

**AGREEMENT**

**BY AND BETWEEN THE  
VILLAGE OF WEBSTER**

**AND THE**

**CIVIL SERVICE EMPLOYEES ASSOCIATION, INC.  
LOCAL 1000, AFSCME, AFL-CIO**

**CSEA  
WEBSTER VILLAGE UNIT 7417  
MONROE COUNTY LOCAL 828**

**JUNE 1, 2009 – MAY 31, 2016**

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## **PREAMBLE**

The Village of Webster (“Village”) and Civil Service Employees Association, Inc., Local 1000, AFSCME, AFL-CIO (“Union”) have entered this agreement to establish wages, hours and other terms and conditions of employment for the employees covered by this agreement.

## **ARTICLE I RECOGNITION**

The Village recognizes the Union as the exclusive negotiating agent for full-time employees (that is, employees who regularly work at least 40 hours per week) employed in the Village’s Water, Waste Water and Public Works Departments with the following functional titles: Chief Waste Water Plant Operator, Assistant Chief Water Plant Operator, Operator/Laborer, Operator/Laborer/Mechanic, Working Foreman, Operator/Serviceman, Grade IIB Operator, Grade 2 Operator, Grade 3 Operator, and Laborer. The Village does not recognize the Union as the agent, negotiating or otherwise, of supervisors, managerial and confidential employees and all other Village employees.

## **ARTICLE II STATUTORY NOTICE**

**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.**

## **ARTICLE III MANAGEMENT OF RIGHTS**

### **Section 1**

The Board and Mayor retain the sole right to manage the Village’s operations and services and to direct its work force, including, by way of example and not by way of limitation, the sole right:

- A.** To determine the services which the Village will provide, the activities in which the Village will engage, the number and location of its buildings and facilities, the methods and procedures of providing services to the Village’s constituents, and the size and composition of the Village staff;
- B.** To establish new positions or change the content of existing positions;
- C.** To sell, use, lease, discontinue, or dispose of any part of its building, equipment,

services or materials;

- D.** To maintain order and efficiency in Village operations which includes, by way of example and not by way of limitation, the right to regulate personnel practices, the right to establish work rules and procedures for evaluating the performance of its employees, and the right to suspend, discipline and discharge employees;
- E.** To hire, layoff, assign, transfer and promote employees including the right to determine qualification of employees or prospective employees;
- F.** To determine and adjust the starting and quitting times, the number of hours to be worked and the term of employment for employees covered by this agreement;
- G.** To interview and speak with its employees about all matters relating to or affecting the Village's business, duties, services and mission (including disciplinary matters and matters that might result in discipline); and
- H.** To establish or change production standards or other terms and conditions of employment, subject only to such regulations governing the exercise of these rights as are expressly provided in this agreement or provided by law.

## **Section 2**

Any of the rights, powers and authority that the Board and the Mayor had prior to entering this agreement are retained by them except as expressly and specifically abridged, delegated, granted or modified by this agreement.

## **Section 3**

The failure to exercise a particular management right or function, or the exercising of a management right or function in a particular manner, shall not constitute a waiver of the right to exercise such management right or function in any manner not in conflict with the law or a specific provision of this agreement.

# **ARTICLE IV UNION BUSINESS AND RIGHTS**

## **Section 1 – Bulletin Board**

The Village shall designate bulletin boards in its Water, Sewer and Highway Departments on which the Union shall be permitted to post notices concerning Union meetings and Union elections, names of Union officials and representatives, notices about Union social, recreational and educational meetings or events and other notices which are authorized for posting by the Village. The Union shall designate a representative, who shall be an employee of the Village, to assume responsibility for notices posted on the bulletin board. No notice or communication of any kind may be

posted on the bulletin board by any person other than this designated Union representative. Except to the extent authorized by this provision, the Union shall not distribute or post any written materials or other physical items on the premises of the Village.

### **Section 2 – Access**

A duly authorized representative of the Union, designated in writing, after reporting to the Village office, shall be admitted to the premises for the purpose of assisting in the adjustment of grievances or for investigating complaints that the contract is being breached. Upon arrival, the Union representative shall state the purpose of his visit. Except in an emergency, at least one (1) day advance notice must be given to the Superintendent of Public Works or his designated representative. Where an emergency exists, the Union shall provide notice to the Superintendent of Public Works or his designated representative as soon as possible prior to the visit. The Village shall not be obligated to permit access to its facilities or properties by the Union representative unless the Union previously has notified the Superintendent of Public Works or his designated representative prior to the visit. If it reasonably appears that inspection of the Village's premises, facilities or work sites is required to ascertain whether the contract is being breached, then the Village shall permit inspection of the areas in question by a Union representative, provided that a Village representative shall accompany the Union representative during the inspection and further provided that such inspection shall not interfere with, hamper or obstruct normal operations.

### **Section 3**

The Union will be granted use of a designated meeting room during non-working hours for general membership meetings, provided the Union gives the Superintendent of Public Works at least three (3) calendar days advance notice of the meeting and use of the meeting room is approved in advance by the Superintendent of Public Works. In no event, however, shall the Village be obligated to provide the Union with use of the designated meeting room more than twice per month.

### **Section 4 – Working Time**

The Union and its members recognize that working time is for conducting and pursuing Village business only. The Union and its members, representatives or agents shall not solicit membership, carry on Union activities, or pursue Union business during the time that they or any employees contacted are earning wages from the Village, unless expressly agreed to by the Village. Union representatives shall be released from their regular duties, without pay, to conduct Union business, provided that the Village shall not be obligated to grant release time to more than two employees at the same time and further provided that such activity shall not interrupt the operations of Village government or the provision of Village services. Union representatives shall not suffer any loss in pay to attend meetings scheduled by mutual agreement of the Village and the

Union during their normal working day or to attend grievance or disciplinary meetings scheduled by the Village during their normal workday. In no event, however, shall the Village be required to pay Union representatives for attendance at any arbitration or any administrative or judicial proceeding.

## **ARTICLE V** **DUES DEDUCTION**

### **Section 1**

Membership in the Union or the payment of dues to the Union shall not be a requirement for employment, and employees covered by this agreement shall have the right to participate or refrain from participating in the activities of the Union.

### **Section 2**

The Village will deduct Union dues bi-weekly from the wages of those bargaining unit employees who authorize and request in writing the deduction of such initiation fees and dues. The Village will remit amounts deducted as dues to the Civil Service Employees Association, 143 Washington Avenue, Albany, New York 12210, not later than five (5) working days after the date of the deductions. The Union agrees to provide the Village with no less than thirty (30) days notice of any change in the amount of dues or fees to be deducted from an employee's wages.

### **Section 3**

The Union shall indemnify and hold harmless the Village from any and all liability, including costs and attorney's fees, resulting from the deduction of dues or fees under the terms of this agreement.

## **ARTICLE VI** **NO STRIKE PLEDGE**

Neither the Union nor its members or agents will engage in, promote or encourage any strike. The term "strike" shall be defined as any activity or conduct prohibited by New York Civil Service Law, Section 210 (prohibiting strikes by public employees) as that provision has been or shall be interpreted and applied by the New York State Public Employment Relations Board and the courts.

In addition to any legal or equitable remedies available to the Village for violation of this no strike pledge, the Union shall be liable for liquidated damages of \$500.00 per day for each day or part thereof that the Union, its members or agents engage in conduct or actions which violate this no strike pledge.

**ARTICLE VII**  
**PROMOTION, TRANSFER, LAYOFF AND RECALL**

**Section 1**

Vacancies in existing positions and newly created positions in the bargaining unit shall be posted in the Highway, Sewer and Water Departments for a period of five (5) working days prior to any decision by the Village to fill such vacancies or positions.

**Section 2**

In all cases of promotion, or transfer to bargaining unit positions, the Village shall consider the following factors:

- A. The candidate's specific skills, education and experience;
- B. The candidate's ability to perform the work in question; and
- C. The quality of the candidate's prior job performance.

If the Village determines that these factors are substantially equal for two or more candidates, then the promotion or transfer shall be determined by seniority. Such decisions shall be grievable.

**Section 3**

Seniority is defined to mean an employee's length of continuous service with the Village, computed from the last date of hire. An employee's length of service shall not be reduced by time lost due to authorized leave of absence or absence for bona fide illness or injury certified by a physician not in excess of one (1) year. An employee's seniority shall be eliminated if any of the following occur:

- A. Discharge;
- B. Resignation;
- C. Failure to return promptly upon expiration of authorized leave;
- D. Absence for five (5) consecutive working days without leave or notice;
- E. Absence for illness or injury for more than one (1) continuous year; or
- F. Layoff for longer than twelve (12) consecutive months.

#### **Section 4**

Should the Village determine that a temporary or permanent reduction in the size of the workforce is necessary or appropriate, employees with the least seniority, as defined in Section 3 above, in each affected job title shall be the first to be laid off. Any employee who is laid off shall have the right to displace an employee in a lower job title which the laid off employee previously held or which, in the Village's judgment, the laid off employee is qualified to perform. A laid off employee seeking to displace another employee must have greater seniority, as defined in Section 3 above, than the employee he/she is attempting to displace. Employees on layoff shall be recalled based on seniority, as defined in Section 3 above, to vacancies in job titles which the employee previously held or which, in the Village's judgment, the employee is qualified to perform, with the most senior employee being recalled first.

#### **Section 5**

The procedures outlined in these provisions shall not apply where the employment decision at issue is governed by or subject to limitations imposed by law including, without limitation, the New York Civil Service Law.

### **ARTICLE VIII** **PROBATIONARY PERIOD**

Employees hired to positions in the bargaining unit shall be considered probationary during the period prescribed by state or local civil service laws and regulations, or if there is no provision for a probationary period under state or local law, for the first year of their employment. Employees who are disciplined or discharged prior to the satisfactory completion of their probationary period shall have no recourse or remedy under this agreement.

### **ARTICLE IX** **DISCIPLINE**

Employees who have successfully completed their probationary period shall not be disciplined or discharged without just cause. If the Village discharges or suspends an employee, a copy of the discharge or suspension notice giving reasons for the discipline shall be given to the grievant and to the Union President within 48 hours of the discharge or suspension. If requested by the employee, a Union representative may be present at any meeting where discipline is to be administered. Discipline allegedly imposed in violation of this provision may be contested through the grievance/arbitration procedure.

**ARTICLE X**  
**RETIREMENT**

The Village shall continue to participate in the New York State Employee Retirement System and shall continue the retirement plans and programs, including optional plans and programs, in place on the effective date of this agreement. If statutory or regulatory changes alter the Village's obligations, whether economic or otherwise, under these optional plans and programs, however, the Village reserves the right to terminate its participation in these programs if permissible by law. The Village presently participates in optional programs under Section 75i and 41j of the New York Retirement and Social Security Law.

**ARTICLE XI**  
**NORMAL WORKWEEK AND WORKDAY**

**Section 1**

The normal workweek shall be forty (40) hours per week. These hours normally will be scheduled during the weekdays, Monday through Friday, between the hours of 6:00 AM and 6:00 PM. Presently, the normal workweek is Monday through Friday 8:00 AM to 4:30 PM, with a one-half hour unpaid lunch period. Nothing in this provision, however, shall be construed as a guarantee that employees will work any particular schedule or number of hours during a pay period.

**Section 2**

There shall be two (2) paid break periods during the normal workday. Break periods shall not exceed ten (10) minutes each and shall be held at the employee's job site or at any other location approved by the Superintendent of Public Works or his designee. One break period shall be scheduled in the first half of any employee's regular shift, and the second break period shall be scheduled in the second half of the employee's regular shift.

**Section 3**

Any employee who works more than four (4) hours shall receive an unpaid meal period of one-half (1/2) hour.

**ARTICLE XII**  
**COMPENSATION**

**Section 1**

- A. Effective June 1, 2009: The Village agrees to adjust the 2008-2009 salary scale by an amount equal to the annual percentage increase in the CPI-W as reported by the Bureau of Labor Statistics for 2008 provided that the minimum adjustment shall be one and one-half percent (1.5%) and the maximum adjustment shall be five percent (5%).

- B.** Effective June 1, 2010: The Village agrees to adjust the 2009-2010 salary scale by an amount equal to the annual percentage increase in the CPI-W as reported by the Bureau of Labor Statistics for 2009 provided that the minimum adjustment shall be one and one-half percent (1.5%) and the maximum adjustment shall be five percent (5%).
- C.** Effective June 1, 2011: The Village agrees to adjust the 2010-2011 salary scale by an amount equal to the annual percentage increase in the CPI-W as reported by the Bureau of Labor Statistics for 2010 provided that the minimum adjustment shall be one and one-half percent (1.5%) and the maximum adjustment shall be five percent (5%).
- D.** Effective June 1, 2012: The Village agrees to adjust the 2011-2012 salary scale by an amount equal to the annual percentage increase in the CPI-W as reported by the Bureau of Labor Statistics for 2011 provided that the minimum adjustment shall be one and one-half percent (1.5%) and the maximum adjustment shall be five percent (5%).
- E.** Effective June 1, 2013: The Village agrees to adjust the 2012-2013 salary scale by an amount equal to the annual percentage increase in the CPI-W as reported by the Bureau of Labor Statistics for 2012 provided that the minimum adjustment shall be one and one-half percent (1.5%) and the maximum adjustment shall be five percent (5%).
- F.** Effective June 1, 2014: The Village agrees to adjust the 2013-2014 salary scale by an amount equal to the annual percentage increase in the CPI-W as reported by the Bureau of Labor Statistics for 2013 provided that the minimum adjustment shall be one and one-half percent (1.5%) and the maximum adjustment shall be five percent (5%).
- G.** Effective June 1, 2015: The Village agrees to adjust the 2014-2015 salary scale by an amount equal to the annual percentage increase in the CPI-W as reported by the Bureau of Labor Statistics for 2014 provided that the minimum adjustment shall be one and one-half percent (1.5%) and the maximum adjustment shall be five percent (5%).
- H.** Initial placement on the wage schedule for any particular job title shall be decided by the Village in its discretion.

## **Section 2 – Step Increases**

- A.** Beginning June 1, 2009, and during the term of this agreement only, movement from any wage step for any particular job title to the next higher wage step for that title shall be based solely on performance. To be eligible for consideration for a step increase of any type, an employee must have worked at least 10 months in the wage step for the job title from which they seek to be promoted. Village

employees eligible for step increases shall be evaluated by the Village on an annual basis using the Employee Performance Appraisal Form attached to this agreement as Appendix II. Employees eligible for step increases shall receive a copy of their written performance appraisal and shall meet with the person or persons who prepared that performance appraisal to discuss its contents prior to May 15<sup>th</sup> of any contract year. No employee may be promoted more than one wage step in any contract year, except by promotion to a higher job title.

- B. Employees eligible to be considered for step increases to the second, third or fourth step of any particular job title shall be promoted to the next higher wage step for that title if they receive a total overall rating of their performance which equals or exceeds five (5) points. Employees eligible to be considered for step increases to the fifth, sixth, seventh or eighth steps of any particular job title may, with the Superintendent of Public Works' approval, be promoted to the next higher wage step of that title provided they receive a total overall rating of their performance which equals or exceeds eight (8) points.
- C. Employees who are eligible to be considered for promotion to the second, third, or fourth steps of the wage schedule for any particular job title, but who are not promoted to those steps by the Village in any particular contract year, may protest that decision through the grievance/arbitration machinery. Grievances protesting the failure to promote a Village employee to the second, third or fourth step of any wage schedule, which are not resolved prior to arbitration, shall be combined and submitted to a single arbitrator for review. If the arbitrator finds that the Village acted arbitrarily in its decision regarding a particular employee's promotion to the second, third or fourth wage step or that the Village failed to follow the evaluation procedure established by this provision in denying that promotion, then the arbitrator shall direct the Village to promote the employee to the next higher step (that is, the second, third or fourth step, whichever is applicable) of the wage schedule for that employee's job title. The arbitrator's decision shall be final and binding on the parties. Any adjustments to an employee's wages required by a step increase ordered by an arbitrator shall automatically be retroactive to June 1<sup>st</sup> of the year following the employee's evaluation period.

Decisions by the Village not to promote any employee to the fifth, sixth, seventh or eighth step of the wage schedule for any job title shall not be arbitral or reviewable in any forum.

### **Section 3 – Direct Deposit**

The parties agree that the Village of Webster may offer bargaining unit employees the option of having their wages directly deposited in banks or other financial institutions with whom the Village has made appropriate arrangements for the direct deposit.

**ARTICLE XIII**  
**OVERTIME**

**Section 1 – Overtime**

Recognizing the substantial public interest in the prompt and efficient delivery of services to the Village's residents, employees shall be required to work overtime upon request. The Village shall use its best efforts to notify employees required to work overtime as far in advance as possible of their regular quitting time to allow them to make proper preparations. Employees shall be responsible for insuring that the Village is able to contact them should the need for overtime work arise. If the Village is not able to contact an employee to request that employee to work overtime or if the employee fails or refuses to respond to a request to work overtime, then the Village may take appropriate disciplinary action which may range from a verbal warning, to a permanent or temporary reduction in wage grade, and all the way to discharge. The Village, in its sole discretion, shall determine when overtime work is needed, who shall receive overtime work and the duration of any overtime assignment. If the Village determines that overtime work is needed, and, after exhausting the overtime roster, decides that the work cannot effectively, efficiently, or safely be performed by Village employees then available, then the Village is free to take all steps it deems necessary to complete the work, including the use of outside vendors, without breaching any legal or contractual obligation owed to the Union or to its employees.

Employees who actually work more than forty (40) hours per week shall be paid for that time at one and one-half (1 1/2) times their regular rate, as that term is defined under the Fair Labor Standards Act. No employee shall work overtime unless expressly authorized by the Village. Paid leave time shall be considered working time for purposes of computing overtime.

Any replacement policy for the discontinued weekend duty policy shall be negotiated with the Union.

**ARTICLE XIV**  
**SHIFT TIME DIFFERENTIAL**

An additional increment of \$2.00 per hour shall be paid to employees who are directed by the Superintendent of Public Works to work during full 8-hour shifts that are scheduled outside of the normal working hours of 6:00 AM to 6:00 PM. Shift time differential shall only be paid for those hours worked outside of the normal working hours of 6:00 AM until 6:00 PM. Shift time differential shall not be paid for any overtime hours that are not part of a specific shift scheduled outside normal working hours or for work performed on a rotating shift, except as otherwise provided in this agreement.

**ARTICLE XV**  
**CALL IN PAY**

Employees who are called to work outside their scheduled working hours shall be paid, at time and one-half their regular rate, for the actual hours worked or one (1) hour, whichever is higher. Employees who are called back to work may be required to perform their regular work or any other work that they are capable of performing.

**ARTICLE XVI**  
**HEALTH INSURANCE BENEFITS**

**Section 1**

The Village shall offer employees covered by this agreement with health insurance through Blue Cross Blue Shield, Excellus, Healthy Blue, Health Savings Account Option Two, in network including the 100/50 Smile Saver dental plan.

**Section 2**

The Village reserves the right, in its discretion, to provide health and dental insurance coverage similar to that established by this agreement through any provider it chooses or through self-insurance, provided that the benefits enjoyed by employees under this agreement will not be diminished without the express, written consent of the union. The provisions of this agreement with respect to payment for health insurance coverage also shall apply to health insurance coverage provided through self-insurance or providers other than Blue Cross Blue Shield, Excellus.

**Section 3**

The union employee has the right to refuse the Healthy Blue coverage and stay with Blue Cross Blue Shield Value Plan. The union employee would in doing so, agree to pay for the added costs associated with staying on that plan above and beyond the cost of the Healthy Blue plan.

**Section 4**

**A.** The Village shall contribute toward the cost of the health insurance program selected by an employee an amount equal to the cost of single or family coverage, whichever is applicable, under the Healthy Blue Plan. The Village's contribution

towards the cost of health insurance will remain at the out-of-pocket deductible and monthly premiums for the Healthy Blue Plan. The employee that remains on the Value Plan will be responsible for all increases above and beyond the Healthy Blue Plan option.

**B.** The Village shall pay the full cost of dental insurance, single or family plan, under the 100/50 smile saver dental plan.

**C.** Since the Healthy Blue Plan is better coverage than the Blue Choice Select Plan, no added help with co-pays will be offered to those that stay on the Value Plan.

**D.** The out-of-pocket deductible for single, family or two person Healthy Blue policies will be deposited every January 1<sup>st</sup> or first business day in January, into each individual employee's Health Savings Account to be known as (HSA) bank account determined by the Village of Webster.

The HSA bank account is established for the purpose of fulfilling the "out of pocket" deductible requirements. Any use of said monies for non-deductible medical expenses will be taxed as revenue to the employee and will be fined according to the IRS standards and tax laws. The HSA bank account is the sole responsibility of the employee. The Village of Webster has no responsibility for managing the account.

If the employee fails to manage their HSA accounts properly, the Village of Webster has no responsibility for the remaining deductible or "out of pocket" expenses required for the remaining fiscal year. It is the responsibility of the employee, to keep track of deposits, expenditures and all of their receipts to verify the amount spent towards their deductible. The employee may need to send copies of receipts to Blue Cross Blue Shield to insure they were recorded towards the deductible.

The employee is allowed by the IRS to invest the funds in their HSA. The same types of investments permitted for IRA's are allowed HSA's including stocks, bonds, mutual funds, and certificates of deposit. This is certainly at the employee's own risk.

**E.** The Healthy Blue Health Savings Account (HBHSA) Option Two, In Network Plan will cover employee/retiree until the age of 65. At the age of 65 the employee/retiree will be required to move to an approved senior care plan.

At age 65 you can continue to use your account tax-free for out-of-pocket health expenses. If you need to move to a senior care plan and your wife/husband is not yet 65 you can use your savings in this account over the years to pay for your senior plan and the Village will take out a single HSA plan for your spouse until they reach 65. If the employee still has dependents living at home that he/she can claim on their tax return at the time he turns 65, the Village of Webster will provide a two-person or family HSA Plan account. The Village of Webster will provide the cost for one plan only; since the senior plan is less costly, it will be assumed the plan of choice for the employee to pay.

The Village will then take on the responsibility of paying for the spouses HSA until the spouse reaches 65 given the employee is still employed for the Village of Webster or is retired with 20 years of service and meets requirements of Article XVI, Section 6. If the employee/retiree dies, the spouse will be responsible for the cost of their healthcare.

Once you reach 65, you can also use your account to pay for things other than medical expenses. If used for other expenses, the amount withdrawn will be taxable as income but will not be subject to any other penalties at age 65. Individuals under age 65 who use their accounts for non-medical expenses must pay income tax and a 10% penalty on the amount withdrawn.

**F.** In order to qualify for the HBHSA Plan, the employee/retiree or employees/retirees spouse or dependent must not be participating in any other health care provider's plan.

**G.** The employee has the right to **not** accept any healthcare coverage from the Village of Webster. They also have the ability to participate in all medical and dental insurance buy-outs as stated in the Village of Webster employee handbook.

### **Section 5**

The Union recognizes the substantial increases in health insurance premiums for plans available in the Rochester, New York area which have occurred in the recent past and agrees that continued increases in health insurance premiums will have a direct bearing on the Village's ability to offer employees additional economic benefits in the future, or, in extreme circumstances, to continue the economic benefits which they currently enjoy.

### **Section 6**

The Village shall pay the full cost of health insurance (excluding dental) for eligible retired Village employees. To be eligible for this benefit, the retired former employees must be at least 55 years old, eligible for retirement under the NYSERS, have at least 20 years of active service in the Village, and have been a member of the health insurance plan sought to be continued for at least one (1) year prior to retirement.

## **ARTICLE XVII** **VACATION**

### **Section 1**

Employees shall not receive or be eligible for paid vacation days during the first year of their employment.

## **Section 2**

After completing one (1) year of continuous employment, full-time employees shall receive ten (10) paid vacation days per year. After completing four (4) years of continuous employment, full-time employees shall receive fifteen (15) paid vacation days per year. After completing twelve (12) years of continuous employment, full-time employees shall receive twenty (20) paid vacation days per year. After completing eighteen (18) years of continuous employment, full time employees shall receive twenty-five (25) paid vacation days per year. After completing twenty-five (25) years of continuous employment, full-time employees shall receive thirty (30) paid vacation days per year.

## **Section 3**

Accrued vacation days must be used no later than the next anniversary date of the employee's hire, provided, however, that the Superintendent of Public Works, in his sole discretion, may permit an employee to carry over up to five (5) accrued vacation days from one calendar year to the next.

## **Section 4**

Employees may not use accrued vacation in increments less than one hour.

## **Section 5**

Employees must submit a written request for vacation as soon as possible prior to the anticipated starting date of the vacation. Recognizing the need to ensure the continuous and effective delivery of services to Village residents, it is agreed that the Village shall retain the right to approve or deny vacations. Employees may not take vacation without the prior approval of the Superintendent of Public Works or his designated representative. For operational reasons, the Village may rescind its approval of an employee's request for vacation.

## **Section 6**

For operational reasons, no more than two (2) employees of the Public Works Department may be granted vacation at the same time and no more than one (1) employee in the Water and the Waste Water Departments may be granted vacation at the same time.

# **ARTICLE XVIII HOLIDAYS**

## **Section 1**

All full-time employees shall receive the following paid holidays:

- A. New Years Day
- B. Memorial Day
- C. Independence Day
- D. Labor Day
- E. Thanksgiving Day
- F. Day After Thanksgiving Day
- G. Day Before or Day After Independence Day as determined by the Village
- H. Christmas Day
- I. Floating Holiday. No more than one employee from Water and Waste Water and two DPW employees may be granted this floating holiday at the same time unless all employees want the same day off.
- J. Washington's Birthday
- K. Good Friday
- L. Columbus Day
- M. Veterans' Day

If a paid holiday falls on a Saturday, the prior Friday shall be designated as a paid holiday. If a paid holiday falls on a Sunday, the subsequent Monday shall be designated as a paid holiday.

### **Section 3**

To be eligible for holiday pay, an employee must be employed full-time for at least thirty (30) days and must work the workday before and the workday following the holiday unless excused by the Village.

### **Section 4**

If a holiday occurs while an employee is on vacation, emergency leave or sick leave, the employee shall receive holiday pay for that day and no deduction from the employee's accumulated vacation or sick time shall be made for that day.

### **Section 5**

Employees who actually work on a scheduled or designated holiday shall be paid for hours worked at time and one-half their normal hourly rate plus pay for the holiday. This rule shall apply to employees working a rotating shift.

**ARTICLE XIX**  
**SICK LEAVE**

**Section 1**

All full-time employees shall accrue one (1) day of paid sick leave for each complete month of active employment with unlimited accumulation. Employees who have accumulated at least 175 sick days may redeem up to 10 sick days per contract year at a flat rate of \$100 per day less withholding required by law. Requests to redeem sick days must be in writing and shall be submitted to the Village Treasurer. Payments for approved requests to redeem sick leave shall be made in the first payroll in June and the first payroll for December of each year, except that the Village may make payments at any other times if it is satisfied that such payments are warranted by emergency circumstances that could not have been foreseen by the requesting employee. Requests for payments in June must be submitted on or before May 15, and requests for payments in December must be submitted on or before November 15.

**Section 2**

Employees may use sick days for personal illness only. For any illness of three days or more, the Village reserves the right, in its discretion, to request written verification from a physician of any employee's illness or ability to return to work.

**Section 3**

The Village may require any employee who is absent from work for more than one (1) consecutive week or more than ten (10) days in any calendar year to be examined by a physician.

**Section 4**

To be eligible for sick pay, an employee must report his illness to the Village no later than one-half hour before the employee's normal starting time on the first day of any absence. The Village, in its discretion, may excuse an employee's failure to make a timely report of his absence.

**ARTICLE XX**  
**EMERGENCY LEAVE**

All full-time employees who have been employed for at least one (1) year shall be given up to three (3) days of leave with pay when a death or acute illness occurs in their immediate family which shall include their parents, spouse, children, brothers, sisters, grandparents or a person occupying the position of a parent of the employee's household.

**ARTICLE XXI**  
**PERSONAL DAYS**

**Section 1**

Full-time employees who have completed their probationary period shall receive one (1) personal day (8 hours) per year. Personal days may be used only for religious observance or to conduct business or pursue activities that reasonably cannot be performed during non-working hours. Personal leave may not be taken without the prior approval of any employee's Supervisor.

**Section 2**

Personal leave may not be accumulated from year to year, and may not be used in less than one-half hour increments.

**ARTICLE XXII**  
**JURY DUTY**

Employees who are required to serve on jury duty shall be excused from the performance of their duties with pay but shall be required to report to work when their presence is not required by the Court. Any reimbursement or pay that an employee receives for jury duty, with the exception of payment for meals and travel, shall be given to the Village. Employees who are called to serve on jury duty agree to cooperate with the Village when, in the Village's opinion, deferral or postponement of jury duty is appropriate.

**ARTICLE XXIII**  
**MILITARY LEAVE**

**Section 1**

The Village recognizes its obligations to employees who enlist in the armed forces or are members of the National Guard or the Armed Forces Reserves under New York Military Law, Sections 242 and 243 and the Uniformed Services Employment and Re-Employment Rights Act of 1994. A basic summary of employees' rights under these laws is contained in Appendix IV to this agreement, and the Village confirms its intent to abide by these laws.

**Section 2**

Employees entitled to military leave under state or federal law shall comply with the following requirements:

- A. The employee shall notify his immediate supervisor of any military leave or assignment in writing as far in advance of the leave or assignment as possible but not later than the first available opportunity following receipt of military orders or other notification of assignment. Upon request, the employee must provide his immediate supervisor with a copy of his military orders or assignment.
- B. An employee who takes military leave shall be responsible for furnishing to his immediate supervisor an official record of time spent on military leave or assignment if the employee is entitled to payment for all or part of that time.
- C. The employee will cooperate with the Village to request deferral of military duty when, in the Village's judgment, deferral is necessary or appropriate.
- D. The Village may adjust the work schedule of any employee whose military duty requires attendance on weekends if that employee's work schedule also requires weekend work.

**ARTICLE XXIV**  
**UNPAID LEAVE OF ABSENCE**

A leave of absence may be granted to full-time employees. The leave may be granted at the discretion of the Village Board for a period not to exceed six months without pay or benefits. Employees applying for unpaid leave should notify the Superintendent of Public Works as soon as possible so that arrangements for substitute help can be made if the leave request is granted. Previously accumulated sick leave may be carried over until return. Accumulated vacation must be used before a leave of absence may be granted. Employees on unpaid leave will not be paid for holidays that occur during the leave. Unpaid leave may not immediately precede or follow any established holiday or vacation period.

**ARTICLE XXV**  
**ROTATING SHIFT**

Employees who are scheduled by the Superintendent of Public Works to work a split shift from 7:00 AM to 9:00 AM and 2:30 PM to 4:30 PM on Saturdays or Sundays shall be paid for hours actually worked at shift differential rates and shall receive compensatory time off without pay for these hours. Compensatory time without pay shall equal one and one-half times the number of hours actually worked. Any work performed on Saturday or Sunday outside the scheduled split shift or which exceeds 40 hours of work during that pay week shall be paid at time and one-half the employee's regular rate of pay.

Employees who are scheduled by the Superintendent of Public Works to work a split shift from 7:00 AM to 9:00 AM and 2:30 PM to 4:30 PM on scheduled or designated holidays

shall be paid at one and one-half times an employee's normal hourly rate for these hours plus holiday pay, if provided by this agreement.

### **ARTICLE XXVI REQUIRED LICENSES**

An employee required to obtain a special license (other than a typical class D license) in order to operate vehicles or equipment of the Village shall be granted time off with pay for the purpose of taking any necessary test, and the Village will reimburse the employee for the cost of such license(s). This provision shall apply only to licenses that are prerequisites to the employee's job. It is the employee's responsibility to continue and renew the special license, and the employee shall be reimbursed by the Village for the cost of renewing the license.

### **ARTICLE XXVII VOLUNTEER FIRE DEPARTMENT RESPONSE**

Employees who are members of a Volunteer Fire Department will not automatically respond to a fire call while they are on Village time. All Webster fire calls are monitored by the Village Office and if any fire call requires additional help, then a request for response by Village employees will be sent to the employee's location of work. If a fireman monitors a call for which he feels an immediate compulsion to respond then he shall contact his immediate supervisor by phone, radio or verbally to acknowledge release to the fire call.

If Village vehicles are the only immediate means of transportation from a work area then following his Supervisor's authorization he may either be taxied or return a vehicle to its proper housing in order to respond to the fire call via his personal vehicle.

Employees who are assigned specific responsibilities for Village functions, such as weekend duty, shall not respond to a fire call during the assigned period of responsibility. The employees shall, however, give all necessary support and coordination as may be required for any emergency.

### **ARTICLE XXVIII TUITION REIMBURSEMENT**

Any employee covered by the bargaining unit may apply for tuition reimbursement, in writing to their immediate supervisor 90 days prior to the beginning of the college semester.

The Village must notify each employee, in writing, of acceptance or disapproval for tuition reimbursement within 30 days of the beginning of the college semester.

The desired course work must be directly related to work actually done by an employee at work which may be reasonably expected to be performed by the employee in the near future. The Village shall determine what courses are related to the employee's work.

Tuition reimbursement will be granted to employees only for course work or degree programs taken outside of normal work hours.

The maximum reimbursement to any employee will be equal to 90% of the tuition, to a maximum of \$1,500.00 in any one calendar year.

Reimbursement shall be made only upon submission of evidence of satisfactory completion of the course.

## **ARTICLE XXIX** **SUBCONTRACTING**

Should the Village contemplate subcontracting or transferring work performed by Village employees to other public or private persons or entities and where bargaining over the decision to subcontract or the impact of the decision to subcontract is required under the Taylor Law, New York Civil Service Law Section 200 et seq., the parties agree to proceed as follows:

- A. The Village shall advise the local CSEA representative in writing that it is contemplating subcontracting of certain Village work and shall send a copy of that written notification by certified mail, return receipt requested, to CSEA Inc., 332 Jefferson Road, Rochester, New York 14623.
- B. If the Village certifies and represents that the contemplated subcontracting will not adversely impact the normal pay, benefits and other terms of employment of any bargaining unit employee, it shall be allowed to subcontract without negotiating the decision to subcontract or the impact of that decision with the Union. Upon request, however, the Village will meet with the Union to explain what work will be subcontracted and the reasons for that decision.
- C. If the Village fails or refuses to certify that the contemplated subcontracting will not adversely affect the normal pay, benefits and other terms of employment of bargaining unit employees, then, upon request from the Union, the Village shall meet with the Union (within 10 days of its receipt of the request and at reasonable times thereafter) to negotiate in good faith regarding the decision to subcontract as well as the impact of that decision.

1. If the Village and the Union are not able to reach agreement on the issue of subcontracting and its impact within 60 days of the Village's initial notice to the Union that it was contemplating subcontracting, the Village may decide whether to subcontract and may implement its decision, provided no bargaining unit employee shall suffer reduction in pay or benefits for 60 days after the Village announces its decision to subcontract. During this 60 day period, bargaining unit employees whose employment might be terminated or whose pay or benefits might be adversely affected by the contemplated subcontracting shall be identified and shall receive reasonable assistance from the Village in locating alternative employment which shall include reasonable paid leave from work (not to exceed ten (10) hours in any week) for the purpose of locating alternative employment, attending interviews, or attending to other matters relating to the employee's job search.
2. After 60 days has elapsed from the date that the Village announces its decision to subcontract, the decision to subcontract may be implemented fully (which may include layoffs, termination, transfer, etc.), provided that the Village shall continue to have an obligation to negotiate with the Union about the impact of the subcontracting decision which shall include exhaustion of the impasse procedures under the Taylor Law, New York Civil Service Law Section 200 et seq.

## **ARTICLE XXX**

### **SAFETY**

#### **Section 1 – Safety Equipment**

Promoting safety in the workplace is an objective shared by the Union, the Village and the Village's employees; therefore, the Union, the Village and the Village's employees commit themselves to the cooperative enforcement of the Village's safety rules and regulations as well as all applicable federal and state safety rules and regulations. Toward this end, employees are required to use and wear safety equipment as dictated by the Village's safety regulations or applicable federal or state safety rules and regulations. Required safety equipment will be provided by the Village without cost to its employees and shall be worn and used by employees in the performance of their job duties. The Village reserves the right, however, to require employees to pay for replacement safety equipment, if any employee repeatedly loses or damages the safety equipment proved him (normal wear and tear excepted).

#### **Section 2 – Safety and Work Clothing Provision**

The Village provides the following safety gear: hard hat, two piece rain suit, slip-on overshoe boots, pull-on thigh boots, goggles, ear plugs, steel-toed working shoes and

steel-toed pull-on boots. Hard hats will be worn at all times while conducting Village business or work functions unless the business or work function is specifically exempted. The Village provides seven sets of work clothing consisting of pants and shirts through a program which includes the regular cleaning of this clothing. The Village provides one pair of coveralls per week. Between Memorial Day and Labor Day of each year, employees will be allowed to wear an orange or blue tee shirt instead of the long sleeve shirt provided.

### **Section 3 – Safety Shoe Policy**

All Public Works employees shall be required to wear safety shoes with a minimum compliance to the American National Standards Institute (ANSI) Safety Toe Footwear, 2.41.1-1967. These safety shoes shall be worn at all times while conducting Village of Webster business or work functions. The Village will supply the first pair, or any approved replacement pair, of safety shoes of the employee's choice. Safety shoes may be purchased on employee's anniversary date not to exceed one pair per year, upon the turn in or exchange of a worn out pair of safety shoes. Additional pairs of safety shoes may be purchased by the employee, at the employee's expense, through a Village of Webster payroll deduction.

The parties recognize and agree that employees are responsible for properly caring for and maintaining their safety shoes which, at a minimum, includes regular oiling of the leather and appropriate use of protective boots. The Village, however, recognizes that, in certain circumstances, safety shoes which have been properly maintained and used may become damaged, destroyed or simply worn out in less than a year. The Village will replace safety shoes that are destroyed, damaged or worn so as to render them unfit or unsafe for continued use, provided the damage, destruction or wear occurs while an employee is pursuing Village business and further provided that the damage, destruction or wear to the shoes is promptly reported to the employee's supervisor. Replacement of damaged, destroyed or worn shoes shall be at no cost to the employee. The Village shall not be obligated to replace shoes destroyed, damaged or worn in less than a year time, if the shoes have not been properly maintained.

### **Section 4 – Safety Glasses Policy**

Safety glasses will be provided by the Village of Webster for their employees once a year on their anniversary dates. The Village of Webster will pay \$75.00 for single vision, \$100.00 for bifocals, or trifocals, and \$130.00 for progressions. The employee pays for any charges over those amounts.

**ARTICLE XXXI**  
**GRIEVANCE PROCEDURE**

**Section 1 – Definition of Grievance**

A grievance is a claim that there has been a violation, misinterpretation or inequitable application of a specific provision of this agreement or of any applicable Village work rule. A grievance does not include any matter covered by the state or local civil service laws or rules, or any matters otherwise covered by law, except that this grievance procedure shall replace and supersede any hearing or procedure to which an employee might be entitled under Sections 75, 76 or 77 of the New York Civil Service Law or related statutory provisions governing the discipline or discharge of civil service employees only.

**Section 2 – Procedure for Resolution of Grievances**

**STEP 1:** As a condition precedent to the processing or consideration of a grievance, an aggrieved employee must present the grievance in writing to the Assistant Superintendent for Public Works within five (5) working days of the act or occurrence giving rise to the grievance and must attempt to resolve the grievance informally at that level. The written grievance must set forth the specific provision of the agreement alleged to have been misapplied or violated and should describe in reasonable detail the facts and circumstances on which the grievance is based.

**STEP 2:** If the grievance is not resolved informally or answered within five (5) working days of the date that it is submitted to the Assistant Superintendent for Public Works, then the grievant or the Union may submit the grievance to the Superintendent of Public Works or his designated representative no later than ten (10) working days after the grievance was submitted to the Assistant Superintendent for Public Works. The Superintendent of Public Works shall investigate and consider the grievance and may hold a meeting with the aggrieved employee, a Union representative if requested by the aggrieved employee, and representatives of the Village. The Superintendent of Public Works or his designated representative shall render a written decision on the grievance within ten (10) working days of receipt of the written grievance and shall send copies of the decision to the Union and the grievant.

**STEP 3:**

- A. If the grievance is not resolved at the previous step, and the Union desires to submit the grievance to arbitration, then no later than ten (10) working days after the Union receives the Superintendent of Public Works' written decision, the Union shall submit to the Superintendent of Public Works or his designated representative written notice of its intent to proceed to arbitration and shall simultaneously forward a copy of that notice to the New York State Public Employment Relations Board with a request for voluntary arbitration according to PERB's rules of procedure.

- B.** Arbitration shall not be obtainable if the grievance:
1. Involves the existence of alleged violations of any agreement other than the current agreement between the parties;
  2. Would require an arbitrator to consider, rule on, or decide any issue which is not a “grievance” as that term is defined in this agreement;
  3. Pertains in any way to the establishment, administration, interpretation or application of insurance, pension, savings or other employee welfare benefit plans in which employees are eligible to participate; or
  4. Involves discipline or discharge of employees who have not satisfactorily completed their probationary period.
- C.** The arbitrator shall have no power or authority to ignore, add to, subtract from or modify any provision of this agreement. No decision by the arbitrator shall require retroactive action of any kind beyond the thirty (30) calendar days preceding the date the grievance was initiated. The arbitrator’s decision shall be final and binding on the parties, subject to judicial review as provided by law.
- D.** No arbitrator shall decide more than one grievance except by the mutual agreement of the parties. The fees and expenses of the arbitrator and the cost of the hearing room shall be shared equally by the Village and the Union. All other expenses shall be borne by the party incurring them, and neither party shall be responsible for the other party’s share of the divided costs or of the expense of witnesses or participants called by the other.

### **Section 3**

The time limits for initiating and processing a grievance are mandatory and shall be considered conditions precedent to the Village’s obligation to entertain a grievance. The resolution of a grievance at any particular step shall be final, if the grievant fails to pursue the grievance to the next step in the grievance procedure within the time limits prescribed by this agreement. The Village’s failure at any step of the grievance procedure to communicate its decision within the time required shall permit the lodging of an appeal at the next step of the procedure within the time which would have been allotted had the decision been communicated to the grievant of the Union on the final day.

### **Section 4**

The time limits established by this grievance procedure may be extended only by written agreement of the parties. Any extension of time for a particular grievance, however, shall not alter or modify the time limits for processing any other grievance.

**ARTICLE XXXII**  
**SEVERABILITY**

In the event that any provision of this agreement between the parties shall be held by the operation of law or by a court or administrative agency of competent jurisdiction to be unlawful or unenforceable, the remaining provisions of this agreement shall not be affected thereby, but shall be continued in full force and effect. If a provision is declared to be unlawful or unenforceable and that decision becomes final (that is, not subject or appeal or other attack by either the Village or the Union), then, upon written request of either party, the parties shall meet within thirty (30) days to discuss modification or replacement of the unlawful or unenforceable provision.

**ARTICLE XXXIII**  
**COMPLETE AGREEMENT**

The parties acknowledge that this agreement establishes the terms and conditions of employment for employees within its coverage and supersedes any rules or regulations or practices which are contrary to or inconsistent with its terms. The parties further acknowledge that they have had ample opportunity to negotiate about all existing past practices affecting mandatory subjects of collective bargaining; therefore, the Village shall not be required to continue any existing past practice not expressly incorporated into this agreement. Should the Village decide not to continue an existing past practice, not incorporated in this agreement, it shall notify the Union of its decision and meet with the Union to discuss its decision, provided that nothing in this provision shall diminish or affect the Village's right to implement its decision.

**ARTICLE XXXIV**  
**DURATION AND CHANGES**

**Section 1**

Subject to ratification and legislative approval by the Village Board and ratification by the Union membership, this agreement shall become effective on the date it is executed by the parties and shall remain and continue in effect until May 31, 2016. Where specific provisions of this agreement provide for different effective dates, the effective dates of the specific provision shall apply and govern.

**Section 2**

The parties acknowledge that the provisions of this agreement may not be altered, modified, supplemented or deleted except by written amendment executed by the parties.

**ARTICLE XXXV**  
**MISCELLANEOUS**

**Section 1**

The Village shall pay employees subject to this agreement on a bi-weekly basis.

**Section 2**

Paychecks will be distributed to employees at the beginning of their meal break on the last scheduled workday in any particular week.

**Section 3**

If either party desires to delete, modify or supplement any of the provisions of this agreement, that party shall give written notice to the other party specifying the changes desired at least 180 calendar days prior to the expiration of this agreement. If notice served, the party receiving notice must notify the party giving notice of additional changes to the agreement which it desires within 15 calendar days. Once both parties have served written notice of proposed modifications to the agreement, they shall use their best efforts to commence negotiations within 15 calendar days, and, at their initial meeting, shall discuss and, to the extent feasible, arrange a schedule of dates for negotiations concerning a successor agreement.

The parties agree to use their best efforts to meet this negotiations schedule; however, failure to do so shall not result in automatic renewal of the contract or otherwise limit either party's bargaining rights.

**Section 4**

To encourage Village employees to purchase cellular telephones or pagers and thereby improve communications for emergency response and other legitimate government purposes, the Village shall pay \$6.25 per month to employees who: (a) have acquired cellular telephones or pagers at their own expense, (b) have provided their cellular telephone and pager numbers to the Village, and (c) have regularly responded to calls from the Village placed to their cellular telephones or pagers.

**Section 5 – Weekend Duty**

When needed, employees will be asked to cover emergency calls on weekends and holidays. Employees must have a cell phone. The employee will receive four hours compensation time each for Saturday, Sunday and Holidays. If a call is received for the employees area of work (DPW, Water, and Sewer) they may work the overtime needed to complete the job. If the call is for another area of work they will contact a person in that

department to take care of the problem. There will be a rotating list of employees, and if an employee refuses to work the weekend duty, they will go to the bottom of the list.

**FOR THE UNION:**

**FOR THE VILLAGE OF WEBSTER:**

\_\_\_\_\_  
**John Carnevale**  
**CSEA Unit President**

\_\_\_\_\_  
**James (Jake) Singly**  
**Village of Webster Mayor**

**DATED:** \_\_\_\_\_

**DATED:** \_\_\_\_\_

\_\_\_\_\_  
**William Gutschow**  
**CSEA Labor Relations Specialist**

\_\_\_\_\_  
**William Southwell**  
**Superintendent of Public Works**

**DATED:** \_\_\_\_\_

**DATED:** \_\_\_\_\_

## APPENDIX I

Employees hired after 6/1/2009

### Water Department

Asst. Chief Plant Operator

21.82 22.47 23.14 23.83  
19.38 19.96 20.56 21.18

Grade IIB Operator

19.38 19.96 20.56 21.18  
17.22 17.74 18.27 18.82

Operator Serviceman

17.22 17.74 18.27 18.82  
15.30 15.76 16.23 16.72

Laborer

15.76 16.23 16.72 17.22  
14.00 14.42 14.85 15.30

### Waste Water Treatment

Chief Plant Operator

21.82 22.47 23.14 23.83  
19.38 19.96 20.56 21.18

Grade III Operator

19.38 19.96 20.56 21.18  
17.22 17.74 18.27 18.82

Grade II Operator

17.22 17.74 18.27 18.82  
15.30 15.76 16.23 16.72

Laborer

15.76 16.23 16.72 17.22  
14.00 14.42 14.85 15.30

## DPW

Working Foreman

19.38 19.96 20.56 21.18  
17.22 17.74 18.27 18.82

Operator-Laborer-Mechanic

17.22 17.74 18.27 18.82  
15.30 15.76 16.23 16.72

Laborer

15.76 16.23 16.72 17.22  
14.00 14.42 14.85 15.30





## APPENDIX III

### **SUMMARY OF RIGHTS AND DUTIES UNDER THE UNIFORMED SERVICES EMPLOYMENT AND RE-EMPLOYMENT RIGHTS ACT OF 1994 AND THE NEW YORK MILITARY LAW**

Recognizing the substantial contribution that the men and women enrolled in the armed forces make to our country, there are federal and state laws which protect the employment interests of public employees who serve in the armed forces\*. As a general rule, these laws provide that public employees who enlist or are drafted into military service and who leave a position, other than a temporary position, are entitled to reinstatement to that position, if they: **(a)** receive an honorable or general discharge; **(b)** apply for re-employment within specific time frames dependent on their length of military service; and **(c)** are qualified to perform the duties of their former position or a comparable position with reasonable training efforts by the employer.

Eligible veterans who apply for reinstatement generally must be reinstated to the position which they held before entering military service or a position of like seniority, status and pay, provided they are qualified to perform the duties of the position to which they are returning. An eligible veteran who is not qualified to perform the duties of his or her former position because of a disability sustained during military service must be offered, as a general rule, employment in a position that most nearly approximates the seniority, status and pay of his former position and involves duties that he or she is qualified, or with reasonable efforts could become qualified, to perform. An employer, however is not required to reinstate an eligible veteran if its circumstances have so changed “as to make it impossible or unreasonable to do so”, or if reinstatement of a veteran who is not qualified for the position would pose an undue hardship. Clearly, issues concerning a particular employee’s continued ability to perform the duties of his former position or an employer’s “changed circumstances” must be evaluated on a case-by-case basis and turn upon the particular facts and circumstances.

Eligible veterans who are reinstated to their former positions are entitled to certain rights upon reinstatement. As a general rule, returning veterans are considered to have been on leave of absence during the period of their military service and are entitled: **(a)** to be re-employed without loss of seniority; **(b)** to participate in insurance or other benefits which, at the time the eligible veteran entered the military service, the employer offered to employees on leave of absence; **(c)** to be protected against discharge without cause within one year (for service more than 180 days) and within six months (for service more than 30 but less than 181 days) after their re-employment; and **(d)** to receive wages and other benefits at the rate they would have enjoyed had they continued in their employer’s employ from the time they entered the military service to the time of their re-employment.

Under New York Military Law Section 242(5), “public employees” are entitled to receive their normal compensation from their employer while on “ordered military duty” not exceeding a total of thirty (30 days or twenty-two (22) working days, whichever is

greater. Both federal and New York law require public employers to excuse from employment any employee called to duty in the National Guard or in the reserves of any branch of the armed forces. As a general rule, employers must permit their employees to participate in military reserve training.

- \* **This appendix summarizes in a general way the various provisions of the federal and state laws governing military leave. See Uniformed Services Employment and Re-Employment Rights Act of 1994; Veterans' Re-Employment Rights Act, 38 U.S.C. Section 2021 et seq.; New York Military Law Subsection 242 and 243. Of course, the actual statutory provisions govern any particular circumstance, and employees who want information about the laws' application to them should review the precise terms of the statutes and consult with legal counsel.**