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#### **Contract Database Metadata Elements**

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# **COLLECTIVE BARGAINING AGREEMENT**

by and between the

## **TOWN OF HURLEY**

and the

## **UNITED PUBLIC SERVICE EMPLOYEES UNION**

### **HIGHWAY UNIT**

May 21, 2007 – December 31, 2010

RECEIVED MAY 23, 2007

# Collective Bargaining Agreement

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# 1 PREAMBLE

## 1.1 Notice of Agreement

**1.1.1 Parties to Agreement:** This Collective Bargaining Agreement is made by and between the Town of Hurley, hereinafter referred to as the "Town" or "Employer", and the United Public Service Employees Union, hereinafter referred to as the "Union" or "UPSEU".

# 2 MANAGEMENT RIGHTS

## 2.1 Management Rights Clause

**2.1.1** The rights and responsibilities to operate and manage the business and affairs of the Town are vested exclusively in the Town and the Town not exercising any of these rights shall not be construed as a waiver of them. These rights and responsibilities include, by way of illustration and without being limited by past practice or otherwise the right to: hire, assign, promote, transfer, layoff, evaluate, and discipline employees for just cause; select, test, train and determine the ability and qualifications of employees; determine, control and change work practices and schedules, work and shift assignments, hours of work, the size, composition and organization of the workforce, and job classifications, descriptions, content and standards; implement and comply with regulations and requirements issued by any government agency; make, modify and enforce reasonable rules of employee conduct and safety; determine, control and change the quality and nature of products, materials and services; introduce new or improved methods, equipment, techniques and processes; contract and subcontract for materials, services, supplies and equipment; and all other rights pertaining to the operation and management of the business and affairs of the Town unless expressly provided otherwise in this collective bargaining agreement. However, nothing in this Article will be construed as to limit the Union's right to bargain pursuant to the Taylor Law.

# 3 UNION RIGHTS

## 3.1 Recognition

**3.1.1 Recognition:** The Town recognizes the United Public Service Employees Union as the sole and exclusive collective-bargaining representative for employees identified in 3.2.1, below, with respect to all terms and conditions of employment and the administration of grievances as defined in 13.1, below.

## 3.2 Definition of Bargaining Unit

**3.2.1 Included:** Included in the bargaining unit are all full-time and part-time laborers and equipment operators employed in the Highway Department who regularly perform year-round work operating equipment and/or repairing and maintaining Highway Department vehicles, equipment, or facilities. Current titles are listed in 7.1.1.

**3.2.2 Excluded:** Excluded from the bargaining unit are the Superintendent of Highways, Deputy Superintendent of Highways, temporary employees, seasonal employees, and clerical employees.

In the event a member of the bargaining unit is appointed Deputy Superintendent of Highways and continues to perform bargaining unit work, that person will remain in the bargaining unit and continue to receive the full benefits of this Collective Bargaining Agreement. In accordance with Highway Law, the Town may rescind the appointment at any time and such action will not be subject to the grievance procedure.

**3.2.3 Full-time Employee:** For the purpose of this Collective Bargaining Agreement, a “full-time employee” will mean an employee who is regularly scheduled to work forty hours per week throughout the year.

**3.2.4 Part-time Employee:** For the purpose of this Collective Bargaining Agreement, a “part-time employee” will mean an employee who is regularly scheduled to work more than twenty but less than forty hours per week throughout the year.

**3.2.5 Temporary Employee:** For the purpose of this Collective Bargaining Agreement, a “temporary employee” will mean someone who is called in to work on an interim or “as-needed” basis for a specified period or to replace an employee who is on an approved leave of absence. The use of temporary employees will not infringe upon bargaining unit exclusivity.

**3.2.6 Seasonal Employee:** For the purpose of this Collective Bargaining Agreement, a “seasonal employee” shall mean someone employed to work for a given season for the purpose of mowing, collecting yard waste, or other traditional summer duties, or to assist in snow removal. The use of seasonal employees will not infringe upon bargaining unit exclusivity.

**3.2.7 Unit Clarification:** Any disputes as to whether a new or substantially altered job title is encompassed within the scope of the existing bargaining unit shall be submitted immediately to the New York State Public Employment Relations Board in accordance with its rules and procedures.

### **3.3 Others Performing Bargaining Unit Work**

**3.3.1 Supervisors:** The Superintendent of Highways and Deputy Superintendent of Highways (who is not at that time a member of the bargaining unit) may perform “momentary” bargaining unit work (e.g. clearing a clogged catch basin, plowing an intersection, loading sand, etc.). The use of supervisory employees will not infringe upon bargaining unit exclusivity.

**3.3.2 Outsourcing:** There will be no lay-off of then current employees as a direct result of the Town contracting or subcontracting bargaining unit work.

### **3.4 Union Membership/Agency Shop**

**3.4.1 Union Membership:** An employee who chooses to become a member of the Union shall sign an authorization card for dues deduction and submit it to the Union. Thereafter, the Union will forward the authorization to the Town. The Town will deduct and remit the dues, initiation fees, and/or assessments from the pay of such employee at the close of each pay period and remit said sums to the Union on a monthly basis. The Union shall notify the Town of the amount to be deducted. Such dues and agency shop fees shall be remitted to:

United Public Service Employees Union  
3555 Veterans Highway, Suite H  
Ronkonkoma, NY 11779

**3.4.2 Agency Shop:** An employee who does not become a member of the Union by signing a membership card and an authorization card for dues deduction within thirty calendar days of initial employment, or an employee who does not remain a member of the Union in good standing, shall be required to pay a service fee (agency shop fee) in an amount equivalent to the membership dues levied by the Union. The Town will deduct the service fee from the pay of such employee at the close of each pay period and remit said sums to the Union on a monthly basis.

**3.4.3 Indemnification Clause:** The Town assumes no obligation with respect to the obtaining of authorization cards. In the event an action or proceeding is commenced in a court of competent jurisdiction or before an administrative agency regarding such fee, the Union agrees to indemnify and save harmless the Town from and against the cost of such action or proceeding and to pay any judgment entered against the Town in such action or proceeding and to pay all costs upon demand and the cost of complying with any interim order or final judgment that may be entered therein, reimbursement of expedient witness fees, attorneys fees, arbitration fees, and all court and filing fees incurred by the Town.

### **3.5 Leave for Contract Administration**

**3.5.1 Investigation and Presentation of Grievances:** The Shop Steward (or designee) will be allowed release time, without loss of pay or leave credits, for the following activities: to present grievances to management; to attend grievance arbitration hearings; and, to attend conferences and hearings of the New York State Public Employment Relations Board, and to investigate grievances.

**3.5.2 Requests for Release Time:** Requests for the use of release time shall be made to the Superintendent of Highways, or designee, or, if appropriate, to the Town Supervisor, as far in advance as possible. Requests will not be unreasonably denied. An employee requesting such leave shall not leave the employee's duty station until it has been approved by the Superintendent of Highways, or designee, or the Town Supervisor.

### **3.6 Leave for Negotiations**

**3.6.1 Eligible Employees:** At any one time, no more than three employees designated by the Union will receive release time, without loss of pay or leave credits, for the sole purpose of attending negotiation meetings scheduled by the Town.



### **3.7 Bulletin Boards**

**3.7.1. Location:** The Union may have an exclusive bulletin board at the Highway Garage to post notices or other communications.

### **3.8 Access to Town Premises**

**3.8.1 Union Representatives:** Representatives of United Public Services Employees Union will be allowed exclusive access to the Town's premises for the purpose of conducting Union business provided it does not interfere with normal operations. The representative shall give prior notice of the visit to the Superintendent of Highways, or designee, or, if necessary, to the Town Supervisor.

## **4 EMPLOYEE RIGHTS**

### **4.1 Probation**

**4.1.1 Length of Probationary Period:** The probationary period for an employee appointed to a position in the competitive class will be in accordance with the rules and regulations of the local Civil Service agency. Except as otherwise provided in the rules and regulations of the local Civil Service, the probationary period for an employee appointed to a position in the non-competitive or labor class will be for a probationary period of not less than eight nor more than fifty-two weeks from the original appointment.

**4.1.2 Failure to Successfully Complete Probationary Period:** The Town may dismiss the employee from employment at any time on or before completion of the maximum probationary period. Such action shall not be subject to the Grievance Procedure or Disciplinary Procedure.

### **4.2 Seniority**

**4.2.1 Service Seniority:** Seniority will be determined by the employee's length of continuous service with the Town of Hurley Highway Department.

**4.2.2 Computation of Seniority:** For the purpose of calculating the length of service of a full-time employee, one year will be credited for each year of service beginning on the employee's initial date of hire as a full-time employee. For the purpose of calculating length of service of a part-time employee, one year of service will be credited for every 2080 hours of paid work and paid leave. In the event a part-time employee is appointed to a position as a full-time employee, the seniority accrued as a part-time employee will be added to the seniority as a full-time employee.

**4.2.3 Same Length of Service:** In the event two or more employees have the same length of service, the employee with the earliest day of hire will have greater seniority. In the event two or more employees have the same date of hire, such employees will have their individual seniority determined by lot.

**4.2.4 Leave of Absence:** An employee will not accrue seniority while the employee is on an approved unpaid leave of absence or while the employee is in layoff status. Such leave will not be considered as a break in "continuous service"; however, the employee's anniversary date will be extended for a period equivalent to the time of such leave.

**4.2.5 Workers' Compensation:** An employee who is on an approved unpaid leave of absence due to a Workers' Compensation injury or illness, and is not drawing on paid leave credits, will continue to accrue seniority as if the employee was in regular pay status. Such leave will not be considered as a break in "continuous service" and the employee's anniversary date will not be adjusted.

### **4.3 Layoff Procedure**

**4.3.1 First to be Laid Off:** In the event of a reduction in the number of positions in a job title in the competitive class within the bargaining unit, layoff will be in accordance with the rules and regulations of the local Civil Service agency. In the event of a reduction in the number of positions in a job title in the non-competitive or labor class within the bargaining unit, the employee within that job title with the least service seniority will be the first to be laid off.

**4.3.2 Bumping Rights:** An employee who is laid off may displace (bump) an employee (including a "temporary" employee) in an equal or lower job title within the bargaining unit, provided the employee has more service seniority than the employee being bumped and the employee is fully qualified to perform the duties of the job title. Following the same procedure, the employee who is bumped may displace an employee in an equal or lower job title within the bargaining unit.

**4.3.3 Notification:** An employee who is to be laid off will receive a notice of the layoff at least fourteen calendar days in advance of the effective date of the layoff or, in lieu of the notice, receive a severance payment equal to eighty hours at the employee's regular rate of pay. Simultaneously, a copy of the notice shall be sent to the Union.

### **4.4 Recall Procedure**

**4.4.1 Recall to Same Job Title:** In the event there is a vacancy in the job title in the competitive class where a layoff occurred, recall will be in accordance with the rules and regulations of the local Civil Service agency. In the event there is a vacancy in the job title in the non-competitive or labor class where a layoff occurred, the laid-off employee who was within the affected job title with the most service seniority will be offered the position.

**4.4.2 Notice of Recall to Same Job Title:** The Town will notify the laid-off employee of the vacancy in 4.4.1 by means of certified mail sent to the employee's last known address. In the event a laid-off employee in the non-competitive or labor class does not respond within fourteen calendar days from the date the notice was mailed, either in person or in writing, or the employee rejects the offer, the employee shall forfeit all recall rights.

**4.4.3 Change of Address:** A laid-off employee must notify the Town, in writing, of any change of address.

**4.4.4 Duration of Recall Rights:** An employee in the non-competitive or labor class who is laid off will be eligible for recall under 4.4.1, above, for a period equal to the employee's seniority but in no case less than six months from the date the employee was laid off. Thereafter, the employee will no longer be notified of vacancies within the bargaining unit nor have any recall rights to a position within the bargaining unit.

## 4.5 Performance Appraisal

**4.5.1 Purpose and Criteria:** The purpose of the performance appraisal is to recognize an employee's achievement of performance standards and goals, identify and correct performance problems, encourage career development and growth, and set goals for the next appraisal period. The performance appraisal will take into consideration the employee's work quality, job knowledge, initiative, attendance, teamwork, conduct, communication skills and such other criteria that properly reflect the employee's performance. Performance appraisals shall not be considered to be disciplinary action, but may be used as evidence in a disciplinary hearing.

**4.5.2 Frequency:** An employee will be formally evaluated at least once each year on a date determined by the Superintendent of Highways. The failure to formally evaluate an employee, or group of employees, on an annual basis shall not constitute a waiver of the right to perform such evaluations at any time in the future.

**4.5.3 Evaluation Procedure:** The Superintendent of Highways and the Working Supervisor will complete the Performance Appraisal Form prior to meeting with the employee. Thereafter, the Superintendent of Highways, or designee, and the department liaison from the Town Board will meet with the employee to review the performance appraisal report.

**4.5.4 Deficiencies:** Should deficiencies be recorded in the performance of the employee, the employee will receive written recommendations for improvement.

**4.5.5 Employee Reply:** An employee's written comments, if any, will be attached to the performance appraisal report and included in the employee's personnel file.

**4.5.6 Appeals:** An employee's performance appraisal may not be submitted to the grievance and arbitration procedure. If the employee does not agree with the evaluation, the employee may appeal the matter to the Town Board. The appeal must be submitted, in writing, no later than fourteen calendar days from receiving the evaluation.

Within fourteen calendar days after receiving the appeal, the Town Board will meet with the employee (and, if the employee requests, the UPSEU representative) to discuss the employee's objections. Within fourteen calendar days after the meeting, the Town Supervisor will issue a written response, which will be given to the employee and attached to the original evaluation report.

## 4.6 Personnel File

**4.6.1 Content:** The personnel records maintained by the Town include, but are not limited to, Employment Applications, Report of Personnel Change Forms; copies of job-required licenses and certificates, Federal and State Withholding Tax Forms, Retirement Enrollment/Waiver Forms, Health Insurance Enrollment/Waiver Forms, performance appraisals, grievance or dispute resolution notices, counseling memoranda, notices of discipline, and probationary reports.

**4.6.2 Location of Files:** Original personnel records for current employees will be kept in a location designated by the Town Supervisor and will be maintained and controlled by the Town Supervisor. Employee medical records will be kept in a separate locked file apart from the employee's personnel file and will be maintained and controlled by the Town Supervisor. Substance testing records will be kept in a separate locked file apart from the employee's personnel file and will be maintained and controlled by the Town Supervisor.

**4.6.3 Change in Status:** An employee must immediately notify the Town Supervisor of a change of name, address, telephone number, marital status, number and age of dependents, beneficiary designations, and who to notify in case of emergency.

**4.6.4 Employee Access:** Access to personnel files is limited. A current employee may review and copy the contents of the employee's own personnel file, with the exception of letters of reference. The employee must make an appointment with the Town Supervisor. The appointment will be available within a reasonable period of time. Someone designated by the Town Supervisor must be present when the employee inspects the file. The employee may not remove or place any material in the file without the approval of the Town Supervisor, or designee. The employee has the right to provide a response to any document that the employee contests as either unfair or incorrect.

## **5 VACANCIES & PROMOTIONS**

### **5.1 Posting and Application**

**5.1.1 Posting:** In the event there is a vacancy in a new or existing position within the bargaining unit that the Town intends to maintain, the vacancy will be posted for at least fourteen calendar days on the Union bulletin board. This posting shall, as a minimum, include the job classification, rate of pay, and the nature of the job requirements in order to qualify. In the event that operational needs require the immediate filling of the vacancy, the Town may make a temporary appointment in accordance with the rules and regulations of the local Civil Service agency.

**5.1.2 Application:** Once a position has been posted, it shall be the employee's responsibility to apply for the vacancy by making a written application. This application shall be submitted to the Superintendent of Highways.

### **5.2 Appointment to Vacancies**

**5.2.1 Selection:** The Superintendent of Highways will be the sole judge with respect to the degree to which applicants meet job qualifications. When the qualifications and experience among the applicants (internal and external) are relatively equal, then seniority will be the deciding factor.

**5.2.2 Probationary Period (Promotion/Transfer):** An employee who is promoted into a new position in the non-competitive class shall be placed on probation for a period of twenty-six weeks. At any time during this period, the Town may rescind the promotion and the employee will be reinstated to the employee's previous position. At any time during the probationary period, the employee may retreat to the employee's previous position. The decision as to rescinding the promotion will not be subject to the Grievance Procedure or Disciplinary Procedure, but the failure to reinstate the employee to the previous position may be submitted to the Grievance Procedure.

**5.3.3 Notification to the Union:** Copies of all postings shall be sent to the Union as soon as they are posted. Further, upon selection of an employee, a listing of all employees who applied for the position, in addition to the employee selected shall be sent to the Union.

## 6 HOURS OF WORK

### 6.1 Work Schedule

**6.1.1 Workday/Workweek:** The regular hours of work each day shall be consecutive. Reference to consecutive hours of work in the balance of this Article shall be construed to exclude lunch periods. The regular workday shall be scheduled so as to start at 6:30 a.m. through 3:00 p.m. The work week shall consist of five consecutive eight-hour days, Monday through Friday inclusive.

**6.1.2 Changes in Workday/Workweek:** In the event the Town wants to change the hours and/or days of work and the parties cannot reach a mutual agreement, the matter shall be submitted to voluntary interest arbitration.

**6.1.3 Time Records:** The Town will provide a time clock and time cards for the use of the employees to record their time on a daily basis. Each employee shall punch the employee's own card in the morning and again at quitting time. Overtime hours shall be recorded accordingly.

### 6.2 Additional Hours of Work

**6.2.1 Availability During Inclement Weather:** Given that the Highway Department is responsible for the maintenance of the roadways, each employee must be informed about the potential of inclement weather during non-work hours (excluding pre-approved vacation periods). In the event there is a forecast for inclement weather that may require snow removal or other emergency responses by the Highway Department, each employee must be able to work. Being "able" includes being in compliance with Department of Transportation regulations pertaining to the consumption of alcohol. If an employee cannot be available to receive the call to report for snow removal or other emergency duties, the employee must leave a message on the department's answering devise as to where the employee may be contacted.

#### 6.2.2 Procedure for Assigning Additional Hours:

**Snow Removal** - In the event there is an opportunity to work additional hours for snow removal or due to emergency road conditions, the opportunity will first be offered to those employees (including part-time, temporary, and seasonal personnel) who are normally assigned to a specific route.

**Work In Progress** - In the event there is an opportunity in a given job title to work additional hours and the hours are a continuation of "work in progress", the opportunity will not be offered to other employees and those employees in the affected job title (including part-time, temporary, and seasonal personnel) who are then working on the assignment will continue to work the additional hours.

In the event all of the employees who are then working are not needed, the opportunity to work the additional hours will first be offered on a seniority basis (most senior first) to those full-time employees in the affected job title who are then working on the assignment, provided the employee is qualified to perform the work. In the event a sufficient number of employees do not volunteer, (including part-time, temporary, and seasonal personnel), the work will then be assigned to those same full-time employees on a seniority basis (least senior first).

**Hours Not Extending from Normal Workday:** In the event there is an opportunity in a given job title to work additional hours for reasons other than snow removal or emergency road conditions and the hours are NOT a continuation of “work in progress”, the opportunity will first be offered on a rotational basis to full-time employees in that job title. In the event a sufficient number of full-time employees do not volunteer, the opportunity may be offered to available part-time employees, temporary employees, and/or seasonal employees. In the event a sufficient number of employees do not volunteer, the work will be assigned on a rotating basis to full-time employees in that job title.

**6.2.3 Errors in Assigning Additional Hours:** In the event the Town makes an error in the assignment of additional hours, the Town will offer an equal amount of additional hours of work to the employee who should have been offered the additional hours. The Superintendent of Highways and the employee must mutually agree to the assignment.

## **6.3 Notification of Absence**

**6.3.1 Notification of Tardiness:** An employee must be ready and able to work at the time the employee is scheduled to begin work. In the event such employee is unable to report to work at the scheduled time, the employee must leave a message on the department’s answering device *as soon as practicable* before the employee’s scheduled starting time.

**6.3.2 Notification of Sick Leave:** In the event an employee must take sick leave, the employee must, *if able*, leave a message on the department’s answering device at least thirty minutes before the employee’s scheduled reporting time. Unless the absence was pre-authorized, the employee must give notice each day of the absence. Failure to follow these procedures will render the employee ineligible to use sick leave credits for the absence.

**6.3.3 Early Departure:** In the event an employee must leave work during the workday, the employee must notify the Superintendent of Highways, or designee, prior to leaving.

## **6.4 Meal & Rest Periods**

**6.4.1 Meal Periods** An employee who works more than six hours in a given day will receive an *unpaid*, duty-free meal period of thirty minutes. Meal periods will normally be in the middle of the employee’s workday. In the event an employee works beyond the employee’s normal workday, the employee will receive a *paid*, duty-free meal period of thirty minutes to be taken after approximately each four hours of work. Meal periods must be approved by the Superintendent of Highways, or designee, in accordance with the needs and requirements of the department. Unless there is a need to secure a worksite, an employee *may* leave the work-site during the meal period.

**6.4.2 Observance of Meal Periods:** An employee who works more than six hours in a given day is required to take the scheduled meal period. An employee may not work through the meal period to make up lost work time. The meal period may not be taken at the end of an employee’s workday in order to leave work before the normal quitting time.

**6.4.3 Rest Periods:** An employee will normally receive a paid, duty-free rest period of up to fifteen minutes to be taken approximately in the middle of the first half of the employee’s workday and again during the middle of the second half of the workday. Rest periods must be approved by the Superintendent of Highways, or designee, in accordance with the needs and requirements of the department. Unless otherwise directed by the Superintendent of Highways, or designee, all rest periods must be taken at the work-site and may not exceed the time allowed. An employee who chooses not to take a rest period will not be entitled to leave before the normal quitting time and will not receive extra pay for the time worked.

## 7 COMPENSATION

### 7.1 Wage Rates

**7.1.1 Pay Schedule:** The schedule set forth below will be the applicable schedule for the period January 1, 2007 through December 31, 2010, which reflects a market adjustment of \$0.20 followed by increases of four percent on January 1, 2007, four percent on January 1, 2008, four percent on January 1, 2009, and four percent on January 1, 2010. In the event the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W for the USA) is greater than six percent in a given year, the Union may request to reopen negotiations for the sole purpose of negotiating additional wage adjustments.

Job Title	1/1/2007	1/1/2008	1/1/2009	1/1/2010
Working Supervisor	\$20.24	\$21.05	\$21.89	\$22.77
Automotive Mechanic	\$20.24	\$21.05	\$21.89	\$22.77
HMEO	\$18.68	\$19.43	\$20.20	\$21.01

**7.1.2 New Hire Rate:** A newly hired employee will receive \$1.00 below the job rate during the first year of employment. Upon completion of one year of the employee will receive the job rate.

**7.1.3 Longevity Differential:** An employee will receive the following longevity differential commencing on the employee's anniversary date as follows:

	1/1/2007	1/1/2008	1/1/2009	1/1/2010
Upon start of 6 <sup>th</sup> year of service	\$0.45	\$0.45	\$0.55	\$0.65
Upon start of 11 <sup>th</sup> year of service	\$0.65	\$0.65	\$0.75	\$0.85
Upon start of 16 <sup>th</sup> year of service	\$0.85	\$0.85	\$0.95	\$1.05

**7.1.4 Class A Differential:** Any employee holding a Class A license will be paid 10% more than the employee's regular rate of pay for the day that the employee is assigned to "trailer duty", even if the employee does not operate the vehicle for the entire work day. This is applicable to "over highway" assignments only and is not valid if the trailer is used inside the highway yard.

### 7.2 Premium Pay for Overtime

**7.2.1 Overtime Rate:** An employee will be paid one and one-half times the employee's regular hourly rate of pay for all authorized time worked over the employee's regular scheduled workday or over forty hours in a given workweek.

**7.2.2 Credit for Paid Leave:** Holidays, vacation leave, sick leave, personal leave, bereavement leave, and jury duty leave will be included as time worked in the computation of overtime.

**7.2.3 Compensatory Time:** An employee will have the option of receiving “compensatory time” in lieu of paid overtime. When an employee chooses to receive compensatory time, the employee will be credited with the equivalent of one and one-half hours for all authorized time worked over the employee’s regular scheduled workday or over forty hours in a given workweek. An employee wishing to take overtime in compensatory time credits instead of pay must make their election no later than 8:00 a.m. of the Monday subsequent to when the compensatory time was earned, or it shall be paid as overtime. In any calendar year, an employee may convert a maximum of forty hours of overtime work into sixty hours in compensatory leave credits. An employee must use all compensatory leave credits within the calendar year in which it is earned or receive payment at the end of the calendar year at the employee’s then current rate of pay.

**7.2.4 Scheduling Compensatory Leave:** An employee must receive prior approval from the Superintendent of Highways, or designee, to use compensatory leave credits. The Superintendent of Highways will have total discretion in the approval of compensatory time off, however, requests for compensatory leave shall not be unreasonably denied, and such decisions shall be subject to the grievance procedure.

**7.2.5 Termination from Employment:** An employee who resigns, retires, is laid off, or leaves employment due to disciplinary action, will receive payment for unused compensatory credits to which the employee is properly entitled at the employee’s then current rate of pay. In case of the death of the employee, the Town will pay the employee’s estate for any unused compensatory leave credits.

**7.2.6 Buy-Back of Compensatory Time:** An employee may elect to receive payment for all or part of accumulated compensatory leave credits during any calendar year (January 1 through December 31). Payment will be made within the pay period following the date the request was made. Payment will be at the employee’s then current rate of pay.

### **7.3 Out-of-Title Pay**

**7.3.1 Authorization:** A Superintendent of Highways, or designee, may request an employee to work out-of-title. An employee must receive prior approval from the Superintendent of Highways, or designee, before working in a higher graded title.

**7.3.2 Compensation:** In the event an employee is assigned to assume the major duties and responsibilities of a higher paying job title, the employee will receive the established job rate for the higher title for the period of the assignment.

### **7.4 Call-In Pay & Report Time**

**7.4.1 Call-In Pay:** Any employee called for emergency duty in addition to, or outside of, the regular work day shall be paid for a minimum of two hours at the rate of one and one-half times the employee’s regular rate of pay.

**7.4.2 Report Time:** The employee will be called out one hour prior to the report time and if the employee reports prior to the report time the employee will be paid for that hour. The employee will also be paid if delayed beyond the one hour by extenuating circumstances, verifiable by the Superintendent of Highways.



## 7.5 Pay Period

**7.5.1 Payroll Period:** The payroll period will begin Sunday at 12:00:01 and end seven calendar days later on Saturday at 11:59:59.

**7.5.2 Pay Date:** Paychecks will be issued on the Friday following the end of the payroll period. In the event the pay date is a designated holiday, paychecks will be distributed on the previous workday. In the event a paycheck is deficient due to employer error, the affected employee(s) shall be issued a supplemental paycheck within two business days.

**7.5.3 Direct Deposit:** The Town agrees to provide direct deposit for all interested employees provided said employee(s) provide and complete all necessary paperwork.

## 8 PAID LEAVE

### 8.1 Holidays

**8.1.1 Designated Holidays:** The following holidays will be observed on the day designated by the Town Board at its organizational meeting in January of each year:

New Year's Day	Columbus Day
Martin Luther King, Jr.'s Birthday	Veterans' Day
Presidents' Day	Thanksgiving Day
Good Friday	Friday after Thanksgiving
Memorial Day	Day before Christmas (1/2 day)
Independence Day	Christmas Day
Labor Day	Day before New Year's (1/2 day)

**Floating Holidays:** In addition to the designated holidays listed in 8.1.1, a full-time employee will be credited with two floating holidays on January 1<sup>st</sup> of each year. An employee must receive prior approval from the Superintendent of Highways to take a floating holiday. The request must be submitted, in writing, as far in advance as possible. In the event more employees request a floating holiday than minimum coverage permits, preference will be given to the employee with the most service seniority. Floating holidays must be used in whole-day increments. An employee may not accumulate floating holidays. Any floating holidays remaining unused at close of business on the last day of the calendar year will be canceled.

**8.1.2 Holiday Pay Eligibility:** Full-time employees and part-time employees are eligible for paid holidays upon the employee's first date of employment. However, a part-time employee is eligible for paid holidays only if the day the holiday is observed by the Town is a normally scheduled workday.

**8.1.3 Holiday Occurs on Days Off:** In the event a designated holiday occurs on a day for which a full-time employee is not scheduled to work, the holiday for such employee will be observed either on the preceding scheduled day of work or on the succeeding day of work, as the case may be. For example, if the holiday occurs on a Saturday, the employee would observe the holiday on the preceding Friday; however, if an employee's workweek does not include Friday, the employee would observe the holiday on the preceding Thursday. Similarly, if the holiday occurs on a Sunday the employee would observe the holiday on the following Monday; however, if an employee's workweek does not include Monday, the employee would observe the holiday on the following Tuesday.

**8.1.4 Not Assigned to Work on a Holiday:** An eligible full-time or part-time employee who **does not** work on a designated holiday will be paid for the day at the employee’s regular daily rate of pay; a part-time employee will not be paid for the day if the day the holiday is observed by the Town is not a normally scheduled workday.

**8.1.5 Assigned to Work on a Holiday:** An eligible full-time or part-time employee who **does** work on a designated holiday will be paid for all hours worked at one and one-half times the employee’s regular rate of pay for the first eight hours (and then two times the employee’s regular rate of pay for all hours worked over eight hours) plus “holiday pay” **or**, with the approval of the Superintendent of Highways, the employee will be paid for all hours worked at the employee’s regular rate of pay and such employee will receive an equal amount of time off with pay at a mutually agreed upon date within three months following the holiday.

If an employee works on December 25<sup>th</sup>, the employee will receive two times, rather than one and one half times, the employee’s regular rate of pay for the first eight hours and two and one-half times for all hours worked in excess of eight hours, plus “holiday pay”.

**8.1.6 Holiday Pay Requirements:** An employee must work the employee’s *scheduled* workday before and the employee’s *scheduled* workday after a designated holiday in order to receive holiday pay. For example, if the designated holiday is a Monday and the employee is scheduled to work the previous Friday and the following Tuesday, the employee must actually work that Friday and Tuesday to receive holiday pay for the Monday, unless the employee is on a scheduled paid vacation, scheduled paid personal leave, scheduled bereavement leave, or scheduled jury duty leave.

**8.1.7 Holiday Pay During Paid Leaves:** In the event a designated holiday occurs on an employee’s regularly scheduled workday and the employee is on a paid leave of absence, the employee will receive holiday pay for the day and the employee’s leave credits will not be charged for that day.

## 8.2 Vacation Leave

**8.2.1 Allowance (monthly accrual):** An employee regularly scheduled to work at least forty hours per week will be credited with paid vacation time on a monthly basis starting from the date of hire in accordance with the following schedule. An employee who is regularly scheduled to work less than forty hours per week will be credited with the hourly equivalent of one normal regularly scheduled work week.

	CREDITS PER MONTH
Upon hire	6.67 hours (equals 80 hours/year)
Upon start of sixth year of service	10.00 hours (equals 120 hours/year)
Upon start of eleventh year of service	13.33 hours (equals 160 hours/year)
Upon start of sixteenth year of service (only employees hired before <b>10-23-06</b> )	16.67 hours (equals 200 hours/year)

For example, an employee who has completed five years of continuous service on February 26<sup>th</sup> will see an increase in the number of hours credited from 6.67 hours per month to 10 hours per month on March 1<sup>st</sup>; similarly, an employee who has completed ten years of continuous service on September 5<sup>th</sup> will see an increase from 10 hours per month to 13.33 hours per month on October 1<sup>st</sup>.

**8.2.2 New Employees:** A newly hired employee may not use accumulated vacation leave credits until completion of six months of continuous employment.

**8.2.3 Accrual During Leaves of Absence:** An employee will be credited with vacation leave credits while on a paid leave of absence, but not while on an unpaid leave of absence, *excluding* an unpaid leave of absence due to a Workers' Compensation claim.

**8.2.4 Accumulation:** An employee may accumulate vacation leave credits to a maximum of one-hundred and sixty hours. Any vacation credits in excess of one-hundred and sixty hours will be cancelled. However, in the event an employee is unable to take vacation leave due to no fault of the employee, the employee may "carry" the excess for ninety calendar days.

NOTE: In transitioning from the previous "back-load system" to the new "accrual system", those employees who were hired before January 1, 1996 will not be held to the above mentioned "cap" until after December 31, 2010.

**8.2.5 Annual Buy-Back:** An employee may elect to receive cash payment for up to forty hours of accumulated vacation leave credits during any calendar year (January 1 through December 31). Payment will be made within the pay period following the date the request was made. Payment will be at the employee's then current rate of pay.

**8.2.6 Scheduling:** An employee must receive prior approval from the Superintendent of Highways, or designee, to take vacation leave. The request must be submitted, in writing, to the Superintendent of Highways at least twenty-four hours in advance. The Superintendent of Highways will have total discretion in the approval of vacation leave, which may not be unreasonably denied. In the event more employees request vacation leave than minimum coverage permits, preference in the selection of a vacation period shall be given to the employee with the most service seniority. Vacation leave may not be used in increments of less than "half-day" increments. An employee may take vacation leave only after it has been credited.

**8.2.7 Termination of Employment:** An employee who resigns, retires or is laid off will receive payment for unused vacation leave to which the employee is properly entitled at the employee's then current rate of pay. In the event an employee leaves employment due to disciplinary action for fraud, theft, or violence, the employee will not receive a settlement for unused vacation leave. In case of the death of the employee, the Town will pay the employee's estate for any unused vacation leave.

### **8.3 Sick Leave**

**8.3.1 Allowance (monthly accrual):** An employee who is regularly scheduled to work at least forty hours per week will be credited with eight hours of paid sick leave each month. An employee who is regularly scheduled to work less than forty hours per week will be credited with two hours of paid sick leave each month. The employee will be credited on the first day of the month after it has been earned.

**8.3.2 New Employees:** A newly hired employee may not use accumulated sick leave credits until completion of six months of continuous employment.

**8.3.3 Accrual During Leaves of Absence:** An employee will be credited with sick leave credits while on a paid leave of absence of up to six months but not after six months or while on an unpaid leave of absence, *excluding* an unpaid leave of absence due to a Workers' Compensation claim.

**8.3.4 Accumulation:** An employee may accumulate sick leave credits to a maximum of thirteen hundred and twenty hours (which equals 165 eight-hour days). Any sick leave credits in excess of thirteen hundred and twenty hours will be canceled.

**8.3.5 Use of Sick Leave:** Sick leave is provided to protect an employee against financial hardship during an illness or injury. An employee may use sick leave credits for an illness or injury that inhibits the ability to perform the duties of the employee's job. An employee may use sick leave credits for medical and dental appointments that cannot be scheduled during non-work hours. Sick leave credits may not be used in increments of less than one hour. An employee may take paid sick leave only after it has been credited.

**8.3.6 Family Sick Leave:** An employee may use sick leave credits for family illness or injury only if the employee must provide direct care to an immediate family member. In the event the employee must be absent from work beyond a continuous forty hours, the employee should apply for leave under the Family and Medical Leave Policy. For purposes of family sick leave, "immediate family member" will mean the employee's parent, spouse, or child, including step-child and foster child, and grandchild in the employee's care.

**8.3.7 Notification of Sick Leave:** In the event an employee must take sick leave, the employee must, *if able*, leave a message on the department's answering device at least thirty minutes before the employee's scheduled reporting time. Unless the absence was pre-authorized, the employee must give notice each day of the absence. Failure to follow these procedures will render the employee ineligible to use sick leave credits for the absence.

**8.3.8 Medical Verification:** The Town may require medical verification of an employee's absence if the Town perceives the employee is abusing sick leave or has used an excessive amount of sick leave. The Town may require medical verification of an employee's absence to verify that the employee is able to return to work with or without restrictions.

**8.3.9 Retirement Credit:** The Town will make available Section 41-j of the Retirement and Social Security Law, which allows credit for up to one hundred sixty five days of accumulated sick leave at the time of retirement. The additional service credit is determined by dividing the total unused, unpaid sick leave days (not to exceed 165 days) by 260. For example: 130 unpaid sick leave days ÷ 260 = .50 or 6 months additional service credit.

To be eligible, an employee must retire directly from covered employment or within one year of leaving covered employment. If the employee is paid for a portion of the total accumulated sick leave credits or applies credits toward retiree medical insurance, only the remaining unpaid portion will be used to increase the employee's service credit at retirement.

**8.3.10 Termination of Employment (hired before 1-1-2007):** An employee who was hired before January 1, 2007 who retires from the Town and has been granted a retirement benefit from the New York State Employees' Retirement System *may* elect to receive cash payment for *up to* four hundred and forty hours (55 eight-hour days) of the employee's accumulated sick leave. Payment will be at the employee's rate of pay at the time of retirement. Any remaining sick leave credits *may* be applied to the employee's pension credits (see 8.3.9 above). An employee who resigns, is laid off, or leaves employment due to disciplinary action will not receive a settlement for unused sick leave.

**8.3.11 Termination of Employment (hired after 1-1-2007):** An employee who was hired on or after January 1, 2007 who resigns, retires, is laid off, or leaves employment due to disciplinary action will not receive a settlement for unused sick leave.

## 8.4 Personal Leave

**8.4.1 Allowance (front-loaded):** A full-time employee will be credited with forty hours and a part-time employee will be credited with twelve hours of paid personal leave on the first day of January of each year for use during that year.

**8.4.2 New Employees:** An employee who is hired after the first day of January in any given year will be credited with paid personal leave prorated by the number of months to be worked in the first calendar year of employment. Thereafter, the employee will be credited on the first day of January for use during that year.

**8.4.3 Accumulation:** An employee may not accumulate personal leave credits. Any personal leave credits remaining unused at close of business on the last day of the calendar year will be converted to sick leave credits.

**8.4.4 Use of Personal Leave:** An employee may use personal leave credits to conduct personal business that cannot be conducted outside of normal working hours and for personal emergencies. Personal leave credits may not be used in increments of less than one hour. An employee may take personal leave only after it has been credited.

**8.4.5 Scheduling:** An employee must receive prior approval from the Superintendent of Highways, or designee, to take personal leave. The request must be submitted, in writing, without regard to the reason for the leave request, to the Superintendent of Highways at least twenty-four hours in advance. In the event there is an unforeseen emergency, the requirement for advance notice will be waived. The Superintendent of Highways will have total discretion in the approval of personal leave, which shall not be unreasonably denied.

**8.4.6 Termination of Employment:** An employee who resigns, retires, is laid off, or is terminated from employment due to disciplinary action will not receive payment for unused personal leave.

## 8.5 Jury Duty

**8.5.1 Jury Leave:** In the event a full-time employee is required to perform jury duty on a day the employee is scheduled to work, the employee will receive a leave of absence without loss of pay or leave credits. A part-time employee will receive paid jury duty leave only for those hours the employee was scheduled to work for the Town. The employee is obligated to notify the Commissioner of Jurors that the Town is paying the employee for lost time worked during jury duty.

**8.5.2 Notification of Jury Duty:** When an employee receives notice to report for jury duty, the employee must immediately submit a copy of the notice to the Superintendent of Highways.

**8.5.3 Return to Duty:** In the event an employee is released from jury duty on a given day and there are four or more hours remaining in the employee's scheduled workday, the employee must report to work.

## 8.6 Bereavement Leave

**8.6.1 Immediate Family:** In the event of a death of an eligible employee's immediate family member, the employee may take a leave of absence without loss of pay or leave credits for up to five scheduled workdays between date of the death and the day after the burial. For purposes of bereavement leave, "immediate family member" will mean the following:

- Spouse or Domestic Partner
- Child (including step & foster)
- Parent or Legal Guardian

**8.6.2 Extended Family:** In the event of a death of an eligible employee's extended family member, the employee may take a leave of absence without loss of pay or leave credits for up to three scheduled workdays between date of the death and the day after the burial. For purposes of bereavement leave, "immediate family member" will mean the following:

- Sibling
- Grandparent
- Spouse's Parent
- Grandchild

**8.6.3 Additional Bereavement Leave:** An employee may receive an unpaid leave of absence or use vacation leave credits and/or personal leave credits to extend bereavement leave. The request must be submitted, in writing, to the Superintendent of Highways, or designee. The Superintendent of Highways shall have total discretion in the approval of such additional bereavement leave, based upon the needs of the department.

## 8.7 Union Leave

**8.7.1 Steward Training:** The Shop Steward, or designee, will be allowed up to sixteen hours in the aggregate each calendar year, without loss of pay or leave credits, to participate in steward training programs made available through the United Public Service Employees Union.

## 8.8 Fire Calls

**8.8.1 Leave of Absence:** Employees who are volunteer members of the Hurley Fire Department or the West Hurley Fire Department will be permitted to attend fire calls and EMT calls during working hours without loss of pay or leave credits. The employee may be required to submit verification of the employee's attendance at such call.

**8.8.2 Court-Issued Subpoena:** An employee who is required by order of a Court-issued subpoena to appear as a witness to an incident related to the employee's role as a volunteer firefighter or EMT, and in which the employee is not personally involved as a plaintiff or defendant, shall be granted leave without loss of pay or leave credits.

## 9 UNPAID LEAVE

### 9.1 Leaves of Absence without Pay

**9.1.1 General Terms:** Absences taken beyond an employee's leave accruals shall be considered unauthorized unless prior written approval has been given from the Town Board. Subject to the approval of the Town Board, unpaid leaves of absence other than under the Town's Family and Medical Leave Policy may be available to an employee for personal reasons including, but not limited to, family responsibilities and education.

**9.1.2 Request for Unpaid Leave:** The employee must submit such request and the reasons for the leave, in writing, to the Town Clerk as soon as reasonably possible prior to planned commencement of the requested leave. The Town Board has sole discretion in approving such leave.

**9.1.3 Conditions of Leave:** The Town Board will specify the duration of an unpaid leave of absence and to impose such other terms, conditions and restrictions on the employee as the Town Board, in its discretion, deems appropriate.

**9.1.4 Return to Work:** An employee who fails to return from an unpaid leave of absence at the scheduled expiration date without giving proper notice or receiving proper authorization shall be conclusively presumed to have voluntarily resigned from employment.

### 9.2 Union Business Leave

**9.2.1 Union Business Leave:** Employees elected to any Union office which takes them from their employment with the Employer shall, at the written request of the Union, be granted a leave of absence. The leave of absence shall not exceed one year, but it may be renewed or extended for a similar period at any time upon the request of the Union.

## 10 INSURANCE

### 10.1 Medical Insurance

**10.1.1 Eligibility:** The Town will make available a medical insurance plan and a prescription drug plan to each full-time employee and the employee's eligible family.

**10.1.2 Date Coverage Begins:** A full-time employee is eligible to participate in the medical insurance plan on the first day of the month following thirty calendar days of employment, provided all eligibility requirements of the plan are met and the requisite forms have been completed. A full-time employee may also enroll in the medical insurance plan during the annual open enrollment period or at the time of a qualified change in employment or family status, as defined by the Internal Revenue Service and the insurance carrier.

**10.1.3 Change in Insurance Plans:** The Town Board may change the insurance carrier and/or offer alternative plans in place of the current plan, provided the alternative plan's benefit structure and provider network are substantially equivalent to the current plan. The Town will notify the Union of the proposed change at least sixty calendar days prior to the effective date. [Note: the "current plan" on May 21, 2007 is MVP 25/40].

**10.1.4 Health Reimbursement Account:** On January 1<sup>st</sup> of each year, the Town will contribute the following amounts into a health reimbursement account (HRA) for the cost of the employee's deductibles and co-payments and any eligible medical, dental, vision, or prescription drug expenses that are not covered by the insurance plan:

	2007	2008	2009	2010
Family Coverage	\$162 5	\$175 0	\$190 0	\$205 0
Two-Person Coverage	\$110 0	\$120 0	\$130 0	\$140 0
One-Person Coverage	\$600	\$650	\$700	\$750

In the event the employee does not use all of the allotted HRA dollars in a given year, the excess will "roll-over" into the next calendar year, but in no event will the HRA accumulate to more than \$3000 for family coverage, \$2000 for two-person coverage, or \$1000 for one-person coverage.

Except as set forth above, in no event shall the Town be required or obligated to pay or reimburse an employee or the employee's spouse or other dependent for any portion of any medical bill or other expense not covered or reimbursed by the plan.

**10.1.5 Premium Payment:** The Town will pay eighty percent of the monthly premium for individual, two-person, family medical insurance coverage, as the case may be. The employee's contribution to the medical insurance premium will be deducted from the employee's regular paycheck. The employee may elect to have such deduction made on a pre-tax basis.

**10.1.6 Termination of Employment:** An employee who resigns, retires, is laid off, or is terminated from employment due to disciplinary action will not be eligible for Town-sponsored medical insurance coverage, except as provided under state and federal laws.

## 10.2 Medical Insurance Buy-Out

**10.2.1 Eligibility:** A full-time employee who is eligible for medical insurance coverage made available through the Town may receive a cash buy-out in lieu of receiving medical insurance and prescription drug benefits. To be eligible for the medical insurance buy-out, the employee must provide documentation of comparable medical insurance coverage in a manner and form to be determined by the Town and sign an appropriate waiver of medical insurance coverage and waiver of liability to the Town. In the event an employee is married to another employee of the Town who is eligible for medical insurance, they must either enroll in two individual plans or one two-person or family plan and will not be eligible for this buy-out.

**10.2.2 Amount of Buy-Out:** The employee will receive forty percent of the Town's annual premium contribution for the coverage the employee is eligible for (individual, two-person, or family). For example, if the Town is contributing 80% of a \$13,000 premium for family coverage, the amount of the buy-out would be 40% of \$10,400, or \$4160. The buy-out is subject to applicable taxes.

**10.2.3 Method of Payment:** Partial payment of the buy-out will be included in the regular paycheck for each pay-period the employee is eligible for the buy-out.

**10.2.4 Reinstatement:** In the event the employee loses coverage under the alternate insurance plan, the employee may resume coverage under the medical insurance plan made available through the Town.



Coverage will begin on the first of the month immediately following the employee giving notice, provided the employee gives such notice at least five business days prior to the first of the month and meets all eligibility requirements of the insurance plan. An employee may also elect to resume coverage under the medical insurance plan during the annual open enrollment period.

## **10.3 Dental Plan**

**10.3.1 Dental Coverage:** The Town will make available a dental plan to each eligible full-time employee and the employee's eligible family. The Town may, at its discretion, change carriers and/or offer an alternative dental plan.

**10.3.2 Date Coverage Begins:** A full-time employee is eligible to participate in the dental plan on the first day of the month following thirty calendar days of employment, provided all eligibility requirements of the plan are met and the requisite forms have been completed. A full-time employee may also enroll in the dental plan during the annual open enrollment period or at the time of a qualified change in employment or family status, as defined by the Internal Revenue Service and the insurance carrier.

**10.3.3 Change in Insurance Plans:** The Town Board may change the insurance carrier and/or offer alternative plans in place of the current plan, provided the alternative plan's benefit structure and provider network are substantially equivalent to the current plan. The Town will notify the Union of the proposed change at least sixty calendar days prior to the effective date.

**10.3.4 Premium Payment:** The Town will pay eighty percent of the monthly premium for individual, two-person, family coverage, as the case may be. The employee's contribution to the dental plan premium will be deducted from the employee's regular paycheck. The employee may elect to have such deduction made on a pre-tax basis.

## **10.5 Pre-Tax Medical and Dependent Care Expenses**

**10.5.1 Eligibility:** A full-time employee who has completed the probationary period is eligible to enroll in a pre-tax reimbursement account in accordance with Section 125 of the Internal Revenue Service Code, provided all eligibility requirements of the plan are met and the requisite forms have been completed.

**10.5.2 Insurance Premiums:** A full-time employee may elect to pay the contribution towards the health and dental insurance premiums with pre-tax dollars.

**10.5.3 Flexible Spending Accounts:** A full-time employee may elect to have a pre-determined amount deducted from the employee's paycheck on a pre-tax basis each payroll period to be placed in a medical care flexible spending account, dependent care flexible spending account, or both. Money set aside in a medical care flexible spending account may be used to cover certain health, dental, and vision care expenses that are not reimbursable through the insurance plan(s). Money set aside in a dependent care flexible spending account may be used to cover eligible day care and nursery school expenses for covered dependents.

**10.5.4 Election Changes:** Eligible employees may enroll or decline coverage in the Section 125 Plan during the annual open enrollment period. Once a pre-tax election is made, it must remain in effect for the entire plan year. An employee may not drop coverage, change an election, or cease contributions at any time during the plan year unless there is a qualifying change in employment or family status, as defined by the IRS. For any qualifying change in family or employment status, an employee must make the appropriate change in coverage within thirty-one calendar days of the date of the qualifying event. Under the pre-tax insurance premium option, an employee's election for the plan year is automatically continued for the next plan year unless a new election form is submitted.

## **11 DISABLED EMPLOYEES**

### **11.1 Workers' Compensation Insurance**

**11.1.1 Coverage:** In accordance with New York State law, the Town will make available a Workers' Compensation plan for job-related injuries or illnesses.

**11.1.2 Plan:** The Town may, at its discretion, change carriers and/or offer an alternative Workers' Compensation plan.

**11.1.3 Reporting of Injury:** To ensure prompt coverage of the claim, the employee should submit a report of the injury or illness to the Superintendent of Highways, or designee, on the proper form, within twenty-four hours of the occurrence. The Superintendent of Highways, or designee, will notify the Office of the Town Supervisor who will complete and submit the required forms. The New York State Workers' Compensation Board makes the determination of whether an employee is eligible for Workers' Compensation benefits.

**11.1.4 Use of Leave Credits:** An employee may draw from the employee's sick leave credits, then compensatory leave credits, then personal leave credits, and then vacation leave credits in conjunction with Workers' Compensation payments to equal, but not exceed, the employee's regular daily rate of pay. When the insurance company makes payment, the Town shall be reimbursed for that portion of leave covered by insurance and the employee will be re-credited with the proportional amount of leave.

**11.1.5 Continuation of Medical Insurance:** For an employee who is receiving Workers' Compensation payments for lost time, the Town will continue to make its contribution to the medical insurance premium for up to fifty-two weeks in a rolling twelve-month period provided the employee makes the required employee contribution.

### **11.2 Short-Term Disability Insurance**

**11.2.1 Coverage:** The Town will make available a short-term disability plan for non-job-related injuries or illnesses that meets the minimum requirements of New York State Disability Insurance.

**11.2.2 Change in Plan:** The Town may, at its discretion, change carriers and/or offer an alternative short-term disability plan.

**11.2.3 Premium Payment:** The Town will pay the full premium for short-term disability insurance for each eligible employee.

**11.2.4 Reporting of Injury:** To ensure prompt coverage of the claim, the employee should submit a written report of the illness or injury on the proper application form to the Office of the Town Supervisor within twenty-four hours of the occurrence. Proper medical certification will be required and must be submitted with the application form.

**11.2.5 Use of Leave Credits:** An employee may draw from the employee's sick leave credits, then compensatory leave credits, then personal leave credits, and then vacation leave credits in conjunction with the short-term disability payments to equal, but not exceed, the employee's regular daily rate of pay. When the insurance company makes payment, the Town will be reimbursed for that portion of leave covered by the insurance and the employee will be re-credited with the proportional amount of leave.

**11.2.6 Continuation of Medical Insurance:** The Town will continue medical insurance coverage for a qualifying event in accordance with the provisions of the Town's Family and Medical Leave Policy (*which shall be amended to be for twelve weeks rather than six weeks*). Thereafter, an employee who is receiving short term disability payments and is drawing full pay by using accrued leave credits will continue to receive medical insurance benefits and the Town will continue to make its contributions for up to a maximum of one year provided the employee makes the required employee contribution. If the employee has exhausted all sick leave credits, the employee may continue to be eligible for medical insurance coverage in accordance with COBRA.

### **11.3 Transitional Duty Program**

**11.3.1 Preamble:** The purpose of this Transitional Duty Program is to allow an employee who is temporarily partially disabled to return to work in an assignment that meets both the needs of the Town and the medical limitations of the employee. In the event an employee is unable to perform the full duties and responsibilities of the employee's regular position, the Superintendent of Highways may, on a case-by-case basis, require such employee to return to work in a Transitional Duty assignment. The exercise of this Transitional Duty Program shall not establish any precedent or commitment to provide Transitional Duty assignments to any other employee at any time in the future.

**11.3.2 Eligibility:** The employee must be classified as partially disabled at fifty percent or less **and** the employee must have a prognosis of full recovery within six months. For the purpose of this program, full recovery is defined as the ability to perform the full duties of the job the employee held when injured. These medical findings may occur as a result of an examination by a State Insurance Fund consulting physician or by a medical examination ordered by the Town. The Town will determine what documentation will be acceptable for establishing the employee's eligibility and determining the employee's physical limitations.

**11.3.3 Transitional Duty Assignment:** The assignment may not necessarily correspond with the employee's regular job duties. The assignment may involve performing some duties of the employee's regular position, some duties of another position, or a combination of tasks from several positions. The assignment may be at a different work location and/or have a different schedule than the employee's regular position.

**11.3.4 Wages:** While performing a Transitional Duty assignment, the employee will receive the employee's regular hourly rate of pay.

**11.3.5 Duration of Assignment:** A Transitional Duty assignment shall not exceed six months or the date of full recovery, whichever comes first. The Town may require a medical examination ordered by the Town as a condition of allowing the employee to return to full duties.

**11.3.6 Refusal of Assignment:** In the event the employee refuses a Transitional Duty assignment, the matter will be referred to the Workers' Compensation insurance carrier or NYS Disability insurance carrier, as the case may be, for a benefit determination.

## 12 GENERAL PROVISIONS

### 12.1 Work Accouterments

**12.1.1 Safety Equipment:** The Town will provide appropriate rain gear, gloves, rubber boots, respiratory protection, safety glasses, and necessary personal protective equipment for use by an employee while at work.

**12.1.2 Work Boots and Clothing Allowance:** Each employee will receive an annual allowance, as set forth below, for the purchase of work clothing and work boots. Payment will be on the first payday in February. This allowance will be reported on a 1099 form.

2007	2008	2009	2010
\$530	\$555	\$580	\$605

### 12.2 Driver's License

**12.2.1 Requirement to Possess a Commercial Driver's License:** An employee who operates a vehicle that requires a Commercial Driver's License (CDL) must maintain such license throughout employment.

**12.2.2 Loss or Suspension of Commercial Driver's License:** An employee who is required to possess a Commercial Driver's License in order to perform certain job duties and responsibilities must immediately notify the Department Head in the event the employee's driver's license is suspended, revoked, or if the employee is otherwise disqualified from driving. The loss or suspension of the employee's driver's license may affect the employee's employment with the Town. In accordance with the federal Commercial Motor Vehicle Safety Act, an employee who is required to possess a Commercial Driver's License must notify the Department Head within thirty calendar days of a conviction of any traffic violation (except parking) no matter where or what type of vehicle the employee was driving.

### 12.3 Labor-Management Committee

**12.3.1 Purpose:** There shall be a standing Labor-Management Committee for the sole purpose of discussing methods of improving working and safety conditions, productivity, and cost saving procedures. The Labor-Management Committee may not negotiate terms and conditions of employment or address grievances. The Town and the Union *should* submit issues for discussion, in writing, at least fourteen calendar days prior to the scheduled date of the meeting.

**12.3.2 Membership:** The Labor-Management Committee shall consist of two representatives designated by the Union, one representative designated by the Superintendent of Highways, and one representative designated by the Town Board.

**12.3.3 Frequency and Duration:** The Town will schedule a meeting of the Labor-Management Committee within fourteen calendar days of receiving a written request from the Union. The Town may limit the number of meetings to one per month. The meeting will occur during regular business hours and shall not exceed two hours unless mutually agreed to by the parties.

## **12.4 Shorts**

**12.4.1 Shorts:** During summer months, the employees shall be permitted to wear work shorts while working. The employees agree to keep work pants in their lockers, or a similarly convenient location in order so that they may change into pants if required due to the nature of their work assignment.

## **12.5 Snowplow Training**

**12.5.1 Wing Plows:** Each employee will receive training by a certified instructor in the operation of a truck with a wing plow.

## **12.6 Mileage Reimbursement**

**12.6.1 Mileage Reimbursement:** Employees who are obliged to use their personal automobile on Town business will be reimbursed at the then current IRS rate per mile.

# **13 DUE PROCESS PROCEDURES**

## **13.1 Grievance Procedure**

**13.1.1 Definition:** For the purposes of this collective bargaining agreement, a grievance shall mean and refer to a claimed violation, misinterpretation or inequitable application of the expressed provisions of this collective bargaining agreement.

**13.1.2 Step One - Formal Grievance:** UPSEU may file a formal complaint on behalf of an aggrieved employee(s) with the Superintendent of Highways. The grievance shall specify the nature of the grievance, including the section of the collective bargaining agreement that was allegedly violated, a statement of facts, times and dates, and the remedy sought. The grievance must be submitted, in writing, to the Superintendent of Highways within thirty calendar days from knowledge of the occurrence, or when the Union should have had knowledge.

Within seven calendar days after receiving the grievance, the Superintendent of Highways, or designee, will meet with the aggrieved employee(s) and the designated representative of the Union. Within seven calendar days after the meeting, the Superintendent of Highways, or designee, will issue a written response to the grievance, which will be given to the UPSEU representative and the employee(s).

**13.1.3 Step Two - Appeal:** If UPSEU is not satisfied with the response to the grievance at Step One, the Union may submit the matter to the Town Supervisor. The appeal must be submitted, in writing, within fourteen calendar days from receiving the Step One response, or when the Step One response should have been received.

Within fourteen calendar days after receiving the appeal, the Town Supervisor, or designee, will meet with the aggrieved employee(s) and the designated representative of the Union. Within fourteen calendar days after the meeting, the Town Supervisor, or designee, will issue a written response to the grievance, which will be mailed to the UPSEU representative.

**13.1.4 Step Three - Binding Arbitration:** If UPSEU is not satisfied with the response to the grievance at Step Two, the Union may submit the matter to arbitration by filing a demand for arbitration with the New York State Public Employment Relations Board in accordance with its rules and regulations. The demand for arbitration must be filed within thirty calendar days from receiving the Step Two response or when the Step Two response should have been received.

The conduct of the arbitration shall be under the exclusive jurisdiction and control of the arbitrator, which shall conform to applicable law. All decisions rendered by the arbitrator shall be in writing and shall be final and binding upon all involved parties. No arbitrator functioning under these procedures shall have any power to amend, modify or delete any provisions of this collective bargaining agreement.

The Town and the Union shall share the fees of the arbitrator equally.

**13.1.5 Time Limits:** The Union must adhere to the time limits set forth in this grievance procedure. In the event the Union does not advance the grievance to the next step within the established time limit, the grievance will be considered withdrawn and no further appeal will be accepted. The time limits may be extended by mutual agreement provided the extension is in writing, dated, and signed by the UPSEU representative and the Town official who is to receive the grievance.

## **13.2 Disciplinary Procedure**

**13.2.1 Discipline for Just Cause:** The Town will not subject an employee who has completed the probationary period, as defined in 4.1 above, to any disciplinary action or penalty except for just cause.

**13.2.2 Notice of Discipline:** The Town will provide the employee with a written Notice of Discipline, which will contain all charges and specifications and the penalty. Simultaneously, a copy of the notice will be sent to the UPSEU representative.

**13.2.3 Disciplinary Hearing:** If UPSEU disagrees with the disciplinary action, the Union may appeal the matter, in writing, to the Town Supervisor. The appeal must be submitted, in writing, within fourteen calendar days from receiving the Notice of Discipline. Failure to submit the appeal within said fourteen calendar days shall make the matter ineligible for future appeal under this Article or any other procedure.

Within fourteen calendar days after receiving the appeal, the Town Supervisor, or designee, will meet with the disciplined employee and the designated representative(s) of UPSEU. Within fourteen calendar days after the meeting, the Town Supervisor, or designee, will issue a written response to the appeal, which will be mailed to the UPSEU representative.

**13.2.4 Appeal of Disciplinary Action:** If UPSEU is not satisfied with the response of the Town Supervisor, the Union may elect to submit the matter to arbitration by filing a demand for arbitration with the New York State Public Employment Relations Board in accordance with its rules and procedures. The demand for arbitration must be filed within fourteen calendar days from receiving the response from the Town Supervisor or when the response should have been received. Failure to file the demand within said fourteen calendar days shall make the matter ineligible for arbitration or any other appeal and the case will be deemed to be closed.

The fees of the arbitrator shall be shared equally by the Union and the Town. The conduct of the arbitration shall be under the exclusive jurisdiction and control of the arbitrator, which shall conform to applicable law. All decisions rendered in such arbitration shall be in writing and shall be final and binding upon both parties.

**13.2.5 Civil Service Rights:** The procedure set forth above shall serve as the only method of resolving challenges to disciplinary action, hence, wholly replacing the statutory provisions provided in Section 75 and Section 76 of New York State Civil Service Law.

## **14 APPLICATION OF AGREEMENT**

### **14.1 Duration of Agreement**

**14.1.1** This collective bargaining agreement shall be effective from May 21, 2007 through December 31, 2010, unless otherwise agreed to by the parties.

### **14.2 Complete Agreement**

**14.2.1** This collective bargaining agreement will constitute the entire agreement between the parties. Any past practice that existed up until the date of the signing of this collective bargaining agreement may not be submitted to the grievance and arbitration procedure, however, the Town recognizes the right of the Union to file an improper practice charge against the Town for a unilateral change in an established term or condition of employment.

### **14.3 Savings Clause**

**14.3.1** Should any of the provisions, portions or applications of this collective bargaining agreement be found to be invalid by any tribunal of competent jurisdiction, then the provisions, portions or applications specified in such decision shall be of no force and effect, but the remainder of this collective bargaining agreement shall continue to be in full force and effect.

**14.3.2** Upon the issuance of such decision, the Town and the Union shall negotiate an adjustment in the affected provisions, portions or applications with the intention of effecting the purpose of the provisions, portions or applications.

### **14.4 Legislative Action**

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



## 14.5 Execution of Agreement

**IN WITNESS WHEREOF**, the parties have caused this Collective Bargaining Agreement to be signed by their respective representatives on May 21, 2007.

**TOWN OF HURLEY**

**UNITED PUBLIC SERVICE EMPLOYEES UNION**

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**Michael Shultis**  
Town Supervisor

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**Kevin E. Boyle, Jr.**  
President

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**Michael A. Richardson**  
Labor Relations Consultant

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**Gary M. Hickey**  
Executive Vice President/ Regional Director

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**Kevin Reilly**  
UPSEU Representative

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**James Herdman**  
Shop Steward

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**Joseph Rougier**  
Negotiating Committee

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**Harry Jansen**  
Negotiating Committee