike activity by other employees of the Employer or non-employees of the Employer at or near the Employer's premises or any job sites in Delaware County, Ohio on which services are being performed, during the life of this Agreement. The Union, its affiliates and members shall promptly take all possible actions to prevent and to end any such actions by employees or by any persons affecting the work of such employees.

B. Employee Obligation. Any employees engaging in a strike, slowdown, stay-in or other curtailment, restriction of, or interference with the work in or about the Employer's premises or job sites as described in paragraph (A) above during the life of this Agreement shall be subject to disciplinary action by the Employer which can be, but is not limited to, their discharge.

C. No Lockout. The Employer shall not lockout the employees during the term of this Agreement.

#### ARTICLE 5 - MANAGEMENT RIGHTS

A. Recognized Employer. The Union recognizes the Engineer ("Employer") as the authority vested with the right to manage the operations of the Delaware County Engineer.

B. Enumerated Management Rights. Except as specifically abridged, delegated, granted or modified by an express term of this Agreement, management retains and reserves all powers vested in management by the laws and the Constitution of the State of Ohio, including but not limited to its respective rights:

- to determine matters of inherent managerial policy which include, but are not limited to areas of discretion or policy such as the functions and programs of the Engineer, standards of services, overall budget and uses thereof, utilization of technology, and organizational structure;
- to manage and determine, and from time to time redetermine as management desires, the location, relocation and type and number of

physical facilities, type of equipment, programs and the work to be performed;

- to establish and change work hours, work schedules and assignments;
- to manage and direct its employees, including the right to select, train, retrain, hire, promote, transfer, assign, evaluate, lay off, recall, reprimand, suspend, otherwise discipline or discharge for just cause;
- to determine the Engineer's goals, missions, objectives, programs and services, and to utilize personnel in a manner determined by management to effectively and efficiently meet those purposes;
- to determine the size, composition and adequacy of the work force, including the right to lay off employees from duty, and to augment the work force of the bargaining unit with any employee including ones who are not full time;
- to establish or amend job descriptions of personnel within the bargaining unit;
- to promulgate and enforce reasonable work rules, department orders, policies and procedures, provided they are not inconsistent with the provisions of this Agreement;
- to maintain and improve the efficiency and effectiveness of operations by any means desirable to management; and determine the overall methods, processes, means, or personnel by which operations are to be conducted;
- to require employees to use or refrain from using specified equipment, uniforms, or tools;
- to establish starting rates of pay;
- to determine when a job vacancy exists, the duties to be included in the job classification, and the standards of quality and performance to be maintained;
- to establish, combine, move, relocate, or split up operations; discontinue processes or operations or discontinue their performance by employees in the unit covered by this Agreement and to subcontract out work;
- to determine overtime and the amount of overtime required;

- to determine conduct and performance expected of an employee in an emergency situation; and,
- to exercise all management rights set forth in Ohio Revised Code Section 4117.08(C) and by the Constitution of the State of Ohio, except as limited by specific provisions of this Agreement.

C. Other Management Rights Not Impaired. Management rights set forth above shall not be impaired except to the extent that they are limited by specific provisions of this Agreement. Management rights are not subject to arbitration or impairment by arbitration award. Failure to exercise a right or exercising it in a particular way shall not be deemed a waiver of any management right. The Employer may exercise any or all of the management rights set forth in this Article without prior negotiation with or agreement of the Union, but the Employer may also schedule labor-management meetings at times mutually convenient with the Employer and Union.

D. Exclusively Reserved Rights. Management rights not limited in this Agreement are exclusively reserved by the Engineer and the Delaware County Board of Commissioners.

E. Compliance with ADA. Notwithstanding any other provision of this Agreement, the Employer shall have the right, in its sole discretion, to take any action it deems necessary to comply with the requirements of the Americans with Disabilities Act including EEOC and court interpretations of the Act. If the Union opposes any such effort by the Employer, it will indemnify and hold the Employer harmless for any legal liability and all costs and damages flowing therefrom, including attorneys' fees, incurred as a result of such opposition.

## ARTICLE 6 - ASSIGNMENT OF WORK

A. Reserved Rights. The Employer reserves the right to assign work which may be performed by bargaining unit members to supervisors or to temporary, casual, intermittent or seasonal employees where the Employer determines that such assignment of work is needed to meet seasonal, temporary, or fluctuating needs, to perform work on the most cost effective basis, to conduct training, instruction, or inspection, to assess the quality of employee work, to evaluate employee performance, to cover situations in which no qualified employee is readily available, in an emergency, and in other circumstances in which work has been so assigned in the past.

B. Subcontracting. The Employer reserves the right to subcontract bargaining unit work where the Employer determines that such subcontracting is needed to meet seasonal, temporary, or fluctuating needs, to perform work on the most cost effective basis, to conduct inspection, to cover situations in which no qualified employee is readily available or bargaining unit employees do not have the skill, ability, technical knowledge or necessary tools and equipment, in an emergency, and in other circumstances in which work was subcontracted in the past. Except for emergencies involving the public health, welfare and safety, the Employer agrees that contracting work that will result in a layoff will be explained to the Union prior to the start of such subcontracted work with the Union being provided the opportunity to convince the Employer that the work could be done more efficiently and with the same or better quality by existing bargaining unit employees.

C. Assign Work. The Engineer determines all transfers, crew schedules, and assignments. The Engineer's right to assignment includes the right to assign employees to work any particular equipment in his discretion. The Engineer reserves the right to assign work that could be done by bargaining unit members to supervisors and/or temporary, casual, intermittent, or seasonal employees.

D. Temporary Assignments. All employees shall be required to perform any and all temporary assigned duties of which they are capable regardless of their usual or customary duties or job assignments. Performing the job of another employee who is on vacation or sick leave for less than fifteen (15) consecutive working days shall be part of an employee's job requirements and shall not be considered a temporary assignment. In the event the temporary assignment involves assignment to a higher classification and has lasted more than fifteen (15) consecutive working days, the temporarily assigned employee will receive a four percent (4%) increase in their regular wage rate for the duration of the temporary assignment beginning on the 16<sup>th</sup> working day after the assignment. A temporary assignment, regardless of duration, to the same or lower classification, shall not result in any adjustment of wage rate.

## ARTICLE 7 - UNION REPRESENTATION

A. Union Representatives. The Union shall select and designate in writing to the Employer a local union representative, alternate and Ohio Council 8 representative. Such designated representatives, acting jointly or alone, with approval from the other, shall have full authority to represent the Union and the bargaining unit employees in all dealings with the Employer, including the authority to bind the Union in agreements resolving any controverted matter. Moreover, in any instance in which prior notification of any action is required by the terms of this Agreement, notice given to the union representative shall be deemed as notice to the Union. The Employer shall not be required to meet with any persons, other than the designated union representative, on behalf of the Union for purposes of discussing the matters involving the terms and conditions of employment. The Ohio Council 8 representative shall be permitted access to the workplace, however such access must be approved in advance by the Engineer or Operations Manager.

B. Bulletin Boards. The Employer will provide space either for a bulletin board or on an existing bulletin board for exclusive use by the Union. This bulletin board shall be located in a place available to all employees. The Union will provide the Employer a copy of each Notice to be posted on the bulletin board. No offensive or inflammatory notices will be posted. Postings of an offensive, insensitive, disparaging or derogatory nature will not be permitted and will be removed with a copy of the removed posting provided to the Union.

C. Meetings on Premises. The Employer agrees to allow the Union to conduct meetings on the Employer's premises upon reasonable notice when such premises are available. The Employer may place reasonable restrictions on the time, place, and manner such premises are used, and may, in its discretion, refuse permission for such meetings.

D. Union Activities. All union activity, including the investigation of grievances shall occur on non-working, unpaid time, except if specifically authorized by the Engineer. In

the absence of the Employer's consent, union members or other employees shall not receive wages for time spent on union matters, including negotiations. Moreover, in the absence of Employer's consent, negotiating sessions shall not be scheduled or take place during shift(s) on which the Union bargaining team members are scheduled to work.

## ARTICLE 8 - DUES DEDUCTION

A. Periodic Dues Deductions. During the term of this Agreement, and upon written instruction by the Union, the Employer shall advise the County Auditor to make periodic deductions levied by the Union from the wages of bargaining unit employees who have voluntarily signed and presented a written deduction authorization. Written authorizations shall remain in effect until the employee is transferred or promoted to a job classification outside of the bargaining unit, or revokes such authorization as permitted by the employee's dues deduction agreement with the Union.

B. Notification on Dues. The Union shall advise the Employer, in writing, of the amount due and owing from each applicable employee's wages. The Union shall notify the Employer in writing of any increase in the amount of monies to be deducted. Deductions shall only be made for a pay period when actual wages are earned. If union dues are owing for pay periods when the employee has no earnings or insufficient earnings to cover the deduction, the Union must provide written notice to the Employer whether to advise the Auditor to deduct such monies out of future paychecks.

C. Remittance of Dues. Monies deducted pursuant to this article shall be remitted to AFSCME Ohio Council #8, Local 3981, 6800 North High Street, Worthington, Ohio 43085, within a reasonable amount of time but in no case later than thirty (30) days from the deduction. The Union may request that the Employer request from the Auditor an alphabetical list of names, social security numbers, and addresses of those employees who had union dues deducted along with the amount of the deduction.

D. Non-Members and Dues Revocation. There shall be no deductions for employees who do not become or remain members in good standing of the Union and/or who revoke their previously signed authorization to deduct dues, in accordance with that employee's check off agreement with the Union. An employee who has revoked dues deduction authorization in the manner required must then submit notification in writing to both the Union and Employer of the revocation.

E. Hold Harmless. The Union agrees to hold the Employer and the County Auditor harmless for any monies deducted and remitted to the Union pursuant to the provisions of this Article. The Employer satisfies its duties under this clause by advising the County Auditor of the various issues and requests but it is acknowledged that the Employer does not have jurisdiction over the actions of the Auditor or the timeliness of responses by the Auditor.

## ARTICLE 9 - SENIORITY

A. Types of Seniority. A probationary employee shall have no seniority until satisfactorily completing the probationary period. There are two types of relevant seniority - overall seniority from the most recent full-time permanent hire date with the Engineer and seniority within a budgetary department (the current budgetary departments being Bridges, Surface, Drainage, Specialty, and Maintenance).

B. Loss of Seniority. An employee shall lose all seniority rights upon an interruption of continuous service including but not limited to any one or more of the following reasons:

1. Retirement (this is not to be construed to mean that the retiring employee loses benefits to which he is entitled at the time of his retirement).
2. Voluntary resignation.
3. Discharge for cause, provided such discharge is not reversed by way of the grievance and/or arbitration procedures.
4. Failure to give notice of intention to report and/or failure to report for work when recalled from lay-off.
5. Lay-off for a continuous period of longer than the recall right period.
6. Failure or inability to report to work following the expiration of an approved leave of absence. Approved leave of absences include FMLA, usage of all sick leave including any authorized donated sick leave, workers' compensation temporary total, disability, or approved unpaid leave of absence as provided for in Article 13.

## ARTICLE 10 - PROBATIONARY EMPLOYEES

A. New Hires. Employees hired after the effective date of this contract must complete a one hundred-eighty (180) calendar day probationary period which can be extended up to ninety (90) additional calendar days upon mutual agreement by the Union and the Engineer. Newly hired probationary employees shall be employees-at-will until the completion of the probationary period, including any extension. As employees-at-will, probationary employees may be discharged for any reason and at any time prior to the completion of the probationary period. Such action shall not be grievable under the terms of this Agreement.

B. Promotion Probationary Period. Employees who have been selected, pursuant to Article 12 "Vacancy & Promotion," to be promoted into a higher paying position, are subject to being reduced for cause to their previous position prior to completion of a one hundred twenty (120) calendar day trial period. Such action shall be grievable but not subject to arbitration or review under civil service laws. Such promoted employees may voluntarily revert back to their former position during this trial period if their former position is vacant and available.

## ARTICLE 11 - MANNER OF WORK

A. Appropriate Dress. The Engineer requires all employees to be appropriately dressed for working conditions. Appropriate standards shall be set by the Operations Manager or the Engineer and may vary by budgetary department and by season. The Engineer further reserves the right to implement a Uniform policy during the term of this Agreement, so long as the Employer meets with and explains the policy upon implementation.

B. Safety Equipment. The Engineer will make available the following safety equipment: ear plugs, safety vest, rain suit, over shoes, gloves, safety glasses, hard hats, and will provide each bargaining unit employee at the beginning of the calendar year a \$180.00 annual payment to help toward the cost of personal safety gear, including required safety shoes. Employees are responsible for the maintenance, care and replacement of lost personal safety equipment.

C. Tools and Equipment. The Engineer will provide the necessary tools and equipment to perform the required work. Tools and equipment are to be kept in good repair. Loss or damage to tools through improper care, use, or storage may result in corrective action. County tools may never be used for personal work. Personal vehicles are to be parked in designated areas.

D. No Smoking. Smoking is prohibited as required by state law.

E. Working Safely. Employees are required to work in a safe, careful manner. In the event an employee alleges an injury occurred at work, the employee must immediately report such injury, and to the extent the injury permits, immediately complete the required incident report. All employees shall promptly report unsafe conditions related to physical plant, tool, and equipment to their supervisor.

F. Work Rules. The Employer shall have the right to establish, modify, or abolish rules and regulations to govern, any aspect of the operations so long as the work rule does not violate this Agreement.

G. Drug and Alcohol Free Workplace. In addition to CDL drug and alcohol testing requirements, the Engineer shall have and maintain a Drug and Alcohol Free Workplace. Employees are subject to drug and alcohol testing in circumstances the same as other employees of the County generally. The employee should expect to face serious consequences up to and including discharge for a positive drug or alcohol test following a property-damaging or injury-causing accident when the employee is operating machinery or driving a company vehicle. Employees are further obligated to report to the employer if they have been prescribed or are taking any medication that has a "do not operate machinery" or "do not drive" warning while taking the medication.

## ARTICLE 12 - VACANCY AND PROMOTION

A. Posting for Vacancy. If the Employer decides, in its discretion, to fill a vacancy of a position in the bargaining unit, the Employer shall post a dated notice, indicating the position and other information. The notice shall be posted for five (5) work days.

B. Consideration of Applications. Interested employees may have their applications considered by filing a written application with the Employer during the time of the posting. Applications filed after the posting has expired or been removed shall not be considered.

C. Selection Criteria. For a vacancy or promotion, the Engineer shall select the applicant deemed best suited. The Engineer will consider all internal applicants who comply with the posting requirements but may consider and fill a position from outside of the bargaining unit applicants at his discretion. Before making a determination on who is best suited and either at the time of or after the required posting, the Engineer may post, advertise or otherwise solicit applications from outside the bargaining unit. In the event two or more applicants are deemed best suited, then budgetary department and overall seniority shall be a factor in the determination. In the event the selected applicant has either the most budgetary department seniority or the most overall seniority among the applicants, then no other applicant shall have the right to arbitrate the selection.

D. Filling Vacancies. The Employer shall decide when a vacancy exists and whether to fill the vacancy. Nothing in this Article shall restrict the Employer's right not to fill a posted vacancy or its right to hire someone from outside the unit if the Employer, in its discretion, determines that no applicants from current employees are best suited for the position after considering the criteria in Paragraph (C).

E. Promotion Probationary Period. Each position filled pursuant to this Section will be subject to a one hundred twenty (120) day probationary period as provided by Article 10.B. The Engineer shall have the sole discretion to evaluate the performance of the employee during the probationary period and may return that person to his/her previous position at any time at his sole discretion during such probationary period.

## ARTICLE 13 - UNPAID LEAVES OF ABSENCE

A. Disability Leave. An employee may request and the Engineer may approve at his sole discretion an unpaid disability leave if the employee continues to be injured, ill, or physically or mentally incapacitated from the performance of the regular duties of his position after he has exhausted his accumulated sick leave and vacation and any FMLA leave. The terms, conditions and requirements of such leave will be determined upon approval by the Engineer. The decision regarding whether to grant an unpaid disability leave and the terms, conditions and requirements of each unpaid leave are in the sole discretion of the Engineer and not subject to the grievance procedure or subject to civil service laws.

B. Family and Medical Leave. Eligible employees may have up to 12 weeks unpaid leave in a 12-month period for qualifying reasons under the Family and Medical Leave Act.

Such qualifying reasons include (1) for absences related to a serious health condition of the employee, (2) for the birth or adoption of a child, or (3) to provide care to a qualifying family member who has a serious health condition. To the extent possible and reasonably foreseeable, the Employer requires advance notice of an expected absence that qualifies under the Act. The Employer may also require that FMLA leave be used concurrently with other types of leave, such as sick leave, vacation, or workers' compensation disability that the employee may also be using for an absence. The Employer may implement all aspects of the Family and Medical Leave Act in its discretion to the extent allowed by the Act.

C. Military Leave. Military Leave will be administered in accordance with the Ohio Revised Code Section 5963.061, applicable Federal law and any resolution passed by the Board of Commissioners applicable to County employees generally.

## ARTICLE 14 - LAYOFF AND RECALL

### A. Reasons for Lay-off.

Employees may be laid-off for one or more of the following reasons:

1. **Lack of funds** within the Engineer's operation and maintenance funds. A lack of funds means that the Engineer's has a current or projected deficiency of funding to maintain current or to sustain projected levels of staffing and operations,

2. **Lack of work** within the Engineer's budgetary departments. A lack of work means the Engineer has a current or projected temporary decrease in the workload, expected to last less than one year, which requires a reduction of current or projected staffing levels,

3. **Abolishment of positions.** Abolishment means the permanent deletion of a position or positions from the organization or structure of the Engineer due to lack of continued need for the position. The Engineer may abolish positions as a result of a reorganization for efficient operation, for reasons of economy, or for lack of work.

### B. Order of Lay-off.

1. When a reduction in force is necessary within a particular classification, first temporary, then intermittent, then seasonal, then part-time, and then full-time employees within the classification shall be laid-off. Full-time employees shall be provided at least five (5) calendar day notice of lay-off and shall be laid-off in the following order:

a. Newly hired employees in that classification who have not completed their probationary period;

b. In the event it becomes necessary to lay-off full time employees covered by this Agreement, the Engineer shall determine from which Budgetary Departments such reduction will occur. Employees shall be selected for reduction based on performance, ability, qualifications and experience. Only in

the event that those factors are equal shall budgetary department seniority be considered. This generally means that higher classified Highway Workers would not be reduced in force prior to lower classified Highway Workers. There are no displacement rights for reduced employees except that Highway Workers 3s and 4s may be offered the right, at the Engineer's discretion, to displace Highway Worker 1s or 2s in any budgetary department. If such displacement occurs, the employee with the least overall seniority within the budgetary department to which the Highway Worker 3 or 4 will be assigned shall be displaced. If a Highway Worker 3 or 4 is allowed such displacement right, his/her rate of pay will be reduced to the Highway Worker 2 pay scale in that budgetary department.

C. Recall. Laid off employees are eligible for recall into the next available opening for which they are qualified for up to twelve (12) months after layoff. To be eligible for recall, the laid off employee must have provided the Engineer his current address and phone number. The laid off Employee must report back to work within five (5) days of the Engineer's mailing of recall notice by regular mail to the provided address with a copy also provided to the Union.

## **ARTICLE 15 - DISCIPLINARY ACTION**

A. Grounds for Discipline. Non-probationary employees may be disciplined or discharged for just cause, including but not limited to: incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, follow employee or management, neglect of duty, any failure of good behavior, any other acts of misfeasance, malfeasance or nonfeasance, or any violation of the employer's current rules or policies or rules or policies hereafter put into effect.

B. Progressive Discipline. Disciplinary action shall normally be taken in progressive manner and shall include applications of the following: (1) verbal reprimand, (2) written reprimand, (3) suspension(s) without pay, and (4) discharge. The Employer reserves the right to omit one or more steps in assessing discipline for a particular action, if conduct of the employee so warrants. If a suspension or discharge is being considered, the Employer will provide the employee and the Union written notice of the type of corrective action being considered, the reasons for the possible corrective action, and an opportunity for the employee to be personally present along with a union representation to respond to the charges before discipline is imposed. The meeting can be scheduled to occur as soon as the second day following the issuance of the written notice. The Engineer or his designee may impose rules on the length of the conference and the conduct of the participants. If the Engineer or his designee determines that the employee's continued presence at the worksite prior to the conference poses a risk to persons or property or a threat of disruption, the Engineer or his designee may direct that the employee not be on the premises until the conference occurs. If a suspension or discharge is imposed and grieved, such a grievance shall be filed directly at Step 2 of the grievance process pursuant to Article 16, section B2. The Engineer may, at his discretion, consider such a Step 2 grievance on the written grievance appeal only. (See Article 16, Section B2). Any corrective action can be grieved but only suspensions and discharges can be arbitrated.

C. Serious Offenses. Certain offenses are serious enough to warrant immediate discharge without regard to previous reprimands or discipline. Such serious offenses include, but are not necessarily limited to the following:

1. Theft or reckless damage of property of the County or another employee;
2. Insubordination towards management personnel, or the uttering of threatening, or abusive language to the public, fellow employees or management;
3. Intoxication, working under the influence of alcohol or an illegal or unprescribed controlled substance while on duty, or conviction for the sale of any illegal controlled substance at any time;
4. Falsification of any county records or employment records;
5. Fighting or threats of work place violence;
6. Violation of the current driving policy which may be revised by the Engineer upon notice to the Union and employees;
7. Excessive tardiness (defined as more than five (5) occurrences in a 12 month period with the employee receiving notice upon incurring 4 occurrences and may receive progressive discipline after two occurrences);
8. Absence without leave or notice; and
9. Excessive absenteeism defined as more than 6 occurrences of absence within a twelve (12) month period even if the absence otherwise qualifies for sick leave usage. An occurrence of absence is defined as an absence of part of, or of one or more consecutive scheduled or call-in work days, not covered either under FMLA, Funeral Leave, or Workers' Compensation temporary total disability, or vacation or sick leave approved prior to the day of absence. An employee shall receive notice and may receive progressive discipline upon incurring 4 occurrences.

D. Revised Code Superseded. Ohio Revised Code 124.34 is superseded by this Agreement and is the sole and exclusive remedy for an employee wishing to contest a disciplinary action shall be through the grievance procedures.

## **ARTICLE 16 - GRIEVANCE PROCEDURE**

Exclusive Remedy. The grievance procedure is specifically designed to address all alleged violations of this contract and it replaces any procedure provided by the Ohio Revised Code including appeal to the State Personnel Board of Review. All matters arising out of this contract are to be processed exclusively through the grievance procedure. Grievances must be filed in good faith.

A. Grievance Defined. A "grievance" is a timely written complaint concerning the interpretation or application of a specific provision of this Agreement, filed on a designated grievance form. The timelines imposed on the grievant are to be strictly construed unless the Engineer extends the timelines in writing. If a grievant fails to meet a timeline, the grievance shall be dismissed. If the Engineer or Operations Manager renders no decision within the applicable time requirements, the grievance shall proceed to the next successive grievance step. To be valid, a grievance and all appeals must have the signature of an employee as a grievant and the Union. If a grievance is filed on behalf of the union as a whole, it shall only require the

signature of the designated local union representative. In the event more than one employee alleges a grievance arising out of the same matter, the Employer may consolidate or separate the grievances at any stage of the process.

B. Grievance Procedure. The grievant is entitled to union representation at any step of the grievance procedure. The availability of the union representative does not affect the running of the timelines at any step of the grievance procedure.

1. Step 1. The grievant must file a written grievance with the Operations Manager within seven (7) calendar days of the occurrence giving rise to the grievance. All grievances, in order to be effective for consideration, shall be in writing, on the required form, and contain the following: (1) the facts of the grievance including possible witnesses; (2) the specific contract provision(s) allegedly violated; (3) the remedy sought; and (4) the signature of the grievant and a union officer.

The Operations Manager has seven (7) calendar days from the time the grievance is received from the grievant to reply to the grievant. If the Operations Manager denies the grievance or fails to timely respond, the grievant may proceed to Step 2 by submitting the grievance to the Engineer within three (3) calendar days after receiving the Operations Manager decision, or immediately after the seven (7) calendar day period expires.

2. Step 2. Upon a timely submission of a grievance denied at Step 1, the Engineer or a designee shall meet with the union representative and/or the grievant within seven (7) calendar days, and shall submit a written decision to the grievant within seven (7) calendar days thereafter. In the event of a grievance involving a suspension or discharge, a grievance must be filed directly at Step 2 within seven (7) calendar days of receipt of the notice of disciplinary action by the employee. In such a case, the Engineer may consider, at his discretion, the grievance on the basis of the written appeal alone and the Engineer shall have a total of fourteen (14) calendar days from the time of receipt of the written grievance, to respond in writing to the grievant and union. If the Engineer wishes to have a grievance meeting in the case of a suspension or discharge, he shall inform the grievant and the Union of the same and the normal timelines for meeting and response at Step 2 shall then apply. The time limits in Step 2 may be extended by agreement of the Engineer and Union. If the Engineer denies the grievance or fails to timely respond, the grievant and union may proceed to Step 3.

3. Step 3.

a. Arbitration. If the parties are unable to satisfactorily resolve the grievance at the final step of the Grievance Procedure, the grievant and the Union may appeal the grievance to arbitration. Both the union and grievant must sign the appeal to arbitration. Such appeal must be presented to the Engineer in writing within fourteen (14) days from receipt of the Engineer's Step 2 response or after the time period for a written response from Engineer under Step 2 has

passed. Upon receipt of a written appeal to arbitrate, the Union or Employer may then request from the Federal Mediation and Conciliation Service or the American Arbitration Association, a panel of seven (7) qualified arbitrators from which one shall be selected. Failing to mutually agree upon an arbitrator from this panel, the parties shall strike names alternately, with the Union striking the first name. All decisions reached by the arbitrator shall be final and binding on both parties, subject to the right of appeal pursuant to Revised Code. If the arbitrator denies the grievance, the union will pay his fee and expenses. If the arbitrator grants the grievance, the County will pay the arbitrator's costs. At any time prior to arbitration, the parties, by mutual agreement, can schedule mediation to attempt to resolve the grievance.

b. Jurisdiction of the Arbitrator. The arbitrator's jurisdiction is strictly limited to interpreting express provisions of the Agreement and must be derived from the provisions of this Agreement. The arbitrator cannot add to, amend or modify in whole or part any provision of this Agreement.

## ARTICLE 17 - HOURS OF WORK

A. Standard Workweek. The standard workweek is forty (40) hours of work between Saturday at 12:01 a.m. and Friday at 12:00 a.m. The Employer retains the right to assign the hours of work and modify schedules. Time worked shall be recorded as designated by the Employer, including by use of a time clock. An employee will be expected to clock in no earlier than 5 minutes prior to the start of work and no later than 3 minutes after the scheduled start time. Any time clock start time entry more than 3 minutes after the scheduled start time shall be considered a tardy. At the end of a scheduled shift, employees shall not arrive to the area of the time clock earlier than 10 minutes before the end of the shift.

B. Overtime. Employees shall earn overtime pay for all "hours worked" in a workweek greater than forty (40). "Hours worked" includes vacation or holiday hours in the workweek but does not include sick leave hours. Overtime is paid at 1 1/2 times regular hourly rate. Overtime shall be assigned at the Employer's discretion and is mandatory but shall not be worked unless pre-authorized by the Engineer or a designee.

C. Obligation to Report. Employees may be called in at any time to perform work. Failure of an employee to promptly report to work when called is grounds for corrective action, but the cause of a failure to report will be a consideration in deciding what the corrective action will result.

D. Required. The Employer necessarily retains the right to require employees to work more than their regularly scheduled hours as he determines that needs may require.

E. Call in Pay. Any employee called in to work outside of his/her normal scheduled hours of work shall be paid a minimum of two (2) hours. Call in pay does not apply to a situation when the employee is notified to report early on a work day in which he/she was already scheduled to work and continues working their regularly scheduled shift afterwards without interruption of on the clock hours. When an employee is called in before the start of

their scheduled shift, the Employee may request to work an eight (8) hour shift starting from their clock-in time as their regularly scheduled shift.

F. No Compensatory Time. There shall be no compensatory time.

## ARTICLE 18 – PAID LEAVES OF ABSENCE

A. Sick Leave

1. Each employee who has successfully completed his/her initial probationary period shall earn four and six-tenths (4.6) hours sick leave for each eighty (80) hours in paid status. Sick leave is accumulated for hours of overtime worked.

2. Sick leave shall be accrued without limit.

3. Employees may use sick leave for absence due to personal illness, pregnancy, injury, exposure to contagious disease that could be communicated to other employees, and for absences necessitated by illness or injury in the employee's immediate family defined as parents, spouse, or minor children, including adopted and stepchildren.

4. An employee who is absent due to one of the above reasons must report the absence to the Employer as soon as it is known but no later than the beginning of the shift or prior to reporting off sick while on duty. In order to qualify for use of paid sick leave, the employee must complete a sick leave application form. If the injured or ill person required medical attention, a licensed physician's certificate stating the nature of the illness must be attached to the application.

5. Before an absence may be charged against accumulated sick leave, the Engineer or a designee may require such proof of illness, injury or death as may be satisfactory to him. The Employer may also require the employee to be examined by a physician designated by the Employer at the Employer's expense.

6. Falsification of a physician's certificate or signed statement to justify the use of sick leave shall be grounds for disciplinary action, up to and including discharge. Abuse or patterned use of sick leave will be grounds for disciplinary action. Patterned use includes but is not limited to repeat usage on Mondays, Fridays, and the days before and after holiday and vacation.

7. When sick leave is used it shall be deducted from the employee's credit on the basis of one hour of sick leave for every one hour of absence from previously scheduled work. The sick leave payment shall not exceed the normal scheduled work or work week earnings.

8. An employee may accrue sick leave credit only on the basis of his full-time continuous regular employment with the Employer.

9. If an employee's illness or disability continues beyond the time covered by his earned sick leave, the employee may request an unpaid disability leave or other unpaid leave of absence, but only after exhausting vacation leave.

10. An employee who transfers from one County office to another or who transferred or is hired from another public employer in Ohio to County employment within ten (10) years of service, shall be credited with the unused balance of his sick leave accumulated in his prior service. The employee is responsible for obtaining certification of his previously accumulated sick leave.

11. The Employer will establish a policy for sick leave payout so long as it is consistent with the Ohio Revised Code.

B. Jury Duty Leave

Employees will be excused from work for jury duty. An employee who is called to and reports for panel and/or jury duty shall be compensated by the Employer at the straight-time hourly rate for the hours he would have been scheduled on that day. The employee must give prior notice of his jury duty call, and pay his/her jury fee to the Delaware County Treasurer in order to receive his/her regular pay.

C. Funeral Leave

An employee may be absent and use sick leave pay for up to three (3) consecutive work days to attend the funeral of an extended family member. For purposes of this policy, "extended family member" is defined as: grandparents, brothers, sisters, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, parents, father-in-law, mother-in-law, spouse, children, step-children, grandchildren, and legal guardian or other persons who stand in the place of a parent to the employee. If the employee does not have earned sick leave available for funeral leave or wishes to extend absence beyond three (3) days, the employee may request an unpaid leave of absence, not to exceed two (2) additional days. In the case of a spouse, mother, father, son, or daughter, or one who stands in the place of one of these, the employee may use any form of paid leave for these two additional days.

D. Sick Leave Donation

Members of the bargaining unit may donate and receive donated sick leave under the sick leave donation policy instituted by the Board of Commissioners except that bargaining unit members can only donate to and receive donation from other members of Local 3981.

## ARTICLE 19 - HOLIDAYS

A. List of Holidays. All full-time employees shall receive the following paid holidays:

New Year's Day	(January 1)
Martin Luther King Day	(third Monday in January)
Presidents Day	(third Monday in February)
Memorial Day	(last Monday in May)
Independence Day	(July 4)
Labor Day	(first Monday in September)
Veterans Day	(November 11)
Thanksgiving Day	(fourth Thursday in November)
Day after Thanksgiving Day	(fourth Friday in November)
Christmas Day	(December 25)

Employees will also be given four (4) hour holiday pay on Little Brown Jug Day, Christmas Eve Day and New Year's Eve Day.

B. Calculation of Holiday Pay. Holiday pay will be calculated at the employee's straight-time hourly rate.

C. Earning Holiday Pay. To earn holiday pay for a full day holiday, the employee must actually work his/her entire scheduled shift on the day before and his entire scheduled shift on the day after the holiday regardless if the employee actually worked on the holiday itself. To earn holiday pay for the four-hour holidays, the employee must actually work the four hours on the day of the holiday and the next regularly scheduled shift in its entirety. The only exception to this requirement is if the missed shift, in full or part, before or after the holiday was pre-approved for vacation by the Engineer or Operations Manager more than ten (10) calendar days prior to the holiday.

D. Weekend Holidays. In the event that a holiday falls on a Saturday, the preceding Friday will be considered the holiday. If it falls on a Sunday, the following Monday will be considered the holiday. In a year in which December 25 falls on a weekend (Saturday or Sunday), the Employer in its sole discretion, shall determine the scheduling of the holiday for December 25, as well as for the following January 1 holiday.

E. Required to Work. The Employer may require employees to work on a particular holiday.

## ARTICLE 20 - VACATIONS

A. Accrual of Vacation. After completion of one full year of service, an employee shall have earned two weeks (80.0 hours) of vacation leave with full pay. Thereafter, an employee shall earn and accrue vacation leave pro rata over 26 bi-weekly pays at the following annual rates:

- i. 1 - But less than 8 years service      80.0 hours
- ii. 8 - But less than 15 years service      120.0 hours
- iii. 15 - But less than 25 years service      160.0 hours
- iv. 25 - and over years of service      200.0 hours

B. Limitation on Accrual. No vacation is earned while an employee is on layoff or unpaid leave.

C. Pre-approval of Vacation Requests. Employees must request and obtain pre-approval of any vacation request. The approval or denial of vacation requests shall be based upon operational needs and other factors related to legitimate business needs. A vacation request once approved cannot be rescinded absent a written request and corresponding written approval of the Engineer or Operations manager. A vacation request for a full day or more must receive approval from the Engineer or the Operations Manager at least as many days in advance as the length of the vacation. Approval of vacation time of less than a full working day will be left to the discretion of that employee's crew leader, except that a crew leader's approval of vacation of less than a full shift can be revoked based on the discretion of management. A Crew leader has no authority to approve a vacation request of one full shift or more.

D. Use of Vacation. Employees are expected to use accrued vacation leave each year prior to the employee's next anniversary date. However, an employee may carry over earned vacation leave for a period not to exceed three years from the employer's anniversary date but only with the written approval of the Engineer annually. Vacation credit in excess of three years or not approved annually by the Engineer will be eliminated.

## ARTICLE 21 - INSURANCE BENEFITS

The Employer shall continue to provide employees with health insurance benefits under the group benefit plan generally provided to the employees of Delaware County and on the same terms and conditions on which those benefits are generally provided to employees of Delaware County. The Board of County Commissioners, in its sole discretion, may modify such benefits, the Employer's share of the cost of such benefits, the terms and conditions on which such benefits are provided, and/or the means by which such benefits are provided, so long as any such modifications are applicable generally to employees of Delaware County other than those covered by other labor contracts, as well as to the bargaining unit.

## ARTICLE 22 - WAGES

A. Special Adjustments. The six non-probationary employees whose hourly rates are the lowest in the bargaining unit will receive a \$0.75 increase in the first payroll after ratification.

B. First Payroll after Ratification in 2012. Non-probationary Bargaining Unit employees other than those identified in paragraph A shall receive an increase in their hourly wage rate in the first payroll after ratification. This increase will be 0.5% across the board plus merit raise consideration of 0.5% on average as explained in Paragraph D.

C. Following Year Adjustments – 2013 & 2014. In following years, non-probationary bargaining unit employees shall receive an increase as follows:

- a. Payroll 1 of 2013: 0.75% across the board, 1.25% on average for merit
- b. Payroll 1 of 2014: 0.50% across the board, 1.25% on average for merit

D. Merit Raises. Merit raises will average the stated amount among bargaining unit employees but an individual employee may receive more or less than that depending upon that employee's evaluated performance for that year. The average shall not include employees who received a raise due to promotion, temporary assignment, or successfully completed probation. Merit increases will be granted in increments decided by management.

E. Hourly Rate after Completion of Probationary Period. At an employee's successful completion of the probationary period, that employee's wage rate shall be increased by amount in the discretion of the Engineer.

F. Tuition Reimbursement. An employee may request pre-approval for education and training from the Engineer. The Engineer in his sole discretion may approve or deny such request. If approved by the Engineer, such request is subject to the Delaware County Tuition Assistance Policy, including any amendments to that policy made during the term of this Agreement.

## **ARTICLE 23 - SCOPE AND SEVERABILITY**

A. Previous Agreements Superseded. This Agreement supersedes all previous oral and written agreements or practices between the Employer and any employee within the collective bargaining unit. The parties hereby agree that the relations between them shall be governed exclusively by the terms of this Agreement only and no prior agreement or practice, amendments, modifications, alterations, additions, or changes, oral or written, pertaining thereto shall be controlling or in any way affect the relations between the parties or the wages, hours and working conditions of the employees covered by this Agreement.

B. Sole Source of Rights. It is also agreed that during the negotiations leading to the execution of this Agreement, the parties have had full opportunity to submit all items appropriate to collective bargaining and that the parties expressly waive the right to submit any additional item for negotiation during the term of this Agreement, irrespective of whether the item was or was not discussed during the course of negotiations leading to the execution of this Agreement. The specific provisions of this Agreement are the sole source of any rights which the Union or any member of the bargaining unit may charge the Employer has violated in raising a grievance.

C. Invalid Provisions. Should any Article, Section or portion thereof, of this Agreement be held unlawful and unenforceable by a court of competent jurisdiction, such decision shall apply only to the specific Article, Section or portion thereof directly specified in the decision. The parties agree to immediately meet and negotiate in an effort to establish a substitute for the invalidated Article, Section or portion thereof. In the event that appeals to any such decision are filed, such specific Article, Section or portion thereof affected by the decision

shall continue in effect until the appeals process is completed unless otherwise directed by the Court or unless continuing to abide by such language is contrary to law.

**ARTICLE 24 – DURATION**

The provisions of this Agreement establish certain rights and benefits for the Union and the employees which only exist by and through the terms of this Agreement. These rights and benefits shall cease and terminate upon the termination date of this Agreement, unless mutually agreed.

This Agreement is effective beginning upon the date of the final signatures below and shall remain effective until June 30, 2014.

AFSCME OHIO COUNCIL 8, LOCAL 3981

DELAWARE COUNTY ENGINEER:

BY:

Title:

[Handwritten Signature]  
Staff Representative

[Handwritten Signature: Christian Bauserman]  
Christian Bauserman

Bargaining Team Members:

DELAWARE COUNTY BOARD OF COMMISSIONERS

[Handwritten Signature: Joe Wom]  
[Handwritten Signature: Ray W...  
[Handwritten Signature: Jim Y...

[Handwritten Signature: Dennis Stapleton]  
Dennis Stapleton

[Handwritten Signature: Ken O'Brien]  
Kenneth O'Brien

[Handwritten Signature: Tommy Thompson]  
Tommy Thompson

Date of Final Signature:

Attested by Clerk:

April 19, 2012

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*\*Board Certified Specialists in Workers' Compensation Law*

April 24, 2012

Tammy Johnson  
State Employment Relations Board  
65 East State Street, Ste. 1200  
Columbus, Ohio 43215-4213

2012 APR 25 P 4: 24  
STATE EMPLOYMENT  
RELATIONS BOARD

**Re: Collective Bargaining Agreement Delaware County Engineer and  
AFSCHE Ohio Council 8, Local 3981  
Effective April 19, 2012 until June 30, 2014**

Dear Ms. Johnson:

Enclosed please find two copies of the final ratified **COLLECTIVE BARGAINING AGREEMENT BETWEEN THE DELAWARE COUNTY ENGINEER AND AFSCME OHIO COUNCIL 8, LOCAL 3981**. The agreement is effective until June 30, 2014.

Please do not hesitate to contact me with any questions.

Very truly yours,



Timothy E. Cowans

/jrb  
Enclosures