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Contract Database Metadata Elements

Title: **Kenmore, Village of and Kenmore Department of Public Works Benevolent Association (2004)**

Employer Name: **Kenmore, Village of**

Union: **Kenmore Department of Public Works Benevolent Association**

Local:

Effective Date: **06/01/04**

Expiration Date: **05/31/07**

PERB ID Number: **7636**

Unit Size: **36**

Number of Pages: **30**

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VILLAGE OF KENMORE
CLERK'S OFFICE

COLLECTIVE BARGAINING AGREEMENT

-between-

VILLAGE OF KENMORE

-and-

**KENMORE DEPARTMENT OF PUBLIC WORKS
BENEVOLENT ASSOCIATION**

6/1/04 – 5/31/07

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**NYS PUBLIC EMPLOYMENT
RELATIONS BOARD**

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THIS AGREEMENT made this 1st day of June, 2004, by and between the **VILLAGE OF KENMORE, NEW YORK**, (hereinafter called the "Village") and the **KENMORE DEPARTMENT OF PUBLIC WORKS BENEVOLENT ASSOCIATION** (hereinafter called the "Association"):

WITNESSETH

WHEREAS, the Village and the Association recognize and declare their mutual intent to promote harmonious and cooperative relationships between the Village and the Association and the employees to whom this Agreement applies, and to protect the public interest by assuring at all times the uninterrupted operations of the Village of Kenmore; and

WHEREAS, "IT IS AGREED BY AND BETWEEN THE PARTIES THAT ANY PROVISIONS OF THIS AGREEMENT REQUIRING LEGISLATIVE ACTION TO PERMIT ITS IMPLEMENTATION BY AMENDMENT OF THE LAW OR BY PROVIDING ADDITIONAL FUNDS THEREFOR SHALL NOT BECOME EFFECTIVE UNTIL THE APPROPRIATE LEGISLATIVE BODY HAS GIVEN ITS APPROVAL."; and

WHEREAS, the parties have reached certain understandings which they desire to confirm in this Agreement;

IT IS AGREED AS FOLLOWS:

ARTICLE I
RECOGNITION

- 1.01** The Village recognized the Association as the exclusive representative and bargaining agent from and after December 17, 1968, for employees in the negotiating unit as described in 1.03 of this Agreement, and the Village's resolutions dated December 1, 1968 and January 5, 1971.
- 1.02** Pursuant to the requirement of law, the Association affirms that it does not assert the right to strike against any government, to assist or participate in any such strike, or to impose any obligation to conduct, assist or participate in such strike.

1.03 Negotiating Unit – The employees covered by this Agreement shall include all the full-time operating employees in the following enumerated classifications:

Automotive Mechanic
Assistant Automotive Mechanic
Concrete and Street Repair Chief
Sewer and Water Crew Chief
Supervising Tree Trimmer
Tree Crew Chief
Electrician Crew Chief
Automotive Mechanic Crew Chief
Motor Equipment Operator
Tree Trimmer
Truck Driver
Skilled Laborer
Laborer A
Laborer B
Electrician

and any such additional classifications as may be added by mutual consent. The Village or its designee maintains the exclusive right to fill the enumerated positions by appointment of personnel selected by the Village or to leave the classification vacant. Employees who are regularly scheduled to work thirty (30) hours per week or more shall be considered full-time employees. Part-time, seasonal and temporary employees are excluded from this Unit.

1.04 Dues Deduction – The Village hereby confers upon the Association the exclusive right to have its membership dues deducted from the wages of all employees of the bargaining unit who individually and voluntarily authorized the dues deduction. The amounts of dues to be deducted shall be certified by the Association.

- (a) The Association shall indemnify, defend and save the Village harmless against any and all claims, demands, suits or other forms of liability which shall arise out of or by reason of action taken or not taken by the Village pursuant to the provisions of this Article.

- (b) Except where a clerical error has been made in the deduction of dues, which error will be adjusted promptly, any question as to the correctness of the amount shall be settled between the employee and Association.
- (c) The monies so deducted shall be transmitted to the Association at a mutually agreed time.

ARTICLE II
MANAGEMENT RIGHTS

2.01 Rights – The Village maintains the exclusive right to direct the work force. This right shall include, but not be limited to, the right to:

- (a) Direct employees
- (b) Hire, transfer, promote and assign
- (c) Suspend, discharge or take other disciplinary action
- (d) Relieve employees from duty due to lack of work or for other legitimate reasons including but not limited to: abolishment of position(s) by the Village Board, lack of funding to fill such position(s), acts of God, or other conditions beyond the Village's control;
- (e) Take any action necessary in order to maintain the efficiency of the Public Works Department, determine the method, means, manner and personnel by which the services shall be rendered; and
- (f) Take any actions necessary in situations of emergency, regardless of prior commitments, to carry out the responsibility of the Village to the citizens of Kenmore.

This section, as all other sections, is subject to the Grievance Procedure.

2.02 Rules – The right to make reasonable rules and regulations shall be an acknowledged function of the Village. In making rules and regulations relating to personnel policy, procedures, practices and matters of working conditions, the Village shall be bound by obligation imposed by law, as well as the responsibilities set forth in this Agreement.

ARTICLE III **UNION RIGHTS**

3.01 Rights – Designated union officers and representatives will be allowed without loss of pay to participate in the negotiations with the Employer, adjustment of grievances, arbitration hearings and other functions relative to the operation of this Agreement.

3.02 Time – The Employer agrees that during working hours on its premises for reasonable periods of time and without loss of pay, union stewards and properly designated union representatives shall be allowed to:

- (a) Investigate and process grievances;
- (b) Transmit communications authorized by the Local Union or its officers to the Employer or its representatives;
- (c) Consult with the Employer, its representatives, Local Union officers or other Union representatives concerning the enforcement of any provision of this Agreement.

3.03 Representatives – The number of employees and other representatives who are allowed to function in the above sections shall be a number mutually agreed to by the Employer and the Association but shall not be more than three (3).

3.04 Bulletin Boards – The Department will provide a bulletin board of the Association to post items relative only to Union business and no one except Union officers shall post or remove items from this Board.

3.05 Meeting Room – A meeting room from the Association will be made available in the Department of Public Works Building, so that the Association may conduct business meetings on employees' own time. The Association must give reasonable notice for such use to the Department Head for his approval. The housekeeping and clean-up required to maintain a neat and orderly condition is the responsibility of the Association when such meetings are held.

**ARTICLE IV
COMPENSATION**

4.01 (a) Rate Schedule

CLASSIFICATION	FISCAL YEAR		
	6/1/04	6/1/05	6/1/06
Supervising Tree Trimmer	23.02	23.65	24.30
Working Crew Chief	21.96	22.56	23.18
Electrician Crew Chief	21.96	22.56	23.18
Automotive Mechanic Crew Chief	21.96	22.56	23.18
Sanitation Crew Chief	21.96	22.56	23.18
Automotive Mechanic	20.85	21.42	22.01
Electrician	20.85	21.42	22.01
Motor Equipment Operator	19.79	20.33	20.89
Tree Trimmer	19.79	20.33	20.89
Asst. Automotive Mechanic	19.79	20.33	20.89
Truck Driver	19.49	20.03	20.58
Skilled Laborer	19.49	20.03	20.58
Laborer A	18.93	19.45	19.99

(b) Wage Progression

- (1) Employees hired after 6/1/92 and prior to 6/1/07 working in the Laborer's classification, during the first year of their employment shall be paid 60% of maximum rate of the classification in which they are working.

- (2) Employees hired after 6/1/92 and prior to 6/1/07, working in the Laborer's classification, during the second year of their employment shall be paid 70% of the maximum rate of the classification in which they are working.
 - (3) Employees hired after 6/1/92 and prior to 6/1/07, working in the Laborer's classification, during the third year of their employment shall be paid 80% of maximum rate of the classification in which they are working.
 - (4) Employees hired after 6/1/92 and prior to 6/1/07, working in the Laborer's classification, during the fourth year of their employment shall be paid 90% of maximum rate of the classification in which they are working.
 - (5) Employees hired after 6/1/92 and prior to 6/1/07 working in the Laborer's classification, during the fifth year of their employment shall be paid 100% of maximum rate of the classification in which they are working.
- (c) There will be no exceptions to the wage progression scale except where there are no qualified employees to fill vacancies in positions higher than Laborer A. The Union will be notified when no qualified employee is available. Then the Union, with the Village, will review the workforce to see if anyone is qualified and interested in the job opening.
- (d) Any part-time/seasonal employee hired after June 1, 1992 and who has been employed 120 days shall be hired full-time or be terminated.

4.02 Temporary Assignment – Whenever an employee fills in at a higher classification involving a higher rate of pay for a period of eight (8) hours or more for whatever reason, such employee will receive the full rate of pay at the higher classification while filling such vacancy.

4.03 Hours of Work

- (a) The regular work week shall consist of five (5) days of eight (8) hours per day with a one-half hour paid lunch. A half-day shall consist of four (4) working hours.
- (b) Overtime beyond the regular day's work and beyond the regular week's work shall be paid at the rate of time and one-half to hourly personnel. In order to be eligible to work overtime on weekends, an employee must have worked forty (40) hours during

that work week, unless the employee's absence is an excused absence with pay within the terms of the contract. When overtime is required, it shall be offered equally to all employees within the Department. Employees who are offered overtime work, but decline to accept, shall be considered to have worked overtime for the purpose of determining equal distribution of overtime. The phrase "decline to accept", as used herein, shall mean those employees whose names appear on a list, to be posted by management, of those employees who are to be called for overtime. If these listed employees are unavailable or if employees not on a list refuse overtime, they shall be considered to have worked overtime for the purpose of determining equal distribution of overtime. An employee may have his name removed from the list for a designated date, if he gives the Village twenty-four (24) hours' notice of his unavailability to work overtime on such date.

- (c) The opportunity to work overtime within each function (sewer, tree trimming, etc.) shall be offered and divided among all employees within such function on a rotation basis.
- (d) Overtime work shall be voluntary, and there shall be no discrimination against any employee who declines to work overtime, except in cases of emergency. In case of emergency, the Department Head is specifically authorized to direct employees to work overtime for reasonable periods.
- (e) It is recognized that certain job assignments will require employees who are qualified to perform the work and that such overtime work shall be divided and rotated as equally as possible among those qualified employees according to seniority.
- (f) The distribution of overtime shall be equalized semi-annually as nearly as possible over such semi-annual period beginning on the first day of June, 1992. In determining equalization, the total hours actually paid for such overtime or credited as provided above, shall be utilized, not the hours worked. If an employee on the list is called for overtime and such employee uses an answering machine at home, such

employee must respond within five (5) minutes, accepting such overtime, or shall be deemed to have declined the overtime.

4.04 Call-Back – An employee responding to an emergency call-back to work shall be compensated for a minimum of two (2) hours at the rate of time and one-half except for emergency snow plowing, which shall be paid for a minimum of eight (8) hours at time and one-half if the work performed is three (3) hours or more.

4.05 Rest Period – A rest period of fifteen (15) minutes shall be allowed for each half day's work. Rest periods shall be scheduled by the Supervisor. Ten (10) minutes clean-up time shall be allowed before lunch and before quitting time.

4.06 Longevity

(a) All full-time regular employees in the Unit shall receive longevity service pay as follows:

	<u>6/1/04 -</u> <u>5/31/05</u>	<u>6/1/05 -</u> <u>5/31/06</u>	<u>6/1/06 -</u> <u>5/30/07</u>
Completion of 5 years' service	\$ 750.00	\$ 850.00	\$ 850.00
Completion of 7 years' service	800.00	900.00	900.00
Completion of 10 years' service	900.00	1000.00	1000.00
Completion of 15 years' service	1000.00	1100.00	1100.00
Completion of 20 years' service	1100.00	1200.00	1200.00
Completion of 25 years' service	1200.00	1300.00	1300.00
Completion of 30 years' service	1300.00	1400.00	1400.00

(b) The Anniversary Date of employees shall be as follows:

- (1) If the date of hire falls between June 1st and November 30th, the Anniversary Date shall be June 1st of that year.
- (2) If the date of hire falls between December 1st and May 31st, the Anniversary Date of service shall be December 1st of that year.
- (3) Longevity payments shall be made within thirty (30) days of the Anniversary Date.

4.07 Separation Payments – Payments shall be made to employees of the monetary value of unused vacation, longevity pay and compensatory time standing to the credit of an employee at the time of his separation from the Village service. Such payments shall be limited to the year of separation only. In case of death in service, such payment shall not be paid to those employees who leave the Village service of their own volition or who are discharged for just cause.

ARTICLE V **SENIORITY**

5.01 Definition – Seniority means an employee's length of service with the Village of Kenmore D.P.W. A Village of Kenmore employee who is transferred into the Department of Public Works and is determined by the Village of Kenmore to be included in this Unit, shall not have any previous seniority credit, except for fringe benefits covered under this Agreement.

5.02 Probation – All new employees hired as per Civil Service Law shall be considered as probationary employees for the first twenty-six (26) weeks of their employment. When an employee completes his probationary period, he shall be entered on the seniority list. There shall be no seniority or fringe benefits as provided in this Agreement during the probationary period.

- (a) All employees hired on or after 6/1/89 will be required to obtain a Class B license within one (1) year of being hired, as a condition of continued employment. The Village shall reimburse employees the difference between renewal fees for Class B licenses and a regular license.

5.03 Layoff – Seniority shall be determined by date of appointment in Village service. In the event of layoffs due to a reduction in work force, such layoffs shall be made in the inverse order of seniority within the bargaining unit and an employee laid off in any particular job category shall have the right to transfer into any other job category to bump a less senior employee, provided that in the opinion of management, that employee is qualified, competent and able to perform the duties of the position to which he seeks to transfer.

5.04 Rehire – Employees laid off shall be rehired in order of seniority. Said employee's call-back period will be the same number of years as his years of seniority with the Department of Public Works. The call-back period shall commence running from the employee's layoff date. Any employee so rehired shall be reinstated with full rights and benefits, but the Village shall have no obligation to grant pay or benefits to reinstated employees in excess of those applicable to the job category he held before layoff of the category to which he is reinstated, whichever is less. A refusal of an employee to accept permanent employment shall end the obligation of the Village to rehire such employee. Letters of recall under this paragraph shall be sent to the employee's last known address by registered mail. Failure of employees to report to work within ten (10) days from the date of such mailing shall end the obligation of the Village to rehire.

ARTICLE VI
JOB ASSIGNMENTS AND PROMOTION

6.01 Vacancy – Whenever a permanent job assignment becomes vacant or it becomes certain that a permanent job assignment shall become vacant, a notice of availability stating wages and qualifications shall be posted on the employees' bulletin board for fifteen (15) days before being filled. Employees desiring appointment to such permanent assignment must submit a request in writing to the Department Head. The employee with the most seniority who, in the opinion of the Department Head, meets the qualifications, including factors of knowledge, experience, ability and physical condition, shall be awarded the job assignment.

(a) Probationary employees may also submit a request to the Department Head for such permanent assignment. However, in the event the probationary employee receives such assignment, he/she still must complete the probationary period for permanent employment with the Village of Kenmore as provided in this Agreement.

6.02 Promotion – Whenever the opportunity for promotion occurs, a notice of availability of that promotion, stating wages and qualifications, shall be posted on the employees' bulletin board for fifteen (15) days before being filled. Employees desiring assignment to the

promotion shall submit a request, in writing, to the Village appointive authority and the employee with the most seniority, who, in the opinion of the Village appointive authority, meets the qualifications for promotion, including factors of knowledge, experience, ability and physical condition, shall be awarded the promotion.

6.03 Appointing Authority – If, in the opinion of the appointive authority, there is no qualified employee of the Village requesting assignment or promotion, the village may hire a person from outside the Department.

6.04 Permanent Assignments – Permanent assignments shall be made to the:

- (1) Garbage and Refuse Crews
- (2) Tree Crew
- (3) Sewer Cleaning Crews
- (4) Street Repair Crews
- (5) Recycling Crew

by a job posting and bidding procedure. Assignments shall be made for six (6) month periods beginning December 1. Bidding by seniority shall take place on the fifteenth (15th) of the month preceding the six (6) month assignment. If, in the opinion of the Department Head, an employee, by reason of factors of knowledge, experience, ability or physical condition, is unable to perform the duties of the permanent assignment, the Department Head shall remove the employee from permanent assignment and assign duties to that employee on a daily basis.

- (a) When members of permanently assigned crews are temporarily not required to function in that assignment, they shall be assigned to work by the Department Head on a daily basis.
- (b) When members of permanently assigned crews are absent for any reason, the Department Head shall assign any employees deemed qualified for the position to the temporary assignment.

- 6.05 Daily Assignments – Daily assignment of unassigned employees in each classification shall be made by the Department Head who shall consider qualifications and seniority in such assignments. The Village may direct an unassigned employee to fill any position for which he is qualified, regardless of seniority, if there is no other qualified unassigned employee available. In addition, no unassigned employee may select a position as a Laborer if there is an available opening in a higher classification for which the employee is qualified, if his refusal of that assignment will disrupt that day's work assignments.
- 6.06 Disabled Employee – Insofar as practicable, and to the extent work or positions are available, the Village will assign temporarily partially disabled employees to work they are able to perform. The Village shall not be obligated to pay such employee wages or benefits in excess of his regular pay or benefits.
- 6.07 Intent of Job Assignments – It is the intent of both the Village and the Association that in the interpretation of the contract sections relating to job assignments, no assignments shall be made for the purpose of punishment or favoritism. It is also the intent that by consideration of both qualifications and seniority in job assignments, the most desirable assignments shall be made to employees with the most seniority. It is further the intention of both parties that disputes over job assignments shall not interfere with the daily operations of the Department. In the event that a grievance over job assignment is allowed by the Village, such award shall contain a specific direction to management of the Department responsible for such job assignment henceforth to recognize the seniority and job assignment rights of the grievant or grievants.

**ARTICLE VII
LEAVES**

- 7.01 Holidays – All employees, excluding seasonal and temporary employees, shall receive a regular day's pay for each of the following holidays:

New Year's Day	Memorial Day	Veteran's Day
Patriot's Day	Independence Day	Thanksgiving Day
Good Friday	Labor Day	½ day before Christmas
Easter Sunday	Columbus Day	Christmas Day

½ day before New Year's

and one (1) floating holiday to be scheduled individually by the employee with the permission of the Department Head, which permission shall not be unreasonably withheld.

- (a) When one of the above holidays occurs during an employee's vacation, such vacation shall be extended for one (1) additional day.
- (b) It is agreed that an employee, to be entitled to holiday pay, must have worked on his last scheduled day immediately preceding the holiday and on his first scheduled work day immediately following the holiday, unless the employee's absence on either of these days is an excused absence with pay within the terms of the contract. However, if an employee is ill, the employee shall receive holiday pay only if the employee presents a doctor's excuse on the employee's next working day, which excuse indicates that the employee was examined by the doctor on the scheduled day on which the employee called in sick.

7.02 Vacation – All employees, excluding seasonal and temporary employees, shall be granted annual vacations with pay on a fiscal year basis as follows, and based on Anniversary Date. The amount of vacation time shall be fixed at the start of the fiscal year for new employees hired after 6/1/92.

After 12 months' service	10 working days
After 5 years' service	15 working days
After 10 years' service	20 working days
After 15 years' service	25 working days
After 20 years' service	27 working days

- (a) Vacations will be scheduled by the Department Head on the basis of the operational needs of the Village, written requests of employees, and seniority within job classifications.

- (1) By February 1st of each year, employees are to notify the Department Head in writing of vacation preferences for the next fiscal year. Preferences are to be stated for two (2) weeks of vacation in periods of at least one (1) weeks. Failure to request vacation time by February 1st forfeits selection by seniority for that year. Employees may indicate their first, second and third choices of two (2) week vacation periods.
 - (2) After the first two (2) weeks of vacation time have been scheduled for all qualifying employees, the Department Head shall schedule other vacation time.
 - (3) On or before March 1st of each year, the Department Head shall post the vacation schedule.
 - (4) Vacation leave, if not taken, shall expire at the end of the fiscal year (June 1 – May 31).
- (b) An employee entitled to vacation may apply to the Village for and be granted an opportunity to work up to five (5) days of his vacation period and be paid therefor in addition to his vacation pay. Said application must be filed with the Department Head thirty (30) days prior to its desired effective date. The Village Board shall have absolute discretion in either granting or denying said application and no grievance or arbitration may be filed by the employee or the Association seeking to vacate or set aside the decision made by the Village Board on the application so made.

7.03 Personal Leave – Personal leave shall mean a leave of absence from his scheduled work granted to an employee to perform a personal business transaction that cannot be performed in his time off work. Business transactions shall include legal matters in which the employee is a party or other personal matters.

- (a) Personal Leave shall be granted at the discretion of the Village and may be drawn only at a time convenient to and approved twenty-four (24) hours in advance by the Village, where the circumstances are such that it will not interfere with the Departmental functions and operations. Twenty-four (24) hour advance is not required if leave is requested in connection with an emergency situation. The

number of personal leave days granted to any employee shall not exceed four (4) days in any calendar year and shall not be accumulated as personal leave days.

- (b) New employees will become eligible for Personal Leave when they fulfill the probationary period for their positions. Any employee who completes the probationary period after January 1st but before April 1st will be eligible for one-half (1/2) the number of Personal Leave days.
- (c) Personal days not used shall be credited to the employee's accumulated sick leave.

7.04 (a) Jury Duty - An employee serving on jury duty (not to exceed two (2) weeks in one (1) year) shall suffer no loss of regular pay during the period of jury service, but the Village shall not be obligated to pay him more than the difference between his regular pay and his jury pay. If an employee is required to be on jury duty for more than two (2) weeks, the employee may submit a request to the Village Board for continuation of jury leave benefits. The Board, in its sole discretion, may grant or deny, in whole or in part, any such request.

(b) Military Leave - The Village shall grant an employee a leave of absence for military purposes within the provisions of law.

7.05 Bereavement – Beginning with the day of death and ending with the day after the funeral, leave for a death in the immediate family shall be granted to all employees, excluding temporary and seasonal employees. The "immediate family" shall mean spouse, parent, brother or sister, child, father-in-law, mother-in-law, and grandparents. Day of funeral leave for other relatives may be granted at the discretion of the Village. Employees shall be entitled to bereavement leave to attend the funeral of a brother-in-law, sister-in-law, daughter-in-law or son-in-law.

7.06 Leave of Absence – A leave of absence not in excess of six (6) months may be granted by the Village after six (6) months' service. The leave may be extended an additional six (6) months service upon written request. The continuous service of an employee shall not be

interrupted by an approved leave of absence if he returns to working within one (1) year's time.

7.07 Sick Leave – Sick leave with pay shall be based on duration of employment by the Village of Kenmore and shall be determined as follows:

- (a) Commencing June 1, 1980, and in each succeeding year, each member of the negotiating unit shall have available to him one and one-quarter (1 1/4) days of paid sick leave per month, plus sick leave accumulated from prior years, not to exceed a total of one hundred eighty (180) days accumulated sick leave. An employee who does not use any sick leave for the month shall be credited with an additional one-half (1/2) day, for a total of one and three-quarter (1 3/4) days.
- (b) The Village may require a doctor's certificate for paid sick time absences over three (3) days. The Village shall nevertheless leave the right to verify any sick time absence and assess discipline for the abuse of sick time according to a disciplinary procedure.
- (c) The Village shall have the right to have a physician of its choice examine or re-examine the employee at such time as it deems necessary.
- (d) An employee who has exhausted all of his sick leave due to a major illness may request, in writing, from the Village Board an extension of paid sick leave. The decision of the Village Board is final and not subject to the grievance procedure. The decision could be in one of the following forms due to the employee's past record.
 - (1) A period of time not returnable to the Village.
 - (2) A period of time returnable to the Village when the employee returns to work, as provided in paragraph (1) above.
 - (3) No period of time granted.

ARTICLE VIII
INSURANCE

8.01 Health

(a) The Village will provide the cost of health insurance up to the full family premium of Independent Health Encompass B with a 3-tier co-pay prescription coverage (coverage for dependents until age 23).

- (1) Each employee will be required to pay Ten Dollars (\$10.00) per payment period toward the cost of the health insurance. Payments shall be made through payroll deductions.
- (2) The Village agrees to pay all increases per year in the cost of the premium of the Independent Health Encompass B during the term of this contract. The Village agrees to offer and sponsor a Cafeteria Plan under Section 125 of the Internal Revenue Code. All employees are eligible to participate.
- (3) No employee who is covered under a spouse's health insurance coverage which provides comparable coverage would be covered by the Village of Kenmore. During the term of this contract, the Village agrees to offer \$1500 per year to an employee who agrees not to elect health care coverage.
- (4) The payment of health insurance premiums for a retired employee shall only be made on behalf of a retired employee who is not employed where similar health insurance is available to him without cost, except when such employment terminates, his rights shall be reinstated. Premiums are to be paid only during the life of the pensioned employee or to his widow upon death, but only until she dies or remarries.

(b) Medical Insurance after Retirement or after Death in Service

- (1) Each employee may utilize the value of up to eighty (80) accumulated sick days, toward payment of premiums for health insurance for himself/herself

and family upon retirement or death. These accumulated days shall be utilized as follows.

- (A) Upon retirement or death in service, eighty (80) unused sick days accumulated, as of that date, shall be worth the value of the daily rate of the employee at the time of retirement or death.
- (B) The payment of health insurance premiums for a retired employee shall only be made on behalf of a retired employee who is not employed where similar health insurance is available to him/her without cost, except that when such employment terminates, his rights shall be reinstated. Premiums are to be paid only during the life of the pensioned employee or to this widow, upon the employee's death, but only until she remarries, dies or until the value of the eighty (80) accumulated days have been exhausted.
- (C) If a National Health Insurance Program is enacted to replace the present health insurance, this program of accumulated days shall be void and all accumulated days shall be lost for purposes of this Article. If National Health is eliminated, we revert back to this Article.

(c) Additional Benefits

- (1) If an employee has over one hundred eighty (180) accumulated sick days in his bank at the time of his retirement, he shall be entitled to an additional benefit of utilizing all his sick days accumulated at the time of retirement toward health insurance benefits following his retirement.
 - (2) If an employee does not have the one hundred eighty (180) days in his bank as of the date of his retirement, he shall not be entitled to any additional benefits.
- (d) In addition to the rights provided under 7.02(b), an employee may, in lieu of a week of unused and unpaid vacation, accumulate an additional five (5) days in his sick bank at the end of the fiscal year, for the use toward health insurance after retirement.
- (e) Employees with twenty-five (25) years of service shall be granted an additional five (5) days in their sick bank to be used for health insurance after retirement.

8.02 Workers' Compensation

- (a) The Employer shall provide coverage for all employees covered by this Agreement under the Workers' Compensation Law of the State of New York.
- (b) In the event an employee is disabled by virtue of a work-related injury, he will be paid the difference between the amount of Workers' Compensation benefits payable for such disability and his regular pay for a period of five (5) months, or the period of actual disability, whichever is less. Any injury determined by the Workers' Compensation Board to be work-related shall be presumed to be work-related. Any injury determined by the Workers' Compensation Board not to be work-related or for which a compensation claim is not filed or not diligently prosecuted by the employee shall be presumed not to be work-related.
- (c) An employee disabled by a work-related injury and who delivers to the Village the valid assignment of Workers' Compensation benefits shall be compensated at his full rate of pay for the period of time of the disability, or five (5) months, whichever is less. If for any reason the compensation benefits assigned are not received by the Village, the amount so assigned shall be a debt of the employee, and shall be payable to the Village by the employee, with interest.

8.03 Dental – The Village will contribute for each year of this Agreement Two Hundred Twenty-five Dollars (\$225.00) per bargaining unit employee toward the purchase of a dental plan.

ARTICLE IX
RETIREMENT

9.01 The Village of Kenmore agrees to continue to provide and maintain a non-contributory Retirement Plan for members of the Unit known as Section 75 G Plan, pursuant to the New York State Law and Sections 4lj, 75i and 60b.

ARTICLE X
GENERAL

10.01 Safety and Health

- (a) The Village will provide employees with any necessary protective safety equipment, such as rain gear, boots, gloves, etc., without cost, including replacement of same upon reasonable request of the employee.
- (b) The Village will provide adequate manpower to any job assignment where a hazardous condition may exist. The Department Head will take whatever immediate action is required to eliminate any such hazard.

10.02 Education

- (a) The Village will provide books and pay the cost of tuition and fees of members of the negotiating unit, who, when designated by the Superintendent of Public works, and approved by the Board of Trustees, attend and complete courses of instruction pertinent to their employment by the Village of Kenmore,
- (b) Training – The Village will provide training program opportunities for all employees on a seniority basis in order that senior employees will have the opportunity to learn jobs in promotional categories.
- (c) Assignments for training shall be made in the same fashion as assignments provided for in Article VI.
- (d) Training assignments shall be made as assignments as part of a crew and not in addition to a crew and shall constitute a waiver of other assignments during the training period.
- (e) A trainee shall be deemed to have waived any pay increase that might have accompanied an assignment in a promotional job category while performing as a trainee. Training period shall be for a reasonable time.

- (f) The trainee may be assigned overtime as if he was performing as a qualified employee in his training position.
- (g) Management shall establish a Training Committee to establish reasonable qualifications for training.
- (h) Management shall appoint a Training Supervisor to implement the aforementioned provisions and to insure the effectiveness of the training program.

10.03 Discipline and Discharge

- (a) Departmental discipline may be imposed for just cause to a maximum punishment of ten (10) days' suspension without pay. No discipline shall be imposed in an arbitrary, capricious or discriminatory manner. Imposition of such departmental discipline shall be reviewable by the Mayor, upon request of the affected employee. The employee may call a reasonable number of relevant witnesses. The Mayor shall render a written determination within ten (10) days after said meeting.
- (b) It is recognized that the appropriate non-departmental officers of the Village may investigate charges or allegations of wrongdoing against any Village employee and further may impose such discipline, including discharge, as is permitted by law under the procedure required and established by law. When an employee is ordered to report for an interview or a hearing before such officer or officers regarding disciplinary matters which may lead to the institution of charges against him, he shall be informed of such latter fact by the person conducting the interview and shall be allowed, if he so desires, the President of the Union and/or the Chairman of the Grievance Committee or legal counsel, or both, present with him to advise or represent him during such interview.
- (c) In the case of non-departmental discipline or discharge imposed by the appropriate disciplinary authority of the Village, the employee may elect to demand an informal review of such action before the authority imposing the discipline by serving a

written demand for same within ten (10) days of being notified of the action taken. If so elected, such informal hearing shall be conducted within ten (10) days of demand. The rules of evidence shall not apply; there shall be no subpoena power and no transcript, and the right to review of such proceeding is strictly limited as set forth below. The aggrieved employee may be represented by legal counsel, by an official of the Union, or by another person of his choosing and shall have the right to present witnesses on his behalf at his own expense.

- (d) If, following this hearing concerning non-departmental discipline, the employee has been discharged, the employee may request review of this decision under the arbitration procedure of this Agreement, if written notice of intent is served upon the Village within five (5) work days of the notice of discharge issued following the hearing. No departmental discipline or non-departmental discipline, other than discharge, is reviewable.
- (e) Each employee shall be notified whenever any record of disciplinary action is entered in his personnel record and shall have the right, upon request, to view the contents of his personnel record. If any such employee believes such an entry to be unjustified or improper, he may appeal same to the appropriate Village officers.
- (f) An employee whose motor vehicle license has been suspended will have an affirmative obligation to inform the Village. Failure to do so would be just cause for termination should the employee drive a Village vehicle while the license is suspended. If such notification is given, the employee would be reassigned to a position within the bargaining unit which would not require the driving of a motor vehicle. Once the license is reinstated, the employee would be subject to returning to his former position upon the concurrence of the Village and the Union.

ARTICLE XI
GRIEVANCE PROCEDURE

11.01 Statement – The Board and the Association desire that all employees in the unit be treated fairly and equitably. It is intended that this Grievance Procedure will provide a means of resolving complaints at the departmental level and that nothing in this Article shall be interpreted as discouraging an employee and/or his representative from discussing any dissatisfaction in an informal manner, with his immediate supervisor or Department Head. Such discussion shall not interfere with the right of any employee to process complaints through the Grievance Procedure.

- (a) Grievances of employees in the negotiating unit shall be processed in accordance with the provisions of this Article.
- (b) The term “grievance” shall mean a complaint by the employee or employees in the bargaining unit or by the Association on his (or their) behalf that there has been a violation, misapplication or misrepresentation of this Agreement, provided the term “grievance” shall not apply to any matter as to which:
 - (1) A method of review is prescribed or provided by law or by any rule or regulation having the force and effect of law; and
 - (2) The Board is not empowered to act.
- (c) To encourage the resolution of grievances at the departmental level, it shall be a fundamental responsibility of supervisors to all administrative levels to make prompt determinations respecting grievances in accordance with these procedures.
- (d) An employee in the negotiating unit shall have the right to present grievances in accordance with these procedures free from coercion, interference, restraint, discrimination and reprisal by any person or party to the Agreement.
- (e) An employee may be represented at all steps of this grievance procedure by the Association or legal counsel.

- (f) All grievance meetings will be held either during non-assigned time during the normal work day or after work hours. The Village of Kenmore shall accept no financial obligation for such time spent by the grievant or his representatives. All arbitration hearings will be held after working hours.
- (g) A record of all grievances filed pursuant to these procedures and dispositions made thereof shall be maintained by the Village Clerk for reference purposes.
- (h) The time limits specified herein shall be observed unless extended in writing by mutual agreement. Failure of the grievant to request review of a determination made at any step of the grievance procedure within the specified time limits shall automatically conclude the grievance process as to such grievance.
- (i) Grievances must be filed within ten (10) work days of the event which gave rise to the grievance.

11.02 Procedure

Step 1 An employee with a complaint should first discuss the matter with his Department Head. In this discussion, the persons involved shall make an earnest effort to resolve the matter. The Department Head or his representative shall make whatever additional investigation is necessary and shall give his answer as soon as practicable, but no later than three (3) working days. (It is agreed that most complaints should be settled at this Step).

Step 2 Failing satisfactory disposition at Step 1, the grievant shall, within three (3) work days, reduce his complaint to writing, either in a form mutually agreed upon or in a letter. Such grievance must contain the following information:

1. A statement indicating his decision to process his grievance through the negotiated grievance procedure;
2. A statement indicating the nature of the grievance;
3. A statement outlining the relief sought; and
4. A specific reference to the clause of the contract which the grievant feels has been violated.

The written grievance shall be submitted to the Grievance Committee of the Association. The Association Grievance Committee shall, within five (5) work days, determine by majority vote whether to discontinue the grievance or request further review.

Step 3 If the Grievance Committee of the Association determines to seek further review, it shall immediately submit the written grievance, together with oral or written evidence, to the Department Head or his representative, who shall render his determination in writing to the Association Grievance Committee within three (3) work days of presentation. If denied, such answer shall include the general basis for the denial.

Step 4 Failing satisfactory disposition at Step 3, two (2) designated members of the Association Grievance Committee shall, within five (5) work days after the Department Head's disposition, present the grievance to the Grievance Committee of the Board of Trustees. The Mayor or his representative will, under this procedure, thoroughly investigate the grievance and shall, prior to rendering any determination at this step, afford the aggrieved employee the right to meet and discuss the grievance with the Mayor or his representative. The Association shall be permitted to call a reasonable number of relevant witnesses. The Mayor or his representative shall render a final written determination to the Association within ten (10) days after presentation.

Step 5 If the grievance or dispute is still unsettled, either party may, within twenty (20) days after the reply of the Village of Kenmore is due, by written notice to the other, request arbitration.

- (a) The arbitration proceedings shall be conducted by an arbitrator to be selected in accordance with the applicable rules and procedures of the New York State Public Employment Relations Board upon request of either party.
- (b) The arbitrator shall be requested to issue his decision within thirty (30) days after the conclusion of testimony and argument. The decision of the arbitrator shall be final and binding on both parties.
- (c) Expenses for the arbitrator's services shall be borne equally by the Village and the Union. In any arbitration under this Section, a stenographic record may be made. The cost of the record shall be paid by the party requesting the stenographer or divided equally if both parties desire a stenographic record. Either party may order a transcript and pay for it. Neither party shall have an obligation to provide a transcript to the other.
- (d) No arbitrator shall have the power to amend, modify or delete any provision of this Agreement.
- (e) Upon the mutual agreement of both parties, an arbitrator may be requested to hear and make determination on more than one (1) case, even though the cases are not related in any way.

- 11.03 Multiple Grievances – When several employees of the bargaining unit have an identical grievance, the Association will select one individual case for processing with the understanding that the decision will be applied to other identical cases.
- 11.04 Grievance Settlement – An employee's grievance will be considered settled upon his written request; or when the complainant ceases to be a regular employee of the Village by resignation, or when the time limit to appeal to the next step expires, unless extended by mutual agreement.
- 11.05 Committee – Three (3) employees selected by the Union and certified to the Village shall constitute the Grievance Committee and, in addition, the Union shall designate one (1) Grievance Committee member as Chairman of such Grievance Committee.

ARTICLE XII
SAVINGS CLAUSE

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

ARTICLE XIII
FINAL AGREEMENT

- 13.01 The foregoing constitutes the entire Agreement between the parties and no verbal statements or other amendments, except an amendment mutually agreed upon between the parties and in writing annexed hereto designed as an amendment to this Agreement shall supersede or vary the provisions herein.

ARTICLE XIV
TERMINATION AND MODIFICATION

14.01 **THIS AGREEMENT** shall be effective as of the 1st day of June, 2004, and shall remain in full force and effect until the 31st day of May, 2007. It shall be automatically renewed from year to year thereafter unless either party shall notify the other party, in writing, one hundred twenty (120) days prior to the termination date that it desires to modify this Agreement. In the event that such notice is given, negotiations shall begin not later than ninety (90) days prior to the termination date; this Agreement shall remain in full force and be effective during the period of negotiations.

The Village shall provide copies of this Agreement to all employees in the bargaining unit and all new employees as they are hired.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed this 11th day of November, 2005.

VILLAGE OF KENMORE

By: John W Beant
Title Mayor

**KENMORE DEPARTMENT OF PUBLIC
WORKS BENEVOLENT ASSOCIATION**

By: Louis R. Todaro
Title President