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**Contract Database Metadata Elements**

Title: **Kenmore, Village of and Kenmore Salaried Employees Association (2007)**

Employer Name: **Kenmore, Village of**

Union: **Kenmore Salaried Employees Association**

Effective Date: **06/01/07**

Expiration Date: **05/31/10**

PERB ID Number: **7640**

Unit Size: **8**

Number of Pages: **21**

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WC / 7640

**AGREEMENT**

**between**

**VILLAGE OF KENMORE**

**and**

**KENMORE SALARIED EMPLOYEES ASSOCIATION**

\* \* \*

**6/1/07 to 5/31/10**

**RECEIVED**

**OCT 15 2008**

**NYS PUBLIC EMPLOYMENT  
RELATIONS BOARD**

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**THIS AGREEMENT** is entered into this 22nd day of April, 2008, by and between the Village of Kenmore, New York (hereinafter called the "Village") and the Kenmore Salaried Employees Association (hereinafter called the "KSEA").

**WITNESSETH:**

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

**WHEREAS**, the Board, under law, has the final responsibility for establishing policies for the Village; and

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

**NOW THEREFORE**, the parties have reached certain understandings which they desire to confirm in this Agreement, it is agreed as follows:

**ARTICLE I  
RECOGNITION**

1.01 K.S.E.A. - The Village recognizes the Kenmore Salaried Employees Association as the exclusive representative and bargaining agent for employees within the bargaining unit as described in Section 1.02 of this Agreement.

1.02 UNIT - The employees covered by this Agreement shall include all the full-time clerical employees in the Clerk Treasurer's Office and Municipal Court holding the job titles in Article IV, paragraph 4.01. Part-time, seasonal and temporary employees are excluded from this unit.

1.03 FULL-TIME - Full-time employees shall mean any employee to whom the Village Board gives full employee benefits as set forth in this Agreement.

1.04 NO STRIKE - Pursuant to the requirement of law, the KSEA affirms that it does not assert the right to strike against any government, to assist or participate in any such strike, or to impose any obligation to conduct, assist or participate in such a strike.

**ARTICLE II  
UNION SECURITY AND CHECKOFF**

2.01 The Village will make available to all employees entering the bargaining unit a copy of the Agreement. The Village will provide this Agreement to all employees in the bargaining unit within a reasonable period of time following the execution thereof of this Agreement.

2.02 The Village will deduct from the salary of any employee in the unit who so authorizes, individually and voluntarily, in writing, the Union dues and will transmit these monies at least once each month to the Union. No deductions of dues shall be made until and unless the amount of dues to be deducted and any changes thereto are certified to the Village by an authorized Union representative.

2.03 The Union agrees to indemnify and hold harmless the Village from any causes of action, claims, loss, or damages incurred as a result of this clause.

2.04 The Union agrees to refund to the Village any amounts paid to it in error on account of checkoff provisions upon presentation of proper evidence thereof.

2.05 The Village recognizes that this is an Agency Fee agreement, and in accordance with such, it is understood that each employee who is a member of the bargaining unit, but is not a member of KSEA, shall be liable to contribute to the Union as representative costs, an amount equivalent to such dues as are from time to time authorized, levied and collected from the general membership of the Union. The Village of Kenmore agrees to deduct an amount equal to the normal monthly dues paid by members of this Union from the earnings of each of said employees covered by this Agreement after thirty (30) calendar days employed.

2.06 The Village will set aside no more than twenty (20) minutes during new employee orientation for a Union Steward designated by the Union to address bargaining unit members covered by this agreement.

**ARTICLE III  
MANAGEMENT RIGHTS**

3.01 RIGHTS - The Village maintains the exclusive right to direct the work force. This right shall include, but not be limited to, the right to:

- a. Direct employees;
- b. Hire, promote, transfer and assign;
- c. No member of the bargaining unit shall be discharged or otherwise disciplined except for just cause. Disputes concerning disciplinary action shall be resolved through the utilization of the grievance procedure set forth in this Agreement only and not according to the Civil Service Law Section 75;

d. Relieve employees from duty due to lack of work or for other legitimate reasons subject to prior notice to the Union;

e. Take any action necessary in order to maintain the efficiency of the department, determine the efficiency of the department, determine the method, means, manner and personnel by which services shall be rendered; and,

f. Take any actions necessary in situations of emergency, regardless of prior commitments, to carry out the responsibility of the Village to the Citizens of Kenmore. This section, as all other sections, is subject to the Grievance Procedure.

g. In making rules and regulations relating to personnel policy, procedure, practice and matters of working conditions, the Village shall be bound by obligations imposed by law, as well as the responsibilities set forth in this agreement.

3.02 RULES AND REGULATIONS - The right to make reasonable rules and regulations shall be an acknowledged function of the Village. In making rules and regulations relating to personnel policy, procedure, practices and matters of working conditions, the Village shall be bound by obligations imposed by law, as well as the responsibilities set forth in this Agreement.

3.03 PROBATION - All new employees hired as per Civil Service Law shall be considered as probationary employees for the first twenty-six (26) weeks of their employment. There shall be no fringe benefits as provided in this Agreement during the probationary period. Fringe benefits shall start the first of the month following the probationary period.

3.04 PROMOTIONS - The Village agrees to request of the Civil Service of Erie County, that a new examination be held within three (3) months of the expiration date of any eligible list for a competitive class position in the Village Clerk-Treasurer's Office. Notices of such examinations shall be posted on the Department bulletin boards.

3.05 JOB ASSIGNMENTS - Whenever an employee fills in at a higher classification involving a higher rate of pay for a period exceeding one (1) month or more due to another employee being on extended leave (not including vacation), such employee shall be paid (at the same step) at the higher classification. The higher wage rate shall take effect not later than upon completion of the one (1) month period.

3.06 Any changes in work rules or policies will be given to the Shop Steward a week prior to being implemented.

**ARTICLE IV  
COMPENSATION**

4.01 RATE SCHEDULE - Effective June 1, 2007, for employees hired on or after June 1, 2007, the job titles and annual salary shall be as follows:

<u>Group</u>	<u>6/1/07</u>	<u>6/1/08</u>	<u>6/1/09</u>
I. Clerk Clerk Typist	\$24,098	\$24,821	\$25,566
II. Senior Clerk Senior Clerk Typist	\$25,610	\$26,378	\$27,170
III. Clerk To Village Justice	\$26,265	\$27,053	\$27,865
IV. Account Clerk	\$27,141	\$27,955	\$28,794
V. Senior Account Clerk Bookkeeper	\$28,840	\$29,705	\$30,596

Employees employed within the bargaining unit prior to June 1, 2007, shall receive the following wage increases.

6/1/07	—	3%
6/1/08	—	3%
6/1/09	—	3%

4.02 WORK WEEK

a. The regular work week shall consist of thirty-five (35) hours with hours of 8:00 a.m. to 5:30 p.m. (45 minute lunch, a 4-day work week), or 8:00 a.m. to 4:00 p.m., or 9:30 a.m. to 5:30 p.m. (1 hour lunch, a 5-day work week). During the holiday weeks, when the following holidays fall, the work week shall consist of either 8:00 a.m. to 4:00 p.m., or 9:30 a.m. to 5:30 p.m. (1 hour lunch, a 5-day work week). The holiday weeks for such 5-day work weeks will be Thanksgiving week, Christmas week, New Year's week, and 4th of July week. The Court Clerk shall continue to work 9:00 a.m. to 5:00 p.m. (M, W-F) and 3:00 p.m. to 10:00 p.m. on Tuesday.

b. Any changes in the scheduled hours of work beyond these will not become effective until the union has been notified and consulted regarding such proposal.

c. If vacancies occur, the Village will discuss proposed changes in shift assignment with the union.



4.03 DAILY AND HOURLY RATES - Hourly rates of pay shall be obtained by dividing the daily rate of pay by the number of hours the employee regularly works per day. The daily rate shall be obtained by dividing the employee's basic annual salary by 260 if the employee works five (5) days per week, or by 208 if the employee works four (4) days per week. Hourly rate of pay for overtime shall be determined by dividing the annual salary by 1820. During holiday weeks, except Easter, the employee shall be considered to work five (5) days per week as provided in 4.02.

4.04 OVERTIME - Overtime assigned by the Department Head beyond the regular day's work and regular week's work shall be paid at the rate of one and one-half times the hourly rate or shall be used as compensatory time equivalent to one and one-half times the actual hours worked in accordance with law.

4.05 LONGEVITY PAY - Full-time employees in the unit shall receive longevity pay in accordance with the following schedule and based on date of hire.

		<u>Effective 6/1/07</u>
5 years service	—	600
7 years service	—	650
10 years service	—	775
15 years service	—	875
20 years service	—	975
25 years service	—	1075

Longevity payments shall be made to employees hired between December 1st and May 31st in June of each year and to employees hired between June 1st and November 30th in November of each year but no later than the last pay day in November.

Effective 6/1/06, longevity payments shall be considered part of base wages for purposes of applying annual percentage wage increases.

4.06 SEPARATION PAYMENTS - Payment shall be made to employees of the monetary value of unused vacation, and prorated vacation and longevity benefits earned for the fiscal year in which the employee separated, longevity pay and compensatory time standing to the credit of an employee at the time of his/her separation from the Village service. Except for compensatory time, such payments shall be limited to the year of separation only. In case of death in service, such payment is to be paid to his/her beneficiary or beneficiaries. It is agreed that such payments shall not be paid to those employees who are discharged for just cause. In the event any accrued time as referred to herein is carried over into the following year at the behest or insistence of the Village, such accrued time shall be included in any separation payment made pursuant to this Article.

**ARTICLE V  
LEAVES**

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

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

and one (1) Floating Holiday to be scheduled individually at the discretion of the Department Head. Employees who are scheduled to work five (5) days per week will, in addition to their regular day's pay as holiday pay, receive 1¾ hours' compensatory time for each full day holiday observed Monday through Friday and floating holiday. Payment for all employees for Easter Sunday shall be 8¾ hours' pay.

It is agreed that an employee, to be entitled to holiday Pay, must have worked on his/her last scheduled day immediately preceding the holiday and on first scheduled work day immediately following the holiday, unless the employee's absence on either of these days is an excused absence with pay within the terms of the contract.

For the purpose of computing overtime, a paid holiday shall be considered a part of the regular work week in which it falls except for those holidays that fall on Saturday, Sunday or a normal day off.

5.02 VACATIONS - All employees, excluding seasonal and temporary employees, shall be granted annual vacations with pay on a fiscal year basis, and based on date of hire: Employees on a four (4) day work week (8¾ hours per day) will convert working days in the vacation schedule to working hours.

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

Vacations will be scheduled by the Department Head, and will be assigned with due consideration to the employee's length of service. Vacation leave, if not taken, will expire at the end of each fiscal year. (June 1st - May 31st)

A new employee's vacation time will be prorated at the start of the next fiscal year after their date of hire. This will be figured according to the amount of time worked prior to the start of the fiscal year according to the following formula:

Number of days worked prior to fiscal year x 10 working days vacation

260

Time off may only be allowed for full days earned (not partial days). However, no time off will be allowed until completion of probationary period.

An employee entitled to vacation may apply to the Village for, and be granted, an opportunity to work up to five (5) days of his/her vacation period and be paid therefore in addition to his/her vacation pay. Said application must be filed with the Department Head thirty (30) days prior to its desired effective date, when possible. The Village Board shall have absolute discretion in either granting or denying said application, and no grievance or arbitration may be filed by the employee or the Association seeking to vacate or set aside the decision made by the Village Board on the application so made. However, the Board will, in good faith, objectively review such applications without personal bias.

5.03 PERSONAL LEAVE - Personal leave shall mean a leave of absence from scheduled work granted to an employee to perform personal business.

This personal leave may be used at the employee's discretion, provided that he/she gives at least forty-eight (48) hours' notice in writing to the Department Head except where an emergency situation makes the giving of notice impossible, and provided further that his/her absence will not seriously hamper or impede the necessary work of his/her department.

New employees will become eligible for personal leave when they fulfill the probationary period for their positions. Any employee who completes the probationary period between June 1st and December 31st will be eligible for five (5) days' personal leave before June 1st of the next fiscal year. Any employee who completes the probationary period between January 1st and April 1st will be eligible for two (2) days' personal leave. Any employee who completes the probationary period between April 2nd and May 31st will be eligible for five (5) days' personal leave on June 1st of the next fiscal year.

The number of personal leave days granted to any full-time employee shall be five (5) days in any fiscal year and shall be non-cumulative. Personal leave may be taken in ½ day increments.

Employees on a four (4) day work week (8¾ hours per day) will convert the amount of personal days to working hours and the equivalent received based on the revised hours of work.

5.04 JURY DUTY - An employee serving on a jury shall suffer no loss of regular pay during the period of jury service.

5.05 BEREAVEMENT - Beginning with the day of death and ending with the day after the funeral, but in no event more than five (5) days, including the date of death and date of funeral, leave for a death in the immediate family shall be granted to all employees, excluding temporary and seasonal employees. The "immediate family" shall mean spouse, parent or stepparent, brother or sister, brother-in-law or sister-in-law, child or stepchild, son-in-law, daughter-in-law,

grandchild, father-in-law, mother-in-law and grandparents. Day of funeral leave for other relatives may be granted at the discretion of the Department Head.

5.06 LEAVE OF ABSENCE - A full-time employee, holding a position by permanent appointment, may request from the Village a leave of absence without pay or benefits and without regard to any accrued sick leave credits, for a period of time not exceeding six (6) months. An extension of this leave may be granted, also at the sole discretion of the Village, provided that the total leave does not exceed one (1) year. Benefits will be reinstated upon return from leaves of absence, except prorated for the remaining portion of the fiscal year.

5.07 SICK - Commencing June 1, 2001, and every month thereafter, each member of the unit shall have available to him/her 1-1/4 days paid sick leave. This equals 15 sick days per fiscal year. Injuries sustained in the performance of duty for which Workers' Compensation is received, doctor visits and therapy sessions will not be charged against sick time.

a. After the employee has used vacation benefits available, the employee may be able to use sick leave for the following reasons:

(i.) In the event of illness in an employee's immediate family\*, an employee shall be allowed to charge absences from work against accrued sick leave credits, up to a maximum of fifteen (15) days in any one fiscal year. Requests for leave for family illness shall be subject to department approval, as long as such approval shall not be unreasonably withheld.

(ii.) In the event of death in an employee's immediate family\*, an employee shall be allowed to charge extended absences from work against accrued sick leave credits, up to a maximum of fifteen (15) days in any one fiscal year. Requests for leave for extended bereavement shall be subject to department approval, as long as such approval shall not be unreasonably withheld.

\*Immediate family, as defined in Section 5.05, Bereavement.

b. Employees on a four (4) day work week (8¾ hours per day) will convert days to working hours and the equivalent received based on the revised hours of work.

c. An employee who has exhausted all of his/her sick time, due to a major illness, or where light duty was not an option, such as maternity leave or work-related injuries not covered by Workers' Compensation, may request in writing from the Village Board, an extension of paid sick leave. The decision of the Village Board is final, not subject to the grievance procedure, when the Village has made their decision without prejudice and based on the employee's past record. The decision could be one of the following forms depending on the employee's past record:

- (i.) A period of time not returnable to the Village;
- (ii.) A period of time returnable to the Village when the employee returns to work, as provided in paragraph (I), above;
- (iii.) No period of time granted.

5.08 Except in situations where extenuating circumstances prevent, employees are to directly notify the department head of any daily absences prior to the start of their work shift. Messages may be left on the department head's voice mail, if the department head is not available.

5.09 The Village agrees to pay all union employees a maximum of two (2) days per fiscal year if the Village Clerk's office is not operational due to an act of God, inclement weather, or other conditions beyond the Village's control.

## **ARTICLE VI INSURANCE**

6.01 MEDICAL – The Village agrees to provide and maintain for employees covered by this Agreement, Blue Cross/Blue Shield POS with a co-pay prescription coverage. Each employee will have deducted from his/her paycheck \$10.00 per pay period toward coverage of the health insurance plan.

Should the Village Health Insurance Company eliminate or modify any insurance/prescription plan, the Village will convert to another plan offered by the insurance company. In addition, the Village agrees to negotiate with the Union regarding the impact of such change. The Village will not have any economic liability regarding the alternative insurance coverage provided under this provision.

The parties agree to continue to explore ways to reduce the cost of health insurance coverage while maintaining comparable benefits. The parties agree to negotiate regarding possible changes during the term of the agreement with all Village unions.

a. An active employee who is covered under a spouse's health insurance coverage may elect to receive \$1,500 per year in lieu of such benefits, to be paid on a prorated monthly basis. The election shall be on an annual basis, unless the employee must revert to the Village's health insurance due to loss of spouse's coverage.

b. Health Insurance after Retirement or Death in Service

Each employee may utilize the value of up to 110 accumulated sick days toward payment of premiums for health insurance for himself/herself and family upon retirement or death. The health insurance plan available will be that which is provided to active employees from time to time. The plan may be different from the plan which is provided at the time of retirement. These accumulated days shall be utilized as follows:

Upon retirement or death in service, the unused sick days accumulated, as of that date, shall be worth the value of ("daily rate") of the employee at the time of retirement or death. Due to employees working four (4) or five (5)-day schedules, accumulated sick days shall be converted to equivalent working hours. The value of such hours shall be determined by dividing the employee's basic annual salary at the time of retirement by 1820.

The payment of health insurance premiums for a retired employee shall only be made on behalf of a retired employee who is not employed where similar health insurance is available to him/her without cost, except that when such employment terminates, his/her rights shall be reinstated. Premiums are to be paid only during the life of the pensioned employee, or to his/her spouse, upon the employee's death, but only until the spouse remarries, dies or until the value of the accumulated days has been exhausted.

If a National Health Insurance program is enacted to replace the present health insurance, this program of accumulated days shall be void and all accumulated days shall be lost for purposes of this article. If National Health is eliminated, we revert back to this article.

(i) Additional Benefits

(1) If an employee has over one hundred eight (180) accumulated sick days in his/her bank at the time of his/her retirement, he/she shall be entitled to an additional benefit of utilizing all his/her sick days accumulated at the time of retirement toward health insurance benefits following his retirement.

(2) If an employee does not have the one hundred eight (180) days in his/her bank as of the date of his/her retirement, he/she shall not be entitled to any additional benefits.

(ii) An employee may, in lieu of a week of unused and unpaid vacation, accumulate an additional five (5) days in their sick bank at the end of the fiscal year.

Employees who do not use any sick days for a six (6)-month period will be entitled to accumulate an additional day in their sick bank. Further, employees who do not use any sick days for a twelve (12)-month period will accumulate an additional day in their sick bank. For purposes of this subsection, employees may accumulate a total of two (2) additional sick days per year.

6.02 DENTAL – Effective June 1, 1998, the Village agrees to contribute \$225.00 per annum for each full-time employee toward a dental plan. The Village does not assume any responsibility for the level of coverage in any dental plan selected by any employee receiving payment under this Article. Employees covered herein not selecting a dental plan shall receive \$225.00 per annum.

### 6.03 WORKERS' COMPENSATION

a. The employer shall provide coverage for all employees covered by this agreement under the Workers' Compensation Law of the State of New York.

b. Effective for work related injuries which first arise on or after June 1, 2001. (Recurring injuries or illness shall be deemed to have occurred when the injury or illness initially occurred, not when it reappeared.) In the event an employee is disabled by virtue of a work-

related injury, he/she will be paid the difference between the amount of Workers' Compensation Benefits payable for such disability and his/her regular pay for a period of five (5) months, or the period of actual disability, whichever is less. Any injury determined by the Workers' Compensation Board not to be work-related or for which a compensation claim is no filed or not diligently prosecuted by the employee shall be presumed not to be work-related.

(i) An employee disabled by a work-related injury and who delivers to the Village the valid assignment of Workers' Compensation benefits shall be compensated at his/her full rate of pay for the period of time of the disability, or five (5) months, whichever is less. If for any reason the compensation benefits assigned are not received by the Village, the amount so assigned shall be a debt of the employee and shall be payable to the Village by the employee, with interest.

## **ARTICLE VII UNION REPRESENTATION**

7.01 Individuals who are designated for the purpose of adjusting grievances or assisting in negotiations or administering this or future contracts will be permitted a reasonable amount of time from their regular duties to fulfill these obligations.

7.02 Local Union representatives may meet with employees in the bargaining unit, other than for Union meetings, on Village premises upon prior notice to the Village. Such privilege shall not be abused.

7.03 The Village agrees that no employee who is meeting with Village officials during the employee's regular working hours will suffer any loss of salary.

## **ARTICLE VIII GRIEVANCE PROCEDURE**

### 8.01 PROCEDURE

a. The Village and the Union desire that all employees in the Unit be treated fairly and equitably. It is intended that this Grievance Procedure will provide a means of resolving complaints and grievances at the lowest possible level and that nothing in this Article should be interpreted as discouraging an employee and/or his/her representative from discussing any problem in an informal manner, with his/her immediate supervisor or Department Head. Such discussions shall not interfere with the right of an employee to process complaints through the Grievance Procedure.

b. For the purposes of this Agreement, a grievance is defined as any claimed violation, misapplication, misinterpretation or inequitable application of any term of this Agreement by either the Employer or the Union.

c. 1. All written grievances shall be submitted on a grievance form approved by the Employer and the Union, and shall state the name and position of the aggrieved party, a

concise statement of the complaint, and the provisions of the Agreement to which the grievance applies.

2. If a decision at one step is not appealed to the next step of the procedure within the time specified, the grievance will be deemed to be discontinued and further appeal under the Agreement shall be barred. However, when mutually agreed in writing, the time limits may be extended.

3. Failure at any step of the grievance procedure to communicate a grievance answer to the aggrieved party within the specified time limits shall permit the lodging of an appeal at the next step of the procedure within the time which would have been allocated had the decision been communicated on the last day of the specified time period.

d. No written grievance will be entertained, and such grievance will be deemed waived, unless a written grievance is presented within five (5) working days after the act or condition upon which the grievance is based (exclusive of time off due to illness, vacation, etc., if such absence would have prevented the grieved employee from learning of the alleged breach of contract).

## 8.02 STEPS

Step 1 - An employee and/or Union Representative who has a grievance shall first discuss the matter with his/her Department Head. In this discussion, the persons involved shall make an earnest effort to resolve the matter.

Step 2 - In the absence of, or upon the failure to achieve satisfactory disposition to Step 1, the grievant and/or Union Representative shall reduce his/her grievance to writing either in a standard form to be mutually agreed upon or in a letter and submit such written grievance to the Department Head or designee. Such grievance must contain the following information:

1. A brief and plain statement of the facts and the nature of the grievance;
2. A statement indicating his/her decision to process his/her grievance through the negotiated grievance procedures rather than utilize any grievance procedure under the provisions of the General Municipal Law;
3. Reference to the clause or clauses of the Agreement or rules and regulations which the grievant feels are involved.

The Department Head or his/her designee shall make whatever investigation may be necessary and shall give his/her answer in writing as soon as practicable, but in no event later than five (5) working days after submission.

Step 3 - Failure of satisfactory disposition of the grievance at Step 2, the Union or its representative shall, within five (5) work days after the determination of the Department Head or his/her designee at Step 2, request a hearing with the Grievance Committee for the Board of



Trustees. Such hearing shall be held at a mutually agreed upon time but in no event later than ten (10) work days following the request for such hearing. The Grievance Committee of the Board of Trustees shall thoroughly investigate the grievance and shall afford the grievant, his/her designee and the Union an opportunity to present evidence, either documentary or by witnesses, and such hearing shall be confidential. The Grievance Committee of the Board of Trustees shall render a written determination of such grievance to the Union within ten (10) days after the close of the hearing.

Step 4 - If either party is dissatisfied with the determination of the grievance at Step 3, hereunder, it may submit such differences to arbitration by serving notice on the other within fifteen (15) work days following completion of Step 3 of the Grievance Procedure.

8.03 The arbitration shall be conducted by an impartial arbitrator to be mutually agreed upon by the parties. In the event the parties are unable to agree upon an impartial arbitrator within ten (10) work days after the referral to arbitration, the parties shall select an arbitrator in accordance with the rules of the Federal Mediation and Conciliation Service.

The fees and expenses of the arbitration shall be borne equally by the parties. The Board and the Union shall bear the expenses of their respective witnesses and any other expenses they may incur.

The decision of the arbitrator shall be final and binding upon the parties, but the arbitrator shall have no jurisdiction, power or authority to amend, modify, supplement, vary or disregard any provision of this Agreement.

## **ARTICLE IX DISCHARGE AND DISCIPLINE**

### 9.01 EMPLOYEE RIGHTS

a. An employee, upon request, shall be entitled to representation by KSEA at each step of the disciplinary procedure.

b. An employee shall have an opportunity to review his/her personnel folder in the presence of an appropriate official of the Village upon one (1) day's notice, and to place in such file a response of reasonable length to anything contained therein which such employee deems to be adverse. The personnel folder shall contain all memoranda or documents relating to such employee's performance on his/her job which contain commendation, appraisal or rating of such employee's performance on his/her job. The Village shall have the right to place in the personnel folder information or documents pertaining to any payroll or personnel transaction affecting the employee. Any memoranda or documents critical to an employee shall be removed from the employee's folder at the expiration of twelve months, however, effective June 1, 2001, removal will occur only as long as no discipline has been issued within that twelve (12) month period. The discipline must have been in accordance with the just cause provisions of 9.02,

Disciplinary Procedure. If the discipline has been issued within the past twelve (12) months, it shall remain in the file for twenty-four (24) months, from the date of the discipline.

c. A copy of all write-ups and discipline notices must be faxed and mailed to the Union office within forty-eight (48) hours of being issued. Copies must also be given to the shop steward and the employee being disciplined.

## 9.02 DISCIPLINARY PROCEDURE

a. When the Department Head seeks the imposition of a written reprimand, suspension without pay, or dismissal from service, notice of such discipline shall be made in writing and served upon the employee. Discipline shall be imposed only for just cause, and not for misconduct deemed as improper for one employee but allowed for another. The specific acts for which discipline is being imposed and the proposed penalty, shall be specified in the notice. The notice shall contain a description of the alleged acts and conduct, including reference to time, dates and places.

b. If after investigation of any complaint lodged against any member of the union, it is determined to be unfounded, then no record of reference to such complaint shall be entered into the member's personnel file, or any other file the department head deems appropriate for keeping discipline.

## ARTICLE X SENIORITY

10.01 DEFINITION - Seniority shall mean the status attained by length of continuous service with the Village of Kenmore.

### 10.02 ACCRUAL OF SENIORITY

a. Seniority shall begin with the last date of entering the service of the Village of Kenmore. Two or more persons who entered the service on the same day shall, when necessary, have their relative seniority determined by the use of the alphabetic system.

b. All original and promotional appointments shall be probationary and subject to a probation period of twenty-six (26) weeks after appointment. At any time during the probationary period the Village may remove or demote an employee. An employee on probation in a promotional appointment shall have the right to return to his/her previous appointment if the employer decided to remove him/her from promotional appointment during the period.

### 10.03 TERMINATION OF SENIORITY

- a. Employee seniority and the employment of an employee is terminated when:
- (i.) An employee quits of his or her own accord.
  - (ii.) An employee is discharged for just cause.

- (iii.) An employee fails to report to work within ten (10) days after recall from layoff.
- (iv.) An employee is out of work for any reason, including layoff, for twelve (12) months.
- (v.) An employee is absent for three (3) consecutive working days without calling in.
- (vi.) An employee has been granted a leave of absence and does not return at the expiration date without proper approval by the Employer.
- (vii.) An employee retires.

10.04 SENIORITY LIST - The Village shall maintain a roster of employees, arranged according to seniority by department or division, showing name, job classification and seniority date and shall furnish a copy to the Union within ninety (90) days after the signing of the Agreement and annually thereafter. All new employees' names shall be submitted to the Union along with their date of hire upon completion of the probationary period.

10.05 APPLICATION OF SENIORITY - Seniority shall apply to shift assignment, vacation, layoff, and recall unless otherwise provided in the Agreement.

a. In the event of a vacancy, employees shall be given an opportunity to transfer within their job classifications on the basis of their seniority.

## **ARTICLE XI LAYOFF AND RECALL**

11.01 DEFINITION - Layoff shall mean the separation of employees from the active work force due to lack of work or funds, or to abolish positions because of changes in organization.

11.02 ORDER OF LAYOFF - The parties agree to abide by the statutory provision regarding layoff and recall of employees.

11.03 NOTICE OF LAYOFF - The Union shall be informed as soon as possible of pending layoff but no later than thirty (30) days before their effective date. The Village will meet to negotiate the impact of such decision.

## **ARTICLE XII RETIREMENT**

12.01 The Village of Kenmore agrees to continue to provide and maintain the Retirement Plan currently in effect for members of the unit pursuant to the New York State Law.

12.02 The Village shall notify the union of any early retirement options offered by the Retirement System. Such notification does not mean that the employee is eligible for any retirement options.

**ARTICLE XIII  
BULLETIN BOARDS**

13.01 Management shall provide space for bulletin boards in mutually acceptable locations to be used by the Union for posting notices of interest to its members. No campaign or other election materials dealing with representation election will be posted. No information that is detrimental to any organization, group or persons shall be posted.

**ARTICLE XIV  
NON-DISCRIMINATION**

14.01 The parties hereto agree that there shall be no discrimination against any person because of her race, creed, color, national origin, age, sex, marital status, political affiliation or handicap. The use of male or female gender of nouns or pronouns in this Agreement is not intended to describe any specific employees or group of employees, but is intended to refer to all employees in job classifications regardless of sex.

**ARTICLE XV  
MEETING SPACE**

15.01 Where there is appropriate available meeting space in buildings owned or leased by the Village of Kenmore, it shall be offered to KSEA from time to time provided that (a) KSEA agrees to reimburse the Village for additional expense incurred in the furnishing of the space, and (b) request for the use of such space is made in advance, pursuant to the rules of the Village of Kenmore.

15.02 All meeting of KSEA will be held during non-working hours.

**ARTICLE XVI  
SEVERABILITY**

16.01 In the event that any provisions of this Agreement between the parties shall be held by operation of law, or by a court to be unenforceable, the remainder of the provisions of such Agreement shall not be affected thereby but shall be continued in full force and effect. It is further agreed that in the event any provisions are finally declared to be invalid or enforceable, the parties shall meet within thirty (30) days of written notice from one party to the other to negotiate concerning the modification or revision of such clause or clauses.

**ARTICLE XVII  
LEGISLATIVE APPROVAL**

17.01 It is agreed by the parties that any provision of this Agreement requiring legislative action to permit its implementation by amendment of law providing the additional funds therefore, shall not become effective until the appropriate legislative body has given approval.

**ARTICLE XVIII  
TERM OF AGREEMENT**

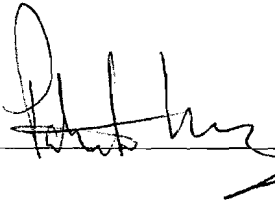
18.01 The effective date of this Agreement shall be June 1, 2007, and the Agreement shall continue in full force and effect through May 31, 2010. Notice of intent to change or amend the provision of this Agreement and substances of the changes shall be served in writing by the party desiring such change or amendment to the other party one hundred and fifty (150) days prior to said expiration date.

Should neither party to this Agreement submit a notice of intent to change or amend this Agreement as herein provided, then this Agreement shall be considered to have been automatically renewed for another year.

18.02 The parties will attempt in good faith to begin negotiations no later than March 1 of expiration year.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed on the 22<sup>nd</sup> day of April, 2008.

VILLAGE OF KENMORE

By: 

Title Mayor

KENMORE SALARIED EMPLOYEES  
ASSOCIATION

By: 

Title Vice - President

## ADDENDUM

Notwithstanding the terms of Section 4.01 of the contract:

A. The following individuals shall receive the annual salary provided below:

	<u>2007/2008</u>	<u>2008/2009</u>	<u>2009/2010</u>
Teresa Cotton	37,699	38,862	40,060
Gail Higgins	35,651	36,753	37,888
Barbara Dorn	37,699	38,862	40,060
Nancy Smith	29,002	29,904	30,833
Grace Streicher	30,117	31,050	32,011
Jan Clear	26,314	27,103	27,916
Susan Howley	24,098	24,821	25,566

(Per Section 4.05, longevity is added to base pay for annual percentage increase)