

RESOLUTION OF THE TOWNSHIP OF IRVINGTON, NJ

No. **DHS 16-1213-6**

Date of Adoption **DECEMBER 13, 2016**

APPROVED AS TO FORM AND LEGALITY ON THE BASIS OF FACTS SET FORTH BY

Legislative Research Officer

PRESENTED BY COUNCIL MEMBER **BURGESS**

SECONDED BY **LYONS**

AMENDING MEMORANDUM OF UNDERSTANDING BETWEEN THE TOWNSHIP OF IRVINGTON AND INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 825

WHEREAS, on February 23, 2016, the Township approved resolution number DHS 16-0223-2 for temporary/part time employees; and

WHEREAS, International Union of Operating Engineers Local 825 employ the required employees to operate powered equipment used in demolition, construction and tree removal; and

WHEREAS, effective July 01, 2016, International Union of Operating Engineers Local 825 increased its independent Outside Construction rates; and

WHEREAS, the MOU is hereby amended to include the new rate that the temporary/part time employees will be paid by the Township.

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF IRVINGTON, that the attached Memorandum of Understanding is hereby amended to include the new independent construction contractor rate.

BE IT FURTHER RESOLVED, the Township Attorney will review and amend the Memorandum of Understanding; and

BE IT FURTHER RESOLVED, that the Municipal Clerk and Mayor is hereby authorized and directed to signed the amended MOU; and

BE IT FURTHER RESOLVED, this MOU will become effective upon the adoption of this resolution on February 24, 2016 until February 25, 2017.

RECORD OF COUNCIL VOTE

X = Indicates Vote

N.V. = No Vote

A.B. = Absent

COUNCIL MEMBER	YES	NO	N.V.	A.B.	COUNCIL MEMBER	YES	NO	N.V.	A.B.
BURGESS, 1ST VICE PRESIDENT	X				INMAN	X			
COX	X				JONES, 2ND VICEPRESIDENT				X
FREDERIC	X				LYONS, PRESIDENT	X			
DR. HUDLEY				X					

PRESIDENT OF COUNCIL *Denise Lyons* MUNICIPAL CLERK *Sheldene* DATE **DECEMBER 13, 2016**

I hereby certify that the foregoing is a true copy of a Resolution duly adopted by the Municipal Council. In witness whereof I have hereunto set my hand and the Corporate Seal of the Township of Irvington.

MUNICIPAL CLERK *Sheldene*

DATE **12/14/16**

ADMINISTRATOR ☐ ASSESSOR ☐ BLDG ☐ CFO ☒ COLLECTOR ☐ COURT ☐ ENGINEER ☐ FIRE ☐ HEALTH ☐ HOUSING ☒ INIC ☐ JUDGE ☐ LEGAL ☒ LIBR ☐ LICEN ☐ MAYOR ☐ OCDP ☐ PARKS ☐ PAYROLL ☐ PUBLIC SAFETY ☐ DIR ☐ PUBLIC WORKS ☐ PURCHASING ☒ SEC ☐ PB/ZBA ☐ TRAFFIC ☐ ZONING ☐ OFF ☐ DLGS ☐ GNCD ☐ OTHER(S): **J. Swell**

MEMORANDUM OF UNDERSTANDING

This Agreement is made and effective February 16, 2016, to February 16, 2017 by and between the International Union of Operating Engineers, Local 825, AFL-CIO (the "Union"), 65 Springfield Avenue, Springfield, NJ 07081 (the "Union") and the Township of Irvington, 1 Civic Square, Irvington, NJ 07111 (the "Employer" "Township") (collectively, the "Parties").

1. **Scope of the Agreement.** The Parties hereby agree to be bound to this Memorandum of Understanding (the "MOU") and those terms and conditions embodied in the Agreement between the Union and Associated Construction Contractors and Construction Contractors Labor Employers of New Jersey, effective July 1, 2014 to June 30, 2017, along with any successor agreements, (the "ACC Agreement") which are expressly incorporated by reference herein. Unless expressly incorporated by reference in the MOU, the terms and conditions of the ACC Agreement are specifically excluded and have no force or effect upon the Parties. The referenced parts of the ACC Agreement are attached hereto as Exhibit "A."
2. **Temporary/Part Time Employees.** The Township shall hire, as temporary/part time employees, such Operating Engineers, as the Township determines is necessary from time to time to perform services in connection with the operations of motor powered equipment.
3. **Union Recognition.** The Employer recognizes the Union as the sole and exclusive bargaining agent for all Temporary Employees engaged in the operation of motive powered equipment used in demolition, construction, tree removal, snow removal, road maintenance, parks and other work performed by the township ~~Regular Employees of the Employer~~. Excluded from the bargaining unit are Regular Employees of the township ~~Employer~~. For the purposes of this Agreement, Regular Employees shall mean those employees who are regularly and customarily employed by the Township ~~Employer~~.
4. **Referral of Temporary/Part Time Workers.** Whenever desiring to employ Temporary/part time Employees, the Township ~~Employer~~ shall call upon the Union for any Temporary Employees/Part Time that the township may, from time to time, need and the Union shall refer such Temporary Employees/Part Time from a referral list maintained for purposes of the MOU. The Employer shall give the Union at least twenty-four (24) hours' notice when requiring the services of Temporary/Part Time Employees covered hereunder. Priority shall be given to those Temporary Employees having a residence in the municipality where the work is performed.

5. **Township's Direction.** The Temporary Employees shall perform all work included in their assignment under the direction and supervision of the Township supervisory staff or their designees. The Temporary/Part Time Employees shall work in harmony with the Township's full-time employees.
6. **Wages.** The Equipment Classification Schedule embodied in the AGC Agreement shall be and is hereby incorporated into the MOU. The applicable Wage Structure and Benefit Fund Contribution chart is hereto attached.
7. **Benefits.** The following Articles of the AGC Agreement shall be and are hereby incorporated in the MOU: Article X (Savings Fund), Article XI (Training Fund), Article XII (Welfare Fund), Article XIII (Pension Fund), Article XIV (SUB Fund), Article XV (Annuity Fund), Article XVIII (Contributions) and Article XXVII (LM Fund).
8. **Union Check Off.** Article XX of the AGC Agreement shall be and is hereby incorporated into the MOU.
9. **Non-Discrimination.** The Parties agree that the performance of the MOU will be carried out in a non-discriminatory manner without regard to race, color, gender, age, national origin, sexual orientation or the like.
10. **Termination of Agreement.** Either party may terminate the MOU upon thirty (30) days written notice to the other party.

For the Union:

GREG LALEVEE
Business Manager
International Union of Operating Engineers,
Local 825, AFL-CIO

For the Township:

ANTHONY VAUSS
HONORABLE MAYOR
Township of Irvington

ATTEST

Township Clerk

EXHIBIT A

ACC AGREEMENT - ARTICLE XVIII PENALTIES FOR FAILURE TO MAKE CONTRIBUTIONS TO FUNDS

The failure of any Employer to pay required contributions to the Welfare, Pension, Supplemental, Unemployment Benefit, Apprenticeship Training and retraining, Annuity and Savings Funds, or to pay interest on such delinquencies, or legal and auditing fees and costs assessed against such delinquent Employer, as provided herein, shall constitute a violation of this Agreement and the Union shall be authorized to remove the work daily and shall be paid a day's pay of eight (8) hours until the Employer settles his delinquent payments of contributions, interest, legal and auditing fees with the Fund Administrator. If any Employer has a record of delinquency on a prior job, the Union shall refuse to permit Employees to work for such Employer, until all such delinquencies have been paid to the respective Funds, including interest and legal and auditing fees.

If the Trustees or the Fund Administrator of any said Funds is required to utilize legal services to collect Employer delinquencies or auditing services to ascertain the correct amount due from the Employer, the delinquent Employer shall be required to pay, in addition to 2% over the Prime Interest Rate, interest from date of delinquency, the reasonable cost of the auditing services and, in addition thereof, legal fees at the following rates: 15% on the first \$750.00; 10% of any amount in excess of \$750.00; minimum collector fee of \$15.00; and 50% on any amount less than \$100.00, due and payable on default.

All contributions required to be made to any of the aforementioned Funds by the Employer shall be made on a weekly basis on the day the Employees are paid by the Employer delivering to the Shop Steward drafts made payable to each said Fund, indicating the names of all Employees, number of hours worked or paid and amount of hourly wages as required, together with amount of contribution for each Employee to each said Fund. Such periodic reporting forms must be filed by the Employer with the Fund(s) regardless of whether any contributions are due and owing the Fund(s) in the reporting period unless the Trustees upon the application of the Employer excuse him from so reporting. In the event that the contributions are due and owing in the reporting period, the Employer shall so state on the form the reasons therefore. With regard to the Savings Fund, the Employer shall furnish to each Employee on payday a statement of the amount of money contributed on behalf of such Employee to the said Fund. The Funds Trustees will have the right to conduct periodic payroll audits of companies' signatory to this Agreement.

The Trustees of any Fund or an alleged delinquent Employer may request arbitration of any alleged delinquencies or breach of agreement regarding the Funds Contributions and arbitration may be heard within thirty (30) days after such request. The Trustees may join an individual Engineer as a party to any such arbitration proceeding regarding Fund Contributions in which such Engineer may be involved. Each Engineer subject to this Agreement does hereby, through his duly authorized representative, consent to such joinder and to the issuance of an award binding upon him in connection therewith. The arbitration shall be heard at the Operating Engineers Local 825 Funds Office, or as designated in the demand at the option of the Fund and the procedures followed shall be in accordance with the rules of the New Jersey Mediation Service.

The Trustees in their discretion may permit an Employer to make monthly instead of weekly contributions where the contribution record of the Employer justifies such action.

All Employers covered by this Agreement must file with the Trustees of the Fringe Benefit Plan, a Surety Company Bond in an amount no less than \$25,000.00 in order to ensure payment by them to the

various Fringe Benefit Plans. The Trustees shall determine the amount of such Surety Bond. The Trustees shall also have the power to fix a lesser Bond for any Employer who pays weekly where the contribution record of such Employer justifies such action. However, effective January 1, 1982, any Employer may have as an alternative option the opportunity to purchase combination stamps from the 825 Fund Facility and in lieu of posting a Surety Bond will contribute directly to the Employee these stamps as a medium of payment to the various contributory Funds in the amount determined by hours paid. The payment of stamps to each Employee will be made on a weekly basis on the Employer's normal payday. (Article XI hereof).

No officers, agents, representative or Employees of any Union or any Employer shall be deemed an agent or representative of the Board(s) of Trustees or be deemed as authorized to make any oral or written representations, or give any form of commitment which may be relied upon by any Employee, his or her spouse, beneficiary or dependent. It is further agreed and understood that no single Trustee or Employee(s) of any Fund has authority to give any such representations or commitments since such representations or commitments can only be made by the Board of Trustees acting as Boards of Trustees.

ACC AGREEMENT - ARTICLE XX

UNION CHECK-OFF

The Employer will withhold from the wages of each Employee covered by this Agreement, who signs and files with the Employer, a written authorization as provided by law, three percent (3%) of the Employees Gross weekly wages and will remit said amount weekly to Local Union 825 in payment of working assessment. Said remittance will be made on forms provided by Local Union 825.