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

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Union: **Middletown Highway Unit 6602-00, CSEA, AFSCME, AFL-CIO**

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Middletown, Town Of And Csea  
(Middletown Highway Dept Unit)

# AGREEMENT

by and between the

**TOWN OF MIDDLETOWN**

and

**CSEA, Local 1000 AFSCME,  
AFL-CIO**

**RECEIVED**

JAN 28 2004

NYS PUBLIC EMPLOYMENT  
RELATIONS BOARD



Town of Middletown Highway Unit #6602-00  
Delaware County Local 813

**January 1, 2001 - December 31, 2003**



19(?)

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A COLLECTIVE BARGAINING AGREEMENT REGARDING THE TERMS AND CONDITIONS OF PUBLIC EMPLOYMENT BETWEEN THE TOWN OF MIDDLETOWN AND THE CIVIL SERVICE EMPLOYEES ASSOCIATION, INC., LOCAL 1000 AFSCME/AFL-CIO

THE TOWN OF MIDDLETOWN, a municipal corporation of the State of New York, hereinafter designated as "the Town"; and

THE CIVIL SERVICE EMPLOYEES ASSOCIATION, INC., LOCAL 1000 AFSCME, AFL-CIO, hereinafter referred to as "the Union".

WHEREAS, the parties hereto desire to promote harmonious and cooperative relationships between them in accordance with the policy expressed in the Public Employees Fair Employment Act.

NOW THEREFORE, in consideration of this premise, it is mutually agreed between the parties hereto as follows:

**ARTICLE I**  
**RECOGNITION**

The Town recognizes the Union as the sole and exclusive representative for the following employees for the purpose of collective negotiations, for administering this Agreement, handling grievances and any other terms and conditions of employment:

Full time permanent and full time temporary employees after three months full time temporary employment, in the following titles:

Laborer  
Heavy Equipment Operator  
Motor Equipment Operator  
Automotive Mechanic  
Working Foreman  
Transfer Station Attendant

In addition, any employee who is temporarily assigned as acting Deputy Highway Superintendent shall be in the bargaining unit during such temporary assignment. Any employee who is permanently appointed as the Deputy Highway Superintendent shall be excluded from the bargaining unit. Part time, seasonal and full time temporary employees employed for less than 3 months in the above titles and all others are excluded from the bargaining unit.

**ARTICLE II**  
**DURATION OF AGREEMENT**

This Agreement shall be effective from January 1, 2001 until December 31, 2003, inclusive.

**ARTICLE III**  
**PRIORITY OF AGREEMENT**

1. Where provisions of this Agreement are in conflict with Town policy or practices, this Agreement shall govern, except as provided by law.
2. Nothing contained herein shall be construed to deny or restrict any employee any rights he or she may have under Civil Service Law or any other applicable laws and regulations. The rights provided to employees here under shall be deemed to be in addition to those provided elsewhere.

**ARTICLE IV**  
**EMPLOYEE/UNION STATUS AND RIGHTS**

1. **Right of Organization:** Employees shall have the right to join and participate in the Union for the purpose of this Contract.
2. **Right of Representation:** Employees shall have the right to be represented by the Union and to negotiate collectively with the Town in the determination of their wages, hours and terms and conditions of employment, and the administration of grievances.
3. **Non-Discrimination:** The Town and the Union will not discriminate against any employee with respect to wages, hours or terms and conditions of employment by reason of race, creed, color, national origin, age, sex, marital status or handicap, except as such conditions may constitute a bona fide occupational or assignment qualification.
4. **Dues/Agency Shop Fee-Deduction:** The Town agrees to deduct from the salaries of employees, membership dues, agency shop fees, and union sponsored insurance premiums, for the Union. Employees shall voluntarily and individually authorize the Town to deduct and transmit the dues to the Union. Dues deduction authorizations shall be in writing and in a manner consistent with the law.

Pursuant to subdivision 4 of Section 201 of the Civil Service Law, the Town will deduct an agency shop fee equivalent to the dues deduction for those employees who do not join the union.

Dues and agency shop fee deductions shall be made uniformly and consistently each pay period and sent to the Union by the 15<sup>th</sup> of the following month, CSEA, Inc. Capital Station, P.O. Box 7125, Albany, New York 12224. The Town will direct the premiums for Union sponsored insurances to the address specified by the Union.

Dues deductions authorized by an employee shall continue as so authorized, unless and until, such employee notifies the Town in writing of their desire to discontinue such authorization. The Union assumes responsibility for the disposition of such funds so deducted once they are turned over to the Union.

5. **Uniform Deductions:** Employees shall be permitted to have any uniform rental

deducted from their pay.

ARTICLE V

CLEANING OF THE TOWN HIGHWAY BUILDING AND OTHER  
FACILITIES OWNED BY THE TOWN

The Employees agree that they shall be responsible to clean the buildings in which they are currently assigned (Highway and ~~Waste Water~~).

*Transf: Station S.E.U. 4-14-03  
A.P. 5/2/08*

ARTICLE VI  
UNION TIME

1. Duly designated Union stewards shall be permitted to transact official Union business directly related to the administration of this Agreement on Town property during the work day, but at a reasonable time and in a reasonable manner that shall not interfere with or interrupt the work or individual duties and responsibilities of such representative as a Town employee.
2. The Union will certify to the Town the names of Union Stewards and Staff Field Representatives.
3. When Union Stewards meet by agreement with a Town representative during the day, such meeting shall be without loss of pay.
4. Subject to reasonable rules with respect to security, safety and operation requirements, Field Representatives of the Union may be granted access to working areas in Town facilities during the working hours in areas of employment covered by this Agreement, for the purpose of observing whether the terms of this Agreement are being maintained.
5. Union Stewards and Field Representatives desiring to conduct Union business during the work day must obtain prior approval of the Highway Superintendent. Approval of such requests shall be dependent on the work requirements of the department, but shall not be unreasonably denied. In requesting permission to conduct Union business, Union representatives shall specify what employees will be involved, and the amount of time required to conduct such business. All such requests shall be made at least twenty-four (24) hours in advance of the date requested. General group union meetings shall not be conducted on Town property during the normal work day, except at lunch time subject to Town approval of the use of their facilities.
6. Bulletin Boards: The Town will provide the Union with a bulletin board for the purpose of posting legitimate union notices/communications.
7. Employee Organizational Leave: The Town agrees to grant a total amount of six (6) days for the entire bargaining unit, of paid leave annually to officers, delegates and representatives of CSEA to attend it's seminars, Region V meetings, business meetings of Statewide delegate conventions and State Board of Directors' meetings.

**ARTICLE VII**  
**EMPLOYEE STATUS AND RIGHTS**

1. Position Classifications: No employee shall be appointed or assigned under any title not appropriate to the duties to be performed as determined in the specification for that title under the classification system for the County of Delaware. There shall be a uniform wage scale for all employees in the same title.

2. Probationary Period: The probationary period shall be pursuant to Delaware County Civil Service Rules.

3. Seniority:

a. Seniority shall be the length of continuous service since the date of permanent appointment as a regular full-time employee.

b. Seniority shall be by occupational title.

c. Temporary, part-time and seasonal employees shall not acquire seniority during such employment.

c. Breaks in service - A resignation or dismissal shall constitute a break in service. However, a dismissal which later is reversed shall not constitute a break in service.

An authorized leave of absence will not constitute a break in service.

A layoff followed by a reinstatement within one (1) year will not constitute a break in service.

4. Layoff

a. Whenever regular full-time positions are abolished or reduced in rank or salary grade, incumbents shall be laid off or demoted in the inverse order of their seniority by title. The Town shall give written notice to those employees to be laid off and the Union President at least ten (10) working days prior to the effective date of the layoff. If requested to do so, the Highway Superintendent shall meet with Union representatives to discuss the layoffs.

b. Employees who are notified of an impending layoff may exercise their seniority rights in a lower occupational classification by bumping a less senior employee provided the employee who is doing the bumping has the qualifications and ability to perform the duties of the other occupational classification.

c. An employee who has received a notice of layoff and who wishes to bump, must notify the Highway Superintendent of his or her intent to bump. An employee who fails to notify the Highway Superintendent of his or her intent to bump within five (5) working days of the effective date of his or her layoff, will lose his or her right to bump.



5. Recall: Regular full-time employees laid off shall retain the right to be recalled for a period of one (1) year from the date of their layoff.

a. In the event the work force is to be increased following a layoff, the Highway Superintendent shall notify the Union President, in writing, of such recall opportunities and shall meet with Union representatives to discuss same, if requested to do so.

b. Notices of recall opportunities shall be sent to laid off employees at their last known address by certified mail. Such notice shall include the title(s) of available positions(s), and hourly rate of pay. If an employee fails to respond to the notice within ten (10) working days from the date of the mailing of the notice he or she shall lose all recall rights and shall be considered to have quit.

c. Employees will be recalled according to seniority with the employee with the greatest seniority who meets the qualifications and has the ability to perform the duties of the position being recalled first.

d. Employees who believe their layoff or recall is not in accordance with the provisions of this Article may seek reinstatement through the grievance procedure.

6. Miscellaneous: Notwithstanding anything contained in this Article VI, no full-time employee shall have their work week reduced for the sole purpose of denying benefits or bargaining unit status, except in cases of layoff or reduction in hours due to fiscal restraints of the Town.

#### ARTICLE VIII WORK WEEK - HOURS OF WORK

The work week of an employee shall be determined on a recurring seven (7) day basis starting with the first day of a pay period and ending seven (7) days later.

The regular work week for regular full-time highway employees will be forty (40) hours per week, eight (8) hours per day exclusive of meal periods, 6:00 am to 2:30 pm Monday through Friday with a minimum of a one-half (1/2) hour lunch period and a fifteen (15) minute break in the morning.

Work schedules for employees assigned to the Transfer Station shall be determined by the Town, except that such schedules shall provide for five, eight (8) hour work days.

Except as otherwise indicated in this Agreement, the scheduling of lunch periods, and breaks, and other details of the work week shall be the prerogative of the Highway Superintendent or the Town Board so long as they do not violate any existing Federal or State Law. However, whenever practical, the fifteen (15) minute break will be scheduled in midmorning and the lunch period shall be scheduled in the middle of the work day. However, scheduling of breaks and lunch periods shall be subject to work requirements.

The regular work schedule shall not be changed without reasonable advance notice to the employee except in an emergency when it is necessary to do so to provide for continuation of Town services. The regular work schedule shall not be changed for the sole purpose of avoiding payment of overtime.

#### Four-Day Work Week

##### Duration of Four Day Work Schedule

During the period of May 1<sup>st</sup> to August 31<sup>st</sup>, the Highway Department will institute a four-day work week for ten hour days as hereafter provided.

a. The four-day week shall be subject to annual approval of the Town Board and employees of the Highway Department, who are permitted by union rules to vote on such matters, except that Highway employees who are excluded from the four-day work week schedule shall not vote on the four-day work week.

b. The annual vote, provided for in "a" by the Town Board and Highway employees shall be limited to approving or disapproving the four-day work week as herein provided, i.e., the Town Board and Highway employees cannot, between themselves, modify the terms of the four-day work week as herein contained. Any modification of the terms of the four-day work week shall be subject to negotiations between the parties, i.e., the Town and CSEA.

c. Sunset Provision: In the event the Town Board or Highway employees do not approve the four-day work week in two consecutive years, this provision shall become null and void and shall not continue into succeeding years despite Section 209A (1e) of the Civil Service Law.

d. Participating Employees: All Highway employees in the bargaining unit will be placed on a four-day work week schedule except those employees assigned to the Town transfer station.

##### e. Schedule

- 1) Work Week: Monday through Thursday
- 2) Work Day: 6:00 am to 4:30 pm, with one-half hour lunch period and one break in the morning and one break in the afternoon per current practice. However, the Town shall have the option of changing to a 6:30 am to 5:00 pm schedule provided the Town gives affected employees at least five working days advance notice of the change in starting and quitting times.
- 3) Friday, Saturday, and Sunday shall be considered participating employees' days off for the purposes of administering the terms of the Agreement.

##### f. Compensation, Overtime

Participating employees will receive time and one-half for all hours worked in excess of forty (40) hours per week.

g. Paid Leave time

- 1) Sick Leave, Vacation, and Personal time will be used in hour units, i.e., in order to be paid for a full ten (10) hour day, an employee must use ten (10) hours of paid leave time.
- 2) Employees may elect not to use additional paid leave time in order to be paid for ten (10) hours of paid leave time.
- 3) A ten (10) hour sick day shall be considered one day for the purposes of determining the number of documented or undocumented sick days used.
- 4) Employees who elected to be paid for eight (8) hours of paid leave time and go without pay for two hours instead of being paid for a full ten (10) hour day shall not be considered as going without pay.
- 5) Holidays and Bereavement days for death occurring in the immediate family will be paid on a full ten (10) hour basis. Employees will not be required to use additional hours to be paid for a full ten (10) hour holiday or bereavement day.
- 6) Jury Duty - Modified to indicate that in no case will reimbursement be in excess of ten (10) hours per day nor will total reimbursement be in excess of thirty (30) scheduled working days per calendar year. Whereas Friday is considered a normal day off, employees will not be compensated for jury duty occurring on Friday.

h. Grievance Procedure, Layoffs and Recalls: For the purpose of these articles, work days shall mean Monday through Thursday for those Highway employees scheduled for a four-day week.

i. All other provisions of the Agreement and departmental policies and procedures will remain in effect and unchanged unless specifically modified by this provision.

j. In the event this four-day week provision expires as provided for in the sunset clause, there shall be a return to the status quo that existed prior to the four-day week schedule first being instituted. No precedents will be set, no practices will be established nor will either party limit or modify any of the rights they had prior to the four-day week schedule first being instituted.

**ARTICLE IX**  
**COMPENSATION**

1. Effective January 1, 2001, the salary schedule in Appendix B labeled "2001 Hourly Schedule" will go into effect.

Effective January 1, 2001, all employees in the Bargaining Unit will receive a forty cent (40¢) per hour general wage increase, plus a step increase where due. The hourly schedule will be amended to indicate this raise.

2. Effective January 1, 2002, the salary schedule in Appendix C labeled "2002 Hourly Schedule" will go into effect.

Effective January 1, 2002, all employees in the bargaining unit will receive a fifty-five cent (55¢) per hour general wage increase, plus a step increase where due. The hourly schedule will be amended to indicate this raise.

3. Effective January 1, 2003, the salary schedule in Appendix D labeled "2003 Hourly Schedule" will go into effect.

Effective January 1, 2003, all employees in the bargaining unit will receive a fifty-five cent (55¢) per hour general increase, plus a step increase where due. The hourly schedule will be amended to indicate this raise.

4. **Overtime:**

- a. Employees shall be paid time and one-half for all hours worked in excess of forty (40) hours per week.

- b. Except in emergencies, no employee shall work overtime unless said overtime is necessary and has been approved by the Highway Superintendent.

- c. Employees will not be paid for any unauthorized overtime.

- d. Overtime will be paid to an employee in six (6) minute units only.

- e. Except as hereinafter indicated all paid leave time shall be considered "time worked" for the purpose of computing overtime. In the event the Town requires a doctor's certificate, pursuant to Article IX, Sick Leave, subparagraph C., and the employee fails to provide same, such undocumented sick leave shall not be considered as time worked.

5. **Overtime Assignment:** The Highway Superintendent may require overtime work at such times as may be necessary to ensure proper maintenance, including snow removal, of the Town highways.

Whenever practical assignment of overtime shall be done on a rotational basis, so that overtime is distributed in a relatively equal manner.

Employees are expected to be available for overtime assignments including snow removal as needed.

6. **Minimum Call-In Time:** Employees who have completed their work day and who have left their work site and who are then called back to work will be paid for a minimum of four (4) hours effective upon the date of the signing of this agreement. Such guaranteed minimum call in pay will not apply to an uninterrupted extension of the normal work day or where an employee is called prior to the commencement of his or her normal workday and such call-in work extends into the starting time of his or her next regular work day.

7. **Military Reserve Training:** Members of the military reserves who are called to active duty for training purposes shall suffer no loss of pay up to a maximum of twenty-two (22) work days per year.

8. Pay Periods: The current system of twenty-six (26) pay periods per year will continue. The Town shall have the option, at their discretion, of having an additional pay day at the end of a year to pay employees, in full, for all days worked in a calendar year.

**ARTICLE X**  
**EMPLOYEE BENEFITS**

1. The following employees are entitled to the benefits delineated in this Article:
  - a. Regular full-time employees
  - b. Full-time, temporary employees who are employed for more than three (3) months.
  
2. Full-time employees changing to a part-time or seasonal status will lose all previously accrued benefits including accumulated sick leave.
  - c. A day for the purpose of computing sick leave, vacation, bereavement, personal days, etc., shall be eight (8) hours.
  
3. Notice of Resignation or Retirement
  - a. Except in an emergency, employees are required to give ten (10) working days advance notice of their resignation or retirement. Paid leave time shall not be counted as part of the ten (10) days.
  - b. Employees who fail to give the required ten (10) working days notice will have their entitlement to any unused paid leave time reduced by one (1) day for each day their notice is deficient.
  
4. Retirement: The Town will continue to participate in the current New York State Retirement Plan for eligible employees. Eligibility of employees shall be governed by the rules and regulations of the New York State Retirement System. The retirement for any employees in Tier I or II will be 75i.
  
5. Health Insurance:
  - a. The Town will provide MVP CO Plan 10 Plus with rider for vision, out of network coverage, prescription drug and catastrophic illness coverage to employees as specified below.
  
  - b. The Town will pay one hundred percent (100%) of the cost of family and individual health insurance coverage, and 100% of the cost of composite dental coverage. The Town will provide this coverage for those full-time, permanent and full-time temporary employees who have been employed more than three (3) months on 4/6/93 and who were employed continuously thereafter.

Those full-time permanent and those full-time temporary employees who are employed for more than three (3) months after 4/6/93, will pay twenty-five (25%) of the cost of family or individual health insurance and twenty-five percent (25%) of composite dental insurance.

c. The Town will pay its share of the cost of health insurance or dental insurance during such time as an employee is working or receiving paid leave. In addition, for those employees who are receiving Workers Compensation or off-the-job disability payments, the Town will pay the cost of an employees Dental and Health insurance up to a maximum of six months while an employee is receiving such payments.

d. The Town agrees to make its share of payments required to maintain composite coverage for all employees under the CSEA Employee Benefit Fund Equinox Dental Plan. Employees will be enrolled in the plan as a condition of employment.

e. Except as otherwise provided, employees who are on a personal unpaid leave of absence or who go without pay for more than fifteen (15) consecutive working days must assume the cost of their health insurance at such time as the coverage paid for by the Town ceases. The Highway Superintendent shall notify such employees when they must assume the cost of their health insurance.

f. Employees who retire from the Town, during the life of this contract, under the New York State Retirement system and/or Social Security shall be eligible to remain on the Town's health insurance plan provided they pay one hundred percent (100%) of the cost of such coverage. Retirees must make payment to the Town on or before the 10<sup>th</sup> of a month, prior to the month of coverage, in order to retain coverage for that month. The Town will provide health insurance coverage to complete the month in which an employee leaves the Town's employment.

Effective 1/1/98, the Town will contribute \$300.00 annually, towards the cost of the health and dental insurance plans for employees who retire after 1/1/97. Payment will be made in January of each year.

Effective 1/1/01, the Town will contribute \$500.00 annually toward the cost of the health insurance plan for employees who retire after 1/1/01. Payment will be made in January of each year.

g. During the duration of this Agreement, the Town shall have the right to change health insurance plans and/or carriers provided any new plan adopted provides substantially the same benefits as the plan in effect at the time this Agreement is executed.

6. Holidays with Pay:

a. All regular full-time employees who have been on the Town payroll for the previous thirty (30) consecutive days, who work or who are on approved paid leave time the last scheduled working day prior to and the first scheduled working day after a holiday shall receive the following six (6) two-day holidays:

New Years Day  
Memorial Day

Independence Day  
Thanksgiving Day

Labor Day  
Christmas Day

The Highway Superintendent shall have the right to determine when the second day of a two-day holiday shall be observed by Highway employees, i.e., the day before or the day after the day the regular holiday is observed. The Town will post the holiday schedule for the succeeding year by December 1<sup>st</sup> of each year.

The scheduling of holidays for employees assigned to the Transfer Station will be by mutual agreement of Transfer Station's personnel and a designated representative(s) of the Town Board.

b. Unscheduled absences on the last scheduled working day prior to and the first scheduled working day after the holiday will be excused provided the employee presents a reason satisfactory to the Highway Superintendent.

c. Employees called into work on a holiday, shall receive time and one-half for hours worked. Notwithstanding the foregoing, employees shall be compensated at two times (2X) their normal hourly rate for all hours work on Christmas Day.

d. When one of the aforementioned holidays falls within the regularly scheduled vacation period of an employee who is eligible to receive such holiday pay and he is absent from work because of such approved vacation, he shall receive a compensatory day off or pay for the day.

e. All holidays earned in a calendar year must be used within thirty (30) days of the end of that calendar year or an employee shall be compensated for such holidays within thirty (30) days of the end of the calendar year.

f. Employees may not accumulate more than two (2) two-day holidays.

#### 7. Vacations with Pay

a. Vacations will be granted to all regular full-time employees covered by this Agreement who work the required period before being eligible for a vacations as follows:

One (1) year but less than ten years of continuous service, ten (10) working days.

January 1<sup>st</sup> of the year in which an employee reaches ten (10) years of continuous service, fifteen (15) working days.

Employees shall earn one additional day of vacation each year upon completion of fifteen (15) years of continuous service to a maximum of four (4) weeks (20 days):

Completion of 15 years - 16 days

Completion of 16 years - 17 days

Completion of 17 years - 18 days

Completion of 18 years - 19 days

Completion of 19 years - 20 days

b. January 1<sup>st</sup> of each year shall be the date on which employees qualify for vacation as herein provided.

c. Vacation eligibility shall be established as follows:

(1) To be eligible to receive a full vacation, an employee must have worked during at least sixty (60%) percent of the pay periods during the calendar year prior to January 1<sup>st</sup>.

(2) An employee who does not meet the requirements of one (1) above, will receive a prorated vacation.

(3) Employees entering the employ of the Town throughout the year shall have their first year's vacation prorated as of the January 1<sup>st</sup> date following their date of employment. Such amount shall be the allowable paid vacation time to be taken during the ensuing calendar year.

(4) Prorated vacations shall be computed on the basis of 1/52 of their regular vacation allowance for each week that the employee did work in the employ of the Town during his or her qualifying period.

(5) Employees terminated, for any reason, prior to December 31<sup>st</sup> of their beginning year of employment, shall not be entitled to paid vacation days.

(6) After one full calendar year of employment, employees may, upon their written request and with the approval of the Highway Superintendent carry over five (5) accrued vacation days from the current vacation year to the succeeding vacation year.

(7) Employees with at least one (1) year of service who resign, retire or who are terminated or the estates of those employees who die may take any unused vacation allowance credited to them as of the previous January 1<sup>st</sup>, plus a prorated vacation allowance based on the time he is in service at the rate of 1/52 of his applicable vacation pay for each week in which he worked within the year in which he resigns, retires, is terminated or dies.

(8) Scheduling of vacation shall be the function of the Highway Superintendent, however, whenever practical, seniority shall be respected in the selection of vacation time. In the event a conflict in scheduling occurs, seniority shall be the determining factor provided both request are made with thirty (30) calendar days notice to the Town Highway Superintendent. Further, during the period from November 1 to April 1, one (1) employee at a time will be allowed vacation, except when any employee is on disability, within the unit. In that event, the Town may decline to allow the use of vacation as it deems necessary, in its discretion.

(9) Vacation days may be taken in not less than one-half (1/2) day units, except those employees who receive a prorated vacation may use whatever fraction of a day results from such prorating.

## 8. Sick Leave

a. After six (6) months of regular full-time employment, employees will be granted three (3) days of sick leave. Thereafter, they will be credited with ten (10) days of sick leave on each January 1, accumulative to one hundred fifty-five (155) days.

b. Employees shall be required to call in to notify the Highway Superintendent of his or her illness and absence within one half hour of the start of the work day.

c. The Town may require a doctor's certificate for any absence in excess of



three (3) days. In addition, the Town may require a doctor's certificate for any absence if an employee has established a pattern of abusing sick leave such as repeatedly using sick leave on the day before and after a regular day off or the day before and after a paid leave day or if an employee has requested a particular day off and has been denied the day off and subsequently calls in sick on that day.

d. Employees will be allowed to use sick leave in a minimum of one of our increments.

e. Except as otherwise herein provided, sick leave shall be used only for the personal illness or disability of the employee that prevents the employee from reporting to work. A maximum of three sick days per year may be used for routine or previously scheduled physician or dental appointments or for scheduled diagnostic testing.

## 9. Personal Leave

a. Regular full-time employees who have been in the service of the Town for at least eight (8) weeks as of January 1, will be credited with three (3) personal days.

b. Those employees who enter the employment of the Town throughout the year shall have their first year's personal leave prorated on the basis of 3/12 of a day for each full month remaining in the calendar year. Computation and crediting of such personal leave shall not begin until the first day of the calendar month following eight (8) weeks of employment.

c. Personal leave is leave with pay for personal business and is to be taken with approval of the Highway Superintendent so as not to interfere with Town operations. Except in the case of an emergency, requests for use of personal leave must be submitted two work days in advance.

d. Personal leave may be taken in a minimum of one hour units.

e. Employees shall be permitted to convert unused Personal Leave days to their Sick Leave accumulation at the end of the each year.

## 10. Bereavement

Regular full-time employees shall be entitled to three (3) days paid bereavement leave per calendar year for death occurring in the immediate family. Immediate family shall mean spouse, father, mother, sister, brother, children, father/mother in-law, sister/brother in-law and grandparents. In the event of more than one death in a calendar year of a spouse, parent, child, or sibling, the three days bereavement shall be per occurrence. Bereavement shall not be accumulative.

## 11. Jury Duty

a. Regular full-time employees who are summoned for jury duty and who are required to serve as a juror, during their regular working hours, will be reimbursed by the Town for the difference between their jury pay and their regular straight time hourly pay. In no case will reimbursement be in excess of eight (8) hours per day, nor will the total reimbursement be in excess of thirty (3) scheduled working days per calendar year.

b. Employees, who report for jury duty and whose jury duty time does not

require their absence from work for an entire day, will be expected to return to work for that portion of the day that remains, unless such time is less than one (1) hour.

c. Jury Duty served on a voluntary basis is not reimbursable.

d. Employees must submit evidence, from Court, as to the days or part days they serve, and the amount earned for such service.

## 12. State Disability Insurance

The Town agrees to continue a State Disability Insurance Plan to cover off-the-job disabilities on a contributory basis. Employees will contribute one-half (1/2) of one percent (1%) of wages paid, but not to exceed the maximum employees contribution allowed by law. The Town will pay the remaining cost.

## ARTICLE XI GRIEVANCE PROCEDURE GRIEVANCE DEFINITION

To be valid, a grievance must demonstrate a violation of the specific language and provisions of this Agreement. Disciplinary actions shall not be subject to the grievance procedures including, but not limited to warnings, reprimands, suspensions and discharges.

### RIGHTS TO REPRESENTATION

Employees shall have the right to present their grievance to the Town free from interference, coercion, restraint, discrimination or reprisal and shall have the right to be represented at all stages thereof.

### PROCEDURES

1. Except for informal decisions at Level #1, all decisions shall be rendered in writing at each step of the grievance procedure, setting forth findings of the fact, conclusions and supporting reasons therefore. Each decision shall be promptly transmitted to the Union and employee within the time limits hereafter specified.
2. All reasonable efforts shall be made to avoid interruptions of work schedules. Whenever practical, conferences or hearings shall be scheduled during non-work hours except as agreed to by the Highway Superintendent or Town Board. Employees involved in any grievance procedure shall not be penalized loss of pay or any leave credits.
3. The Town and Union agree to make available any and all materials and relevant documents, and records concerning the alleged grievance.
4. Except when at Level #1, the aggrieved party and the Union shall have the right at all stages of the grievance to confront and to cross-examine all witnesses

called, to testify and to call witnesses on one's own behalf and to be furnished with a copy of any minutes, at its own expense, made at each and every level of the grievance procedure.

5. All documents and records dealing with the processing of a grievance shall be filed separately from the personnel file of the participants.
6. The Town clerk shall be responsible for the accumulation and maintenance of an official grievance record which shall consist of a written grievance, all exhibits, transcripts, communications, minutes and/or notes of testimony and all written decisions at all levels.
7. The official grievance record shall be made available for inspection, and/or copying by the aggrieved party, and the Union and Town Representatives, but shall not be deemed as a public record.
8. The employee or group of employees constituting a grievance shall have the right at all stages to proceed personally, or through the Union representative, or through a representative of his own choice. If the employee should not designate the Union to represent him, the Union shall have the right to be present at all stages of the procedures herein set forth and shall be entitled to a written copy of the decision mailed to the appropriate representative of the Union within five (5) days of such decision.

#### TIME LIMITS

1. The time limits specified for either party may be extended only by mutual written agreement.
2. If a decision at one level is not appealed to the next level of the procedure, within the time limit specified, the grievance will be deemed to be discontinued and further appeal shall be barred.
3. Failure at any level of the grievance procedure to communicate a decision to the aggrieved party and/or his representatives within the specified time limit, shall permit the lodging of an appeal at the next level of the procedure within the time that would have been allotted had the decision been communicated by the final day.
4. All decision and appeals from one level to the next shall be delivered by Return Receipt Requested mail or be hand-delivered, signed for and dated.

#### LEVELS

##### Level 1 - Highway Superintendent

1. Within a period of five (5) working days after the occurrence of a grievance, an aggrieved employee will first discuss an alleged grievance with the Highway Superintendent and attempt to resolve the problem informally.
2. In the event that resolution is not attained informally, the grievance shall be

presented in writing to the Highway Superintendent with a copy to the Town Board within ten (10) working days after the occurrence of the grievance.

3. Within ten (10) working days of receipt of the written grievance, the Highway Superintendent shall deliver to the grievant, his or her decision in the matter with a copy to the Town Board.

#### Level 2 - Town Board

1. If the Highway Superintendent's decision is not satisfactory to the grievant, the grievant must submit the grievance in writing to the Town Board within five (5) working days of the receipt of the Highway Superintendent's decision.

2. Within fifteen (15) working days of receipt of the written grievance, the Town Board, or their designated representative, shall deliver, to the grievant, their decision in the matter with a copy to the Highway Superintendent.

#### Level 3 - Arbitration

1. If the Town Board's decision in the matter is not satisfactory to the grievant, the grievance may be referred to arbitration in writing within fifteen (15) working days of the receipt of the Town Board's decision. Referral to arbitration shall be by written notice to the Town Board. The parties will attempt to mutually agree upon an arbitrator. In the event the parties are unable to agree upon an impartial arbitrator within fifteen (15) working days after its referral to arbitration, then an appointment shall be made in accordance with New York State PERB procedures.

2. Arbitration Fees and Expenses:

The fees and expenses of the arbitrator shall be borne equally by the parties. The Union and the Town shall bear the expense of their respective witnesses and other expenses they may incur.

3. The arbitrator shall conduct a hearing regarding the grievance and shall thereafter submit to the Town Board, the grievant and the Union, a written report of his or her decision and reason for such decision.

4. The decision of the arbitrator shall be final and binding, but the arbitrator shall have no jurisdiction, power or authority to amend, modify, supplement, vary or disregard any provisions of the Agreement. Nothing herein shall be construed to allow the arbitrator to usurp or otherwise derogate the power and authority given by law to the Town.

### **ARTICLE XII** **COMPATIBILITY WITH LAW**

This Agreement shall be construed so as to be compatible with all Federal, State and Local Laws and the invalidity of any provisions of this Agreement by reason of any such existing law shall not affect the validity of the surviving provisions. If the enactment of legislation, or a determination by a Court of final jurisdiction (whether

in a proceeding between the parties or controlling by reason of the facts) renders any portion of the Agreement invalid or unenforceable, such legislation or decision shall not affect the validity of the surviving portions of this Agreement, which shall remain in full force and effect as if such invalid portion thereof had not been included therein. In the event any portion of this Agreement becomes invalid or unenforceable pursuant to this Article, the parties agree to meet within a reasonable period of time for the purpose of negotiating a replacement for such portion.

**ARTICLE XIII**  
**TOWN'S RIGHTS AS AN EMPLOYER**

A. The Town's entering into this Agreement in no way, either explicitly or implicitly, diminishes its relationship as employer to its employees nor the Town's rights and employees' duties such relationship entails.

The Town retains all of its rights as an employer, including, but not limited to, the right to assign work as required, including that which requires overtime, the right to supervise as required, and the right to discipline where necessary, subject to the Civil Service Law of the State of New York, and any other Federal, State or Local law, classification, determining the type and manner and means of services to be provided, determining the size and character of the work force. All matters not specifically detailed in this Agreement shall remain the exclusive province of the Town to maintain or modify.

B. **Subcontracting/Assignment of Unit Work**

The Town shall have the right at its sole discretion to subcontract and/or assign existing or future work to temporary, seasonal and/or part time employees outside of the bargaining unit, provided no layoff of unit personnel results from such subcontracting and/or assignment of work. This provision shall in no way limit the Town's right to assign work to non-unit personnel or subcontract work in short term emergency situations where it is necessary to do so to ensure that important Town services are provided.

Although the Town Highway Superintendent and Deputy Highway Superintendent are non-unit positions, there shall be no restrictions whatsoever in the performance of unit work by these individuals.

**ARTICLE XIV**  
**PROHIBITION AGAINST STRIKES**

Neither the Union nor the employees it represents shall engage in any strikes against the Town, nor shall the Union cause, instigate, encourage or condone such a strike. Resolution of all disputes arising from the employer-employee relationship between the Town and the Union shall be resolved in accordance with the provisions of this Agreement and the Taylor Law of the State of New York.

**ARTICLE XV**  
**NOTICE AS PROVIDED BY SEC. 204-a**  
**OF CIVIL SERVICE LAW, AS AMENDED**

IT IS AGREED BY AND BETWEEN THE PARTIES THAT ANY PROVISION OF THIS AGREEMENT REQUIRING LEGISLATIVE ACTION BY THE TOWN BOARD TO PERMIT ITS IMPLEMENTATION BY PROVIDING THE ADDITIONAL FUNDS THEREFORE, SHALL NOT BECOME EFFECTIVE UNTIL SUCH APPROVAL HAS BEEN GIVEN.

**ARTICLE XVI**  
**ZIPPER CLAUSE**

The parties agree that all negotiable items have been discussed during the negotiations leading to this Agreement and therefore agree that neither party will be required to negotiate on any other item whether contained herein or not during the life of this Agreement except in the case that both parties mutually agree to do so.

**ARTICLE XVII**  
**VOLUNTEER EMERGENCY SERVICES PERSONNEL**

Volunteer firefighters, ambulance personnel and auxiliary police who miss work as the result of being called to an emergency prior to or during regularly scheduled work hours shall be paid their regular rate of pay for those hours worked less any money they may be paid for their emergency services. They must submit a letter signed by the commander of the emergency unit, indicating the dates and times of the volunteer service and any compensation paid for such service. Employees must advise the Highway Superintendent that they are volunteer emergency personnel and subject to call out. The Highway Superintendent may limit the number of employees who can respond to any given emergency situation.

**ARTICLE XVIII**  
**MOTOR VEHICLE INSPECTORS LICENSES**

The Town will pay employees who are directed by the Town to obtain motor vehicle inspectors licenses for the full cost of this license, or the renewal of this license. The Town will make this payment within thirty (3) calendar days of the employee providing evidence of purchasing or renewing a motor vehicle inspectors license.

## APPENDIX A

### TIME CLOCK REGULATIONS

#### Late Punch:

1. Only one late punch (maximum six (6) minutes) will be excused in any two week period.
2. Additional late punch will result in time being deducted in six (6) minute increments.

Punch Out: No employee will punch out prior to authorized quitting time.

#### Overtime:

1. Payment for overtime will only be made when authorized by the Highway Superintendent.
2. Overtime for emergency work (i.e., snow and ice control), will begin and end with times indicated on the employee's time card paid in six (6) minutes increments, subject to minimum call period.

Field Assignment: Those employees assigned to projects that start and end their day in the field, will have their time card signed by the Highway Superintendent daily.

Lunch Time and Break: Employees will not be required to punch out and back in for the normal lunch and break periods.

Superintendent of Highway's Signature: If, for any reason, an employee cannot punch his time card, it must be signed by the Superintendent of Highways.

#### Responsibilities:

1. All employees will be required to punch time clocks.
2. Employee will punch only his own time card.

**APPENDIX B  
2001 HOURLY SCHEDULE**

**AUTO MECHANIC**

BASE	1	2	3	4	5
\$12.60	12.80	12.90	13.00	13.10	13.20

**HEAVY EQUIPMENT OPERATOR**

BASE	1	2	3	4	5
\$12.25	12.35	12.45	12.55	12.65	12.75

**MOTOR EQUIPMENT OPERATOR**

BASE	1	2	3	4	5
\$11.65	11.75	11.85	11.95	12.05	12.25

**TRANSFER STATION ATTENDANT & LABORER**

BASE	1	2	3	4	5
\$10.75	10.85	10.95	11.05	11.15	11.25

**THE TOWN WILL PAY THE WORKING FOREMAN; 35 CENTS PER HOUR MORE THAN TOP STEP OF THE HEO SCHEDULE**

**THE TOWN WILL PAY THE EMPLOYEE AN ADDITIONAL 20 CENTS PER HOUR LONGEVITY JANUARY 1 OF YEAR IN WHICH EMPLOYEE REACHES (10) YEARS OF SERVICE. LONGEVITY NOT TO BE ADDED TO AN EMPLOYEE'S HOURLY RATE IN COMPUTING RAISES.**



**APPENDIX C  
2002 HOURLY SCHEDULE**

**AUTO MECHANIC**

BASE	1	2	3	4	5
\$13.15	13.35	13.45	13.55	13.65	13.75

**HEAVY EQUIPMENT OPERATOR**

BASE	1	2	3	4	5
\$12.80	12.90	13.00	13.10	13.20	13.30

**MOTOR EQUIPMENT OPERATOR**

BASE	1	2	3	4	5
\$12.20	12.30	12.40	12.50	12.60	12.80

**TRANSFER STATION ATTENDANT & LABORER**

BASE	1	2	3	4	5
\$11.30	11.40	11.50	11.60	11.70	11.80

THE TOWN WILL PAY THE WORKING FOREMAN: 35 CENTS PER HOUR MORE THAN TOP STEP OF THE HEO SCHEDULE

THE TOWN WILL PAY THE EMPLOYEES AN ADDITIONAL 20 CENTS PER HOUR LONGEVITY JANUARY 1 OF YEAR IN WHICH EMPLOYEE REACHES TEN (10) YEARS OF SERVICE. LONGEVITY NOT TO BE ADDED TO AN EMPLOYEE'S HOURLY RATE IN COMPUTING RAISES.

**APPENDIX D  
2003 HOURLY SCHEDULE**

AUTO MECHANIC					
BASE	1	2	3	4	5
\$13.70	13.90	14.00	14.10	14.20	14.30

HEAVY EQUIPMENT OPERATOR					
BASE	1	2	3	4	5
\$13.35	13.45	13.55	13.65	13.75	13.85

MOTOR EQUIPMENT OPERATOR					
BASE	1	2	3	4	5
\$12.75	12.85	12.95	13.05	13.15	13.35

TRANSFER STATION ATTENDANT & LABORER					
BASE	1	2	3	4	5
\$11.85	11.95	12.05	12.15	12.25	12.35

THE TOWN WILL PAY THE WORKING FOREMAN: 35 CENTS PER HOUR MORE THAN TOP STEP OF THE HEO SCHEDULE

THE TOWN WILL PAY THE EMPLOYEES AN ADDITIONAL 20 CENTS PER HOUR LONGEVITY JANUARY 1 OF YEAR IN WHICH EMPLOYEE REACHES TEN (1) YEARS OF SERVICE. LONGEVITY NOT TO BE ADDED TO AN EMPLOYEE'S HOURLY RATE IN COMPUTING RAISES.

**APPENDIX E**  
**WAGE ADMINISTRATION**

**Regular Step Progression:** Except for Working Foreman, the salary schedules contained in Appendix B, Appendix (C) and Appendix D shall consist of a base hourly rate and five steps for each title. Step increases are granted annually on January 1 until such time as an employee reaches the fifth step for his particular title.

**First Step Increase:**

- a. Employees employed on or after July 1 will receive one-half (1/2) of a step increase on the January 1 following the date of their employment and the remaining one-half (1/2) step increase on the following July 1.
- b. Employees employed prior to July 1 will receive a full step increase on the January 1 following their date of employment.

**Promotions:** Employees promoted to a position with a higher maximum rate of pay will either

- a. Be paid the base rate for the higher position if their current rate of pay is less than the base rate for the higher position, or
- b. If their current rate of pay is greater than the base rate for the higher position, they will be placed on the nearest step in the higher schedule which is greater than their current rate of pay.

**Demotions:** In cases of demotion from a higher level position to a lower level positions, the employee shall either retain their current rate of pay or be paid the maximum rate of pay of the lower position, whichever is the lesser.

**Temporary Assignments to Higher Level Position:** In the event an employee is appointed to a higher level position on a temporary basis, the employee's rate of pay while appointed to the higher position shall be determined in the same manner as a promotion. At the end of the temporary appointment and return of the employee to his regular position, the employee's rate of pay will be determined as if he or she had remained in his former position and not received the temporary appointment.

Current employees who have an hourly rate higher than the maximum hourly rate contained in the salary schedule in Appendix B, Appendix C or Appendix D, shall retain their current rate of pay and receive thirty cents (\$.30) per hour on January 1, 1998 and January 1, 1999, and forty (\$.40) cents per hour on January 1, 2000 as provided for in Article VIII, Compensation.

**APPENDIX F**  
**GRIEVANCE SETTLEMENT / LEAVE ACCRUALS / RETIREMENT**  
**BENEFITS**

The parties herewith acknowledge that they have had a disputed practice of allowing employees of the Town to accumulate days of personal paid leave, such as sick time, vacation time, personal time, and compensatory time. The employees in the past were allowed to accumulate compensatory time, sick time, rather than be paid for the same at the time earned. The employees, upon accumulation of the same, would be permitted to take the time off or accumulate those days to be paid those days upon retirement. The parties recognize that this arrangement was not in compliance with the Federal Fair Labor Standards Act.

Because the Town Board was unaware of this practice, and because of concerns of non-compliance with the Wage and Hour Law, and because of concerns related to the perception of impropriety, the Town has elected to discontinue the practice of allowing these leave accruals to be maintained. The Union has filed a grievance over this issue. The parties have agreed to settle and resolve this issue upon the following terms, as to all Bargaining Unit Members:

All leave accruals of accumulated sick leave, compensatory time and other "banked" leave time will be frozen as of the date of the settlement, i.e., July 11, 2001. Those persons holding accumulated leave time will retain the same, subject to use by the employee in accordance with the established rules for utilizing sick time.

Additional leave time as earned or compensatory time must be paid or used, according to the contract as it is earned, after July 11, 2001.

The accumulated leave days currently held and unused, which remain in the possession of any employee upon his or her retirement, will be paid only upon retirement through the New York State Retirement Systems, or in the event of resignation, after twenty (20) years of service to the Town. Those persons resigning prior to accumulating twenty (20) years of service, will lose said leave accruals and shall not be entitled to compensation therefore.

It is further agreed that the accumulated leave time shall be paid at the pay rate effective as of the date of retirement or resignation.

It is also agreed that compensatory time to be earned and accumulated in the future shall be maintained in accordance with the Fair Labor Standards Act and must be taken or paid within the year in which it is earned. There shall be NO exceptions unless the same is agreed to by the parties in writing, and signed by each.

Further, sick leave, vacation time, and other leave accruals, such as personal time, may not be hereafter "banked". Those days such as vacation, must be used in the year within which it is earned or carried over pursuant to the terms of the

Collective Bargaining Agreement. Further, nothing contained herein should be perceived as an encouragement for employees to use all available sick time. It is still the intent of this Collective Bargaining Agreement that sick days are to be used for purposes of legitimate illness of the employee or a family member, consistent with accepted interpretation of the Collective Bargaining Agreement.

If an employee dies while possessing leave accrual benefits as described , and the employee would otherwise be eligible for a pay out pursuant to the terms above, the benefit will be payable to the estate of the employee or in accordance with such direction as the employee's will may provide.

It is also agreed that a grievance has been filed by Mr. Sprauge in reference to this benefit. The parties acknowledge that Mr. Sprauge's grievance will be settled and that Mr. Sprauge will be given credit for 1,000 hours of accumulated leave time. This settlement shall be final and binding upon the parties.

It is also agreed that Mr. Hendricks had filed a Workers' Compensation Claim and that the employer has an entitlement to reimbursement of paid Workers' Compensation benefits pursuant to the Workers' Compensation Law. It is herewith agreed that to the extent that there is a reimbursement to which the Town will be entitled in regard to the Workers' Compensation Claim of Mr. Hendricks, that 50% of the reimbursement shall be allocated to the leave bank as it existed prior to July 11, 2001 and 50% shall be allocated to the post-July 11, 2001 leave arrangement.

It is also agreed that the Town will provide the option, per Retirement and Social Security Law §41-j. Said option shall be available upon the approval of this contract and will be effective August 14, 2001.

It is hereto, further agreed, that the "past practice that existed or may have existed regarding the payment upon retirement for "leave accruals" will be eliminated effective July 11, 2001.

All grievances, claims, causes of action, debts, charges of any kind whatsoever, arising out of the claimed leave accrual arrangement and payment upon retirement, shall be resolved upon the terms above. The Union shall pursue no other claims, grievances, causes of action, suits or proceedings against the Town so long as the provisions hereof are complied with. Each employee within the unit shall also be governed by the terms of this agreement and shall be similarly bound not to pursue claims against the Town as long as the provisions herein are complied with.

The parties agree to these terms.


In witness whereof, the parties hereto have set forth their signatures on the dates noted hereafter.

For the  
Civil Service Employees Association, Inc.  
Local 1000 AFSCME/AFL-CIO

  
Gerald Phelan  
Labor Relations Specialist

Dated: 4/1/03


For the  
Town of Middletown

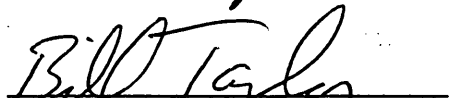
  
Leonard Utter  
Town Supervisor

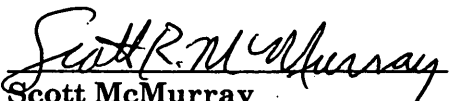
Dated: 4-14-03

The members of the CSEA Team were:

  
Robert A. Balcom, Unit President

  
Harley Jenkins

  
Bill Taylor

  
Scott McMurray