



THE CITY OF NEW YORK
OFFICE OF LABOR RELATIONS
40 Rector Street, New York, NY 10006-1705
<http://nyc.gov/olr>

JAMES F. HANLEY
Commissioner

TO: HEADS OF CONCERNED CITY DEPARTMENTS AND AGENCIES
FROM: JAMES F. HANLEY, COMMISSIONER *James F. Hanley*
SUBJECT: EXECUTED CONTRACT: FIRE ALARM DISPATCHERS
TERM: SEPTEMBER 13, 2006 – MAY 14, 2010

Attached for your information and guidance is a copy of the executed contract entered into by the Commissioner of Labor Relations behalf of the City of New York and the Fire Alarm Dispatcher's Benevolent Association, Inc. on behalf of the incumbents of positions listed in Article I of said contract.

The contract incorporates terms of an agreement reached through collective bargaining negotiations and related procedures.

DATED: *12-16-11*

OFFICE OF LABOR RELATIONS REGISTRATION	
OFFICIAL	CONTRACT
NO: <u>11003</u>	DATE: <u>Dec 16 2011</u>

Fire Alarm Dispatchers
2006-2010 Agreement

TABLE OF CONTENTS

ARTICLE I - UNION RECOGNITION AND UNIT DESIGNATION	2
ARTICLE II - DUES CHECKOFF	3
ARTICLE III - SALARIES	3
ARTICLE IV - SHIFT DIFFERENTIAL	7
ARTICLE V - HOURS	7
ARTICLE VI - HOLIDAY PREMIUM	7
ARTICLE VII - OVERTIME	8
ARTICLE VIII - TME AND LEAVE	11
• ANNUAL LEAVE	11
• SICK LEAVE	14
• LINE OF DUTY	17
• LATENESS	20
• TERMINAL LEAVE	21
ARTICLE IX - HEALTH INSURANCE	22
ARTICLE X - CAR ALLOWANCE	24
ARTICLE XI - PERSONNEL AND PAY PRACTICES	24
ARTICLE XII - EVALUATIONS AND PERSONNEL FOLDER	29
ARTICLE XIII - CIVIL SERVICE, CAREER DEVELOPMENT	30
ARTICLE XIV - UNION RIGHTS	30
ARTICLE XV - WELFARE FUND	32
ARTICLE XVI - PRODUCTIVITY AND PERFORMANCE	32
ARTICLE XVII - GRIEVANCE PROCEDURE	33
ARTICLE XVIII- JOB SECURITY	41
ARTICLE XIX- BULLETIN BOARDS: EMPLOYER FACILITIES	42
ARTICLE XX - NO STRIKES	42
ARTICLE XXI - UNION ACTIVITY	43
ARTICLE XXII - LABOR-MANAGEMENT COMMITTEE	43
ARTICLE XXIII - FINANCIAL EMERGENCY ACT	44
ARTICLE XXIV - APPENDICES	44
ARTICLE XXV - SAVINGS CLAUSE	44
SIDE LETTERS -	47

11003

Fire Alarm Dispatchers
2006-2010 Agreement

AGREEMENT entered into this ¹⁶ day of *December*, 2011 by and between the City of New York and related public employers pursuant to and limited to their respective elections or statutory requirement to be covered by the New York City Collective Bargaining Law and their respective authorizations to the City to bargain on their behalf (hereinafter referred to jointly as the "Employer"), and the Fire Alarm Dispatchers Benevolent Association, Inc., (hereinafter referred to as the "Union"), for the period from September 13, 2006 to May 14, 2010.

WITNESSETH:

WHEREAS, the parties hereto have entered into collective bargaining and desire to reduce the results thereof to writing,

NOW, THEREFORE, it is mutually agreed as follows:

ARTICLE I - UNION RECOGNITION AND UNIT DESIGNATION

Section 1.

The Employer recognizes the Union as the sole and exclusive collective bargaining representative for the bargaining unit set forth below, consisting of employees of the Employer, wherever employed, whether full-time, part-time per annum, hourly or per diem, in the below listed title(s), and in any successor title(s) that may be certified by the Board of Certification of the Office of Collective Bargaining to be part of the unit herein for which the Union is the exclusive collective bargaining representative and in any positions in Restored Rule X titles of the Classified Service the duties of which are or shall be equated by the City Personnel Director and the Director of the Budget for salary purposes to any of the below listed title(s):

71010 Fire Alarm Dispatcher
71060 Supervising Fire Alarm Dispatcher (Levels I and II)

Section 2.

The terms "Employee" and "Employees" as used in this Agreement shall mean only those persons in the unit described in Section 1 of this Article.

ARTICLE II – DUES CHECKOFF

Section 1.

- a. The Union shall have the exclusive right to the checkoff and transmittal of dues on behalf of each employee in accordance with the Mayor's Executive Order No. 98, dated May 15, 1969, entitled "Regulations Relating to the Checkoff of Union Dues" and in accordance with the Mayor's Executive Order No. 107, dated December 29, 1986, entitled "Procedures for Orderly Payroll Check-Off of Union Dues and Agency Shop Fees."
- b. Any Employee may consent in writing to the authorization of the deduction of dues from the Employee's wages and to the designation of the Union as the recipient thereof. Such consent, if given, shall be in a proper form acceptable to the City, which bears the signature of the Employee.

Section 2.

The parties agree to an agency shop to the extent permitted by applicable law, as described in a supplemental agreement hereby incorporated by reference into this Agreement.

ARTICLE III - SALARIES

Section 1.

- a. This Article III is subject to the provisions, terms and conditions of the Alternative Career and Salary Pay Plan Regulations, dated March 15, 1967 as amended, except that the specific terms and conditions of this Article shall supersede any provisions of such Regulations inconsistent with this Agreement subject to the limitations of applicable provisions of law.
- b. Unless otherwise specified, all salary provisions of this Agreement, including minimum and maximum salaries, advancement or level increases, general increases, education differentials and any other salary adjustments, are based upon a normal work week of 40 hours except as provided for in Article IV, Section 1.
- c. Employees who work on a part-time per diem or hourly basis and who are eligible for any salary adjustment provided in this Agreement shall receive the appropriate pro-rata portion of such salary adjustment computed as follows, unless otherwise specified:

Per diem rate - 1/261 of the appropriate minimum basic salary.

Hourly Rate - 40 hour week basis - 1/2088 of the appropriate minimum basic salary.

- d. The maximum salary for a title shall not constitute a bar to the payment of any salary adjustment or pay differentials provided for in this Agreement but the said increase above the maximum shall not be deemed a promotion.

Section 2.

During the term of this Agreement, the following basic salary rates shall prevail for Employees:

FIRE ALARM DISPATCHERS

	<u>10/13/06</u>	<u>4/13/07</u>	<u>5/15/08</u>	<u>5/15/09</u>
6 th Grade	\$30,922	\$32,159	\$33,445	\$34,783
5 th Grade	\$32,317	\$33,610	\$34,954	\$36,352
4 th Grade	\$38,652	\$40,198	\$41,806	\$43,478
3 rd Grade	\$40,197	\$41,805	\$43,477	\$45,216
2 nd Grade	\$41,803	\$43,475	\$45,214	\$47,023
1 st Grade	\$51,130	\$53,175	\$55,302	\$57,514

SUPERVISING FIRE ALARM DISPATCHER, LEVEL I

	<u>10/13/06</u>	<u>4/13/07</u>	<u>5/15/08</u>	<u>5/15/09</u>
4 th Grade	\$52,632	\$54,737	\$56,926	\$59,203
3 rd Grade	\$55,022	\$57,223	\$59,512	\$61,892
2 nd Grade	\$57,420	\$59,717	\$62,106	\$64,590
1 st Grade	\$59,812	\$62,204	\$64,692	\$67,280

SUPERVISING FIRE ALARM DISPATCHER, LEVEL II

	<u>10/13/06</u>	<u>4/13/07</u>	<u>5/15/08</u>	<u>5/15/09</u>
4 th Grade	\$66,417	\$69,074	\$71,837	\$74,710
3 rd Grade	\$68,031	\$70,752	\$73,582	\$76,525
2 nd Grade	\$69,644	\$72,430	\$75,327	\$78,340
1 st Grade	\$71,258	\$74,108	\$77,072	\$80,155

Section 3. Wage Increases

a. General Wage Increases

The general increase, effective as indicated, shall be:

- i.** Effective October 13, 2006, Fire Alarm Dispatcher, and Supervising Fire Alarm Dispatcher, Levels I and II shall receive a general increase of 2 percent.
- ii.** Effective April 13, 2007, Fire Alarm Dispatcher, and Supervising Fire Alarm Dispatcher, Levels I and II shall receive a general increase of 4 percent.
- iii.** Effective May 15, 2008, Fire Alarm Dispatcher, and Supervising Fire Alarm Dispatcher, Levels I and II shall receive a general increase of 4 percent.
- iv.** Effective May 15, 2009, Fire Alarm Dispatcher, and Supervising Fire Alarm Dispatcher, Levels I and II shall receive a general increase of 4 percent.

b. The increase provided for in Section 3(a) above shall be calculated as follows:

- i.** The general increase in Section 3(a)(i) shall be based upon the base rates (including salary or incremental salary schedules) of the applicable titles in effect on October 12, 2006.
- ii.** The general increase in Section 3(a)(ii) shall be based upon the base rates (including salary or incremental salary schedules) of the applicable titles in effect on April 12, 2007.
- iii.** The general increase in Section 3(a)(iii) shall be based upon the base rates (including salary or incremental salary schedules) of the applicable titles in effect on May 14, 2008.
- iv.** The general increase in Section 3(a)(iv) shall be based upon the base rates (including salary or incremental salary schedules) of the applicable titles in effect on May 14, 2009.

c. i. The general increase provided for in this Section 3 shall be applied to the base rates, incremental salary levels and the minimum "hiring rate", minimum "incumbent rates" and maximum rates (including levels), fixed for the applicable titles.

- ii.** The general increases provided for in Section 3. a. i. and 3. a. ii. only shall

be applied to "additions to gross, but shall not exceed a cost of 0.11 percent of the December 31, 2005 payroll, including spinoffs and pensions.

d. New Hires

The following provisions shall apply to Employees newly hired on or after September 1, 2004:

Upon completion of one year of active or qualified inactive service, such employee shall be paid the indicated rate for fifth grade. Upon completion of the second year, such employee shall be paid the indicated rate for the fourth grade.

Section 4.

Each general increase provided herein, effective as of each indicated date, shall be applied to the rate in effect on the date as specified in Section 3 of this Article. In the case of a promotion or other advancement to the indicated title on the effective date of the general increase specified in Section 3 of this Article, such general increase shall not be applied, but the general increase, if any, provided to be effective as of such date for the title formerly occupied shall be applied.

Section 5.

In the case of an Employee on leave of absence without pay, the salary rate of such Employee shall be changed to reflect the salary adjustments specified in Article III.

Section 6.

The service increments listed below shall be paid to all eligible Employees upon completion of the specified years of "City" service in pay status in the pro-rated annual amounts listed below. Such Employees shall begin to receive such pro-rata payments on the Employee's anniversary date. The pro-rata payments provided for in this Section shall be deemed included in the base rate of the eligible Employee for all collective bargaining purposes. The provisions of Section 3(a) of this Agreement shall not apply to the service increment set forth in this Section 6.

Service Increments

	<u>Effective</u>		
	<u>10/13/06</u>	<u>4/13/07</u>	<u>5/14/08</u>
10 year	\$62	\$64	\$264
15 year	\$721	\$750	\$950 (a total of \$1,214)
20 year	\$601	\$625	\$823 (a total of \$2,037)

ARTICLE IV - SHIFT DIFFERENTIAL

Employees in the title of Fire Alarm Dispatcher and Supervising Fire Alarm Dispatcher, Level I shall continue to receive the adjusted factor with respect to the payment of Night Shift Differential of .0593.

Effective September 13, 2006, Employees in the title of Supervising Fire Alarm Dispatcher, Level II shall receive the adjusted factor with respect to the payment of Night Shift Differential of .0593 in lieu of any other shift differential.

Effective May 14, 2008, all employees represented in the Agreement shall receive shall receive the adjusted factor with respect to the payment of Night Shift Differential of .0600 in lieu of any other shift differential.

ARTICLE V - HOURS

The hourly work week for Fire Alarm Dispatcher and Supervising Fire Alarm Dispatcher shall be 40 hours. It is understood and agreed that Fire Alarm Dispatchers and Supervising Fire Alarm Dispatchers, Level I shall continue to work on the average of 40.32 hours per week.

ARTICLE VI - HOLIDAY PREMIUM

- a. If an employee is required to work on any of the holidays listed below, provided the employee is in active pay status, the employee shall receive a fifty percent (50%) cash premium for all normally scheduled hours worked on the holiday.

Employees shall receive the following eleven (11) regular holidays with pay:

New Year's Day	January 1 st
Lincoln's Birthday	February 12 th
Washington's Birthday	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4 th
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Veteran's Day	November 11 th (or other date established by N.Y.S. Legislature)
Election Day	First Tuesday following the First Monday in November

Thanksgiving Day
Christmas Day

Fourth Thursday in November
December 25th

- b.
 - i. If an employee is required to work on a holiday which falls on the employee's scheduled day off, the employee shall be compensated for overtime in accordance with the provisions of Article VII.
 - ii. An employee shall not receive for the same hours of work both (1) overtime pay and (2) the fifty percent (50%) cash premium.
 - iii. Regardless of whether the holiday falls on a regular working day or on a scheduled day off, if the number of hours worked on such holiday exceeds the employee's normal daily tour of duty, all hours of work in excess of such normal daily tour of duty shall be covered by the provisions of Article VII.

Applicability of Holiday Premium payment shall be for all scheduled (non-Overtime) hours worked within the actual holiday's calendar date.

ARTICLE VII - OVERTIME

In the event of any inconsistency between this Article and standards imposed by Federal or State Law, the Federal or State Law shall take precedence unless such Federal or State Law authorizes such inconsistency.

Section 1.

For purpose of the overtime provisions of this Agreement, all time during which an employee is in full pay status, whether or not such time is actually worked, shall be counted in computing the number of hours worked during the week. However, where the Fair Labor Standards Act ("FLSA") provides for more beneficial compensation than the overtime provisions of this Agreement such benefits shall be calculated on the basis of time actually worked.

Section 2.

- a. "Authorized voluntary overtime" shall be defined as overtime for work authorized by the agency head or the agency head's designee, which the employee is free to accept or decline.
- b. "Ordered involuntary overtime" shall be defined as overtime which the employee is directed in writing to work and which the employee is therefore required to work. Such overtime time may only be authorized by the agency head or a representative of the agency head who is delegated such authority in writing.

- c. Upon the written approval of an employee's request by the agency head or designee, an employee who works overtime shall have the option of being compensated in time off at the applicable rates.
- d. There shall be no rescheduling of days off and/or tours of duty to avoid the payment of overtime compensation. Any work performed on a scheduled day off shall be covered by this Article. It is understood that the change in tours for covering Supervising Fire Alarm Dispatchers Levels I and II and employees rescheduled for training is not a violation of this section.

Section 3.

For employees covered by the provisions of FLSA, overtime actually worked in excess of forty hours in a calendar week shall be compensated at the rate of time and one-half (1½x) in time or cash provided that the total unliquidated compensatory hours credited to an employee pursuant to this provision may not exceed 240 hours. If an employee has reached the 240 hour maximum accrual for FLSA compensatory time, all subsequent overtime earned under this provision must be compensated in cash at time and one-half (1½x).

Section 4.

No credit shall be recorded for unauthorized overtime. Credit for all authorized overtime beyond the normal work week shall accrue in units of one-quarter (¼) hour to the nearest one-quarter (¼) hour and, except for an employee covered by the provisions of FLSA who has actually worked in excess of forty hours in said calendar week, only after one (1) hour.

Section 5.

The hourly rate of pay shall be determined by taking the below indicated fractional part of the affected employee's annual regular salary:

For employees whose basic work week is forty (40) hours:

$$\frac{1}{2088} \quad \text{or} \quad \frac{1}{261 \times 8}$$

Section 6.

a. The distribution and equalization of overtime shall be in accordance with the existing procedures contained in the annually issued Overtime Advisory (Subject: Distribution of Overtime), the most recent of which was issued 12/10/10), and the most periodically issued Overtime Advisory (Subject: Equalization of Overtime Advisory).

b. Employees covered by the overtime provisions of FLSA shall be required to follow daily time clock or sign-in procedures. The periodic time report shall be in such form as is required by the Agency.

Section 7.

Employees recalled from home for overtime work, shall be guaranteed overtime in accordance with section 3 for at least four (4) hours provided the employee works the four (4) hours and the compensated hours begin from the reporting location.

Section 8.

- a. Compensatory time shall be administered in accordance with Dispatcher's Directive 84-7 dated and revised as of March 24, 1994.
- b. For employees covered by the Fair Labor Standards Act, accrued compensatory time usage shall be charged in the following manner and order:
 - i. First, Pre-FLSA Compensatory Time Bank
 - ii. Second, Post-April 14, 1986 FLSA Compensatory Time Bank
 - iii. Third, Post-April 14, 1986 non-FLSA Compensatory Time Bank
- c. If compensatory time off is charged to an employee's Post-April 14, 1986 FLSA Compensatory Time Bank and as a result the employee will not be able to take his/her accrued Post-April 14, 1986 non-FLSA compensatory time within the four (4) month period provided in subsection 10(a) above, the period of time in which the equivalent amount of time in the Post-April 14, 1986 non-FLSA Compensatory Time Bank which must be taken shall be extended in writing by the agency head an additional four months.

Section 9.

The Employer and the Union may agree to apply a variation of the overtime provisions of this Agreement.

Section 10.

Except in an emergency situation, when authorized and ordered by an agency head, or a designated representative, no employee shall be required to actually work more than one and one half (1.5) consecutive normal work shifts in any twenty-four (24) hour period.

ARTICLE VIII - TIME AND LEAVE

Section 1.

- a. All provisions of the Resolution approved by the Board of Estimate on June 5, 1956 on "Leave Regulations for Employees Who Are Under the Career and Salary Plan" (hereinafter "Leave Regulations") and amendments, and official interpretations relating thereto, in effect on the effective date of this Agreement and amendments which may be required to reflect the provisions of this Agreement shall apply to all employees covered by the Agreement.

Interpretations shall be defined as those rulings issued by the Commissioner of Citywide Administrative Services pursuant to Section 6.6 of the Leave Regulations and which are printed in the official Leave Regulations.

This Section shall not circumscribe the authority of the Commissioner of Citywide Administrative Services to issue new interpretations subsequent to the effective date of this Agreement. Such new interpretations shall be subject to the grievance and arbitration provisions of this Agreement.

- b. The annual leave allowance for Employees in a title or an agency covered by the Leave Regulations shall accrue as follows:

Years of Service	Monthly Accrual	Allowance
Beginning of 15th year	18:00 hours	216:00 hours
Beginning with 8 year	16:40 hours	200:00 hours
Beginning with 5 year	13:20 hours	160:00 hours
First Year	10:00 hours	120:00 hours

The following modifications shall apply to employees newly hired on or after September 1, 2004:

Years of Service	Monthly Accrual	Allowance
Beginning with 17th Year	18:00 hours	216:00 hours
Beginning with 14th Year	16:40 hours	200:00 hours
Beginning with 13th Year	16:00 hours	192:00 hours
Beginning with 12th Year	15:20 hours	184:00 hours

Beginning with 11th Year	14:40 hours	176:00 hours
Beginning with 10th Year	14:00 hours	168:00 hours
Beginning with 9th Year	13:20 hours	160:00 hours
Beginning with 8th Year	12:40 hours	152:00 hours
Beginning with 7th Year	12:00 hours	144:00 hours
Beginning with 6th Year	11:20 hours	136:00 hours
Beginning with 5th Year	10:40 hours	128:00 hours
First Year	10:00 hours	120:00 hours

Section 2. a. Annual leave shall be scheduled in accordance with existing procedures and the vacation chart.

Annual leave will accrue on a "Calendar Year" basis (May of the existing year through April of the following year). Accrual balance as of April of each year will consist of accruals from the prior 12-months, and will be used as the basis for scheduling annual leave during the "Leave Year", which will begin on May 1 of the current year and continue through April 30 of the following year. Annual leave accruals that are in excess of leave balances normally accrued within a 12-month period, and are in excess of the current year accrual by a least six months accrual may be used in units of six (6) hours, upon approval.

It shall be the policy of the employer to allow employees to use, during their current leave year, the amount of annual leave accruable during the last 12-month May through April Leave year, provided they have sufficient available leave balances. This provision shall be subject to the leave regulations referenced in "the 10 group/year vacation chart" and the needs of the agency. Exceptions to this policy shall be on a reasonable and case-by-case basis.

- i. The Vacation Chart, which contains a ten-year repeating cycle, is designed to permit members with a 27-day vacation allowance to receive 18 12-hour tours of annual leave. Members with 25 days allowance will receive 16 12-hour tours of annual leave plus 8 hours. Members with 20 days vacation allowance will receive 13 12-hour tours of annual leave plus 4 hours. 12-Hour tours for members with less than 20 days allowance or accrual will be scheduled in accordance with direction from Headquarters.
- ii. Since the vacation chart could not be designed to encompass all the different vacation allowances, Chief Dispatchers shall compute the return date of each member's annual leave.
- iii. Vacation Letters for Fire Alarm Dispatchers have been allocated on a borough basis and Supervising Fire Alarm Dispatchers-I have been allocated on a citywide basis. Vacation Letters are used to follow the 10-year cycle of the Vacation Chart and shall be permanent for transferred personnel. Vacation Letters may be changed at the discretion of management for detailed personnel. Permanent Vacation Letters do not follow personnel transferred from one borough to another, and may be changed by Fire Department management for detailed personnel at the beginning of and during a Leave Year.
- iv. Vacation leaves shall be taken in conformance with the vacation chart, except for approved Vacation Mutual Exchanges.

- v. Mutual exchange will be permitted consistent with the exchange of either part of a vacation letter split.
- vi. Chief Dispatchers shall forward for approval by Headquarters properly completed Vacation Mutual Exchanges on the required forms. Requests shall be verified for accuracy and conformance to the vacation letter allocation chart for each of the two mutual participants. Headquarters will notify respective Chief Dispatchers of approval and/or denials.
- vii. No more than two (2) Fire Alarm Dispatchers from the 6-groups scheduled to work on each 12-hour tour shall be on leave simultaneously, except when scheduled vacations require exceeding the limitation of two dispatchers. The types of leaves may consist of any combination of annual or discretionary leaves with the restriction that if two persons are on scheduled vacations no compensatory time leave requests shall be approved.

In order to provide the necessary flexibility to maintain adequate staffing in the event of sick leaves or other emergencies, leave approval-except for scheduled vacations- may be limited to one Fire Alarm Dispatcher from the 6-groups scheduled to work on each 12-hour tour, for the duration of the emergency.

b. Where an employee has an entitlement to accrued annual leave and/or compensatory time, and the City's fiscal condition requires employees who are terminated, laid off or who choose to retire in lieu of layoff, be removed from the payroll on or before a specific date because of budgetary considerations, the Employer shall provide the monetary value of accumulated and unused annual leave and/or compensatory time allowances standing to the employee's credit in a lump sum. Such payments shall be in accordance with the provisions of Executive Order 30, dated June 24, 1975, and the FLSA.

Section 3.

- a. Approved sick leave may be used in units of one (1) hour.
- b. Except as provided below, employees shall be credited with an eight hour day of sick leave per month. Approved sick leave may be used as it accrues.
 - i. For any employees newly hired on or after September 1, 2004, a maximum sick leave accrual of ten (10)- 8 hour days per annum for the first five (5) years of service shall apply. At the beginning of the sixth year of service, the maximum sick leave accrual shall be twelve (12) – 8 hour days per annum.

Section 4.

By June 1st of each year all employees shall be given an annual statement of all leave balances as of the preceding April 30th (sick leave, annual leave, compensatory time, holiday leave credits).

Section 5.

- a. i. Except as provided in Section 5(a)(ii), sick leave shall be used only for personal illness of the employee. Approval of sick leave in accordance with the Leave Regulations is discretionary with the agency and proof of disability must be provided by the employee, satisfactory to the agency within five (5) working days of the employee's return to work. However, the employer may request proof of disability when an employee has been on sick leave for five or more consecutive working days. Such proof satisfactory to the agency must be submitted within five working days of such request.
- ii. (1) Notwithstanding the provisions of Section 5(a)(i), Effective September 1, 2004, employees may use three (3) days per year from their sick leave balances for the care of ill family members.
- (2) Approval of such leave is discretionary with the agency and proof of disability must be provided by the employee satisfactory to the agency within five (5) working days of the employee's return to work.
- (3) Effective September 1, 2004, the use of sick leave for care of ill family members shall be limited to a maximum of one-fourth (1/4) of the amount of sick leave hours accruable by an eligible employee during the current leave year or one-fourth (1/4) of the sick leave hours accruable by a full time employee in the same title during a leave year, whichever is less. Approved usage of sick leave for care of ill family members may be charged in units of one (1) hour.
- (4) Family member shall be defined as: spouse; natural, foster or step parent; child, brother or sister; father-in-law; mother-in-law; any relative residing in the household; and domestic partner, provided such domestic partner is registered pursuant to the terms set forth in the New York City Administrative Code Section 3-240 *et seq.*
- b. The provisions of Section 5(a) above notwithstanding, the agency may waive the requirement for proof of disability unless:
- i. An employee requests sick leave for more than three (3) consecutive work days; or
- ii. An employee uses undocumented sick leave more than five (5) times in a "sick leave period." Employees hired during a "sick leave period" shall be subject to the terms of this subsection commencing with the next complete "sick leave period"; or

- iii. An employee uses undocumented sick leave more than four (4) times in a "sick leave period" on a day immediately preceding or following a holiday or a scheduled day off. Employees hired during a "sick leave period" shall be subject to the terms of this subsection commencing with the next complete "sick leave period."
- c. For the purposes of Sections 5(b)(ii) and 5(b)(iii) above, the calendar year shall be divided into two (2), six (6) month "sick leave periods." They shall be: (1) January 1 to June 30, inclusive; and (2) July 1 to December 31, inclusive. An employee who exceeds the allowable number of undocumented absences in any "sick leave period" pursuant to Sections 5(b)(ii) and 5(b)(iii) above shall thereafter, commencing with the next "sick leave period," be required to submit medical documentation, satisfactory to the agency head, before further sick leave may be approved. The requirement for such documentation shall continue in effect until the employee has worked a complete "sick leave period" without being on sick leave more than two (2) times.
- d. For the purposes of this Section 5 "one time" shall mean the consecutive use of one-half (½) or more work days for sick leave. Sick leave taken in units of less than one-half (½) work day shall be counted as "one time" on sick leave when the cumulative total of such sick leave amounts to one-half (½) day.
- e. The provisions of Section 5(b) above notwithstanding, the agency shall have the discretion to waive the medical documentation required pursuant to Sections 5(b)(ii), 5(b)(iii) and 5(c), for employees who have completed their third year of employment and thereafter have a current sick leave balance commensurate with the number of years of employment as follows:

3 years	21 days	7 years	49 days
4 years	28 days	8 years	56 days
5 years	35 days	9 years	63 days
6 years	42 days	10 years or more	70 days
- f. It is not the intent of Sections 5(b) and 5(e) for an agency to regularly require proof of disability under normal circumstances.
- g. Any employee who anticipates a series of three (3) or more medical appointments, which will require a repeated use of sick leave in units of one day or less shall submit medical documentation indicating the nature of the condition and the anticipated schedule of treatment. Sick leave taken pursuant to said schedule of treatment shall be deemed documented.
- h. The medical documentation required by this Section shall be from a health practitioner licensed by the state in which she/he practices to diagnose and certify illness or disability. When an employee has been recommended for relief from duty by a medical practitioner acting in behalf of the Employer's Health Service, the time granted shall be considered documented sick leave for the day of the relief from duty only, unless otherwise specified by the Employer's practitioner.

Section 6.

The number of sick leave allowance days permitted to accumulate shall be unlimited.

Section 7.

- a. An employee's annual leave shall be changed to sick leave during a period of verified hospitalization. When an employee is seriously disabled but not hospitalized while on annual leave, after the employee submits proof of such disability which is satisfactory to the agency head, such leave time may be charged to sick leave and not to annual leave at the employee's option.
- b. Employees on approved sick leave who have exhausted their sick leave balances shall be placed on annual leave unless otherwise requested in writing for the duration of that absence, subject to continued proof of disability satisfactory to the agency.

Section 8.

Employees who are on agency approved work-study paid leave of absence shall not have annual leave credits deducted unless they actually request and take such annual leave, provided that annual leave accruals do not exceed the maximum permitted in this Agreement.

Section 9.

Notwithstanding anything to the contrary contained in the *Time and Leave Rules* which are incorporated by reference therein, and in lieu thereof, the Fire Department shall promulgate a ten (10) year/Letter vacation chart for Fire Alarm Dispatchers and Supervising Fire Alarm Dispatchers, Level I.

Section 10. Line of Duty Injury Due to Assault

Upon the determination by the head of an agency that an employee has been physically disabled because of an assault arising out of and in the course of the employee's employment, the agency head will grant the injured employee a leave of absence with pay not to exceed eighteen (18) months. No such leave with pay shall be granted unless the Worker's Compensation Division of the Law Department advises the head of the agency in writing that the employee's injury has been accepted by the Division as compensable under the Worker's Compensation Law, or if such injury is not accepted by the Division as compensable under such law, unless the Worker's Compensation Board determines that such injury is compensable under such law.

If a permanent employee who has five (5) years or more of service does not have sufficient leave credit to cover the employee's absence pending a determination by the Worker's Compensation Division of the Law Department, the agency head shall advance the employee up to forty-five (45)

calendar days of paid leave. In the event the Worker's Compensation Division of the Law Department does not accept the injury as compensable under the law or the Worker's Compensation Board determines that such injury is not compensable under such law, the employee shall reimburse the City for the paid leave advance.

If an employee is granted a leave of absence with pay pursuant to this Section, the employee shall receive the difference between the employee's weekly salary and the employee's compensation rate without charge against annual leave or sick leave. The employee shall, as a condition of receiving benefits under this Section, execute an assignment of the proceeds of any judgment or settlement in any third party action arising from such injury, in the amount of the pay received pursuant to this Section and medical disbursements, if any, made by the Employer, but not to exceed the amount of such proceeds. Such assignment shall be in the form prescribed by the Corporation Counsel. The injured employee shall undergo such medical examinations as are requested by the Worker's Compensation Division of the Law Department and the employee's agency, and when found fit for duty by the Worker's Compensation Board shall return to the employee's employment.

No benefits shall be paid while an employee is suspended pending disciplinary action, or if an employee is subsequently found culpable of having commenced the assault or unnecessarily continuing the assault.

Benefits provided under this Section shall be in addition to but not concurrent with benefits provided under Section 7.0 and 7.1 of the Career and Salary Plan Leave Regulations.

Section 11. Line of Duty Injury Other than Assault

For employees who do not come under the provisions of Section 10 of this Article but who are injured in the course of employment, upon determination by the head of an agency that an employee has been physically disabled because of an injury arising out of and in the course of the employee's employment, through no fault of the employee, the agency head will grant the injured employee an extended sick leave with pay not to exceed three (3) months after all the employee's sick leave and annual leave balances have been exhausted. This additional leave must be taken immediately following the exhaustion of such balances. No such leave with pay shall be granted unless the Worker's Compensation Division of the Law Department advises the agency head in writing that the employee's injury has been accepted by the Division as compensable under the Worker's Compensation Law, or if such injury is not accepted by the Division as compensable under such law, unless the Worker's Compensation Board determines that such injury is compensable under such law. If an employee is granted extended sick leave with pay pursuant to this Section, the employee shall receive the difference between the employee's weekly salary and the employee's compensation rate for the period of time granted. The employee shall, as a condition of receiving benefits under this Section, execute an assignment of the proceeds of any judgment or settlement in any third party action arising from such injury, in the amount of the pay and medical disbursements received pursuant to this Section, but not to exceed the amount of such proceeds. Such assignment shall be in the form prescribed by the Corporation Counsel. The injured employee shall undergo such medical examinations as are requested by the Worker's Compensation Division of the Law Department and

the employee's agency, and when found fit for duty by the Worker's Compensation Board shall return to the employee's employment.

Benefits provided under this Section shall be in addition to but not concurrent with benefits provided under Sections 7.0 and 7.1 of the Career and Salary Plan Leave Regulations.

Section 12.

Within forty-five (45) days of the receipt by the Worker's Compensation Division of the Law Department of a claim for Worker's Compensation, the City shall notify the claimant of the approval or disapproval of the claim.

Failure to notify the employee within the forty-five (45) day time limit may be grieved at Step III of the grievance procedure without resort to previous steps.

Section 13.

Pursuant to Executive Order No. 34, dated March 26, 1971, "Regulations Governing Cash Payments for Accrued Annual Leave and Accrued Compensatory Time on Death of an Employee while in the City's Employ," if an employee dies while in the Employer's employ, the employee's beneficiary or if no beneficiary is designated, then the employee's estate, shall receive payment in cash for the following:

- a. All unused accrued annual leave to a maximum of fifty-four (54) days credit.
- b. All unused accrued compensatory time earned subsequent to March 15, 1968 and retained pursuant to this Agreement, verifiable by official agency records, to a maximum of two hundred (200) hours.

Section 14.

If an employee dies during the term of this Agreement because of an injury arising out of and in the course of the employee's employment through no fault of the employee, and in the proper performance of the employee's duties, a payment of twenty-five thousand dollars (\$25,000) will be made from funds other than those of the Retirement System in addition to any other payment which may be made as a result of such death. Such payment shall be made to the same beneficiary designated for the purposes of Section 12 of this Article, or if no beneficiary is so designated, payment shall be made to the employee's estate.

Section 15.

If while in covered employment under the terms of this Agreement an employee dies, the Employer shall notify the beneficiary designated by the employee in the personnel folder as to what benefits may be available for the employee and as to where claims may be initiated for such benefits. If no beneficiary is designated, the public administrator of the county in which the employee last resided shall be notified.

The employing agency shall promptly notify the appropriate retirement system and request it communicate with the beneficiary designated in the system's records.

Section 16.

- a. Every employee is obligated to report for work as scheduled.
- b. Lateness shall be classified as "excused" or "not excused" and excused lateness shall not be charged against the employee. Lateness found by the agency head or the individual designated by the agency head to have been caused by unforeseen public transportation delays or other circumstances which arise after an employee leaves for work which cannot be anticipated (e.g. elevator breakdowns or private transportation breakdowns) which are beyond the ability of the tardy employee to control shall be excused. Such findings shall be reasonably made; and the tardy employee may be required to furnish proof satisfactory to the agency head of the cause of the lateness. A request for excusal shall not be unreasonably denied. A refusal to excuse a lateness may be appealed to the Commissioner of Labor Relations whose decision shall be final.
- c. Deduction for unexcused lateness shall be made on a minute for minute basis from any compensatory time standing to an employee's credit and then, if there is no such credited time, from the employee's annual leave balances.
- d. The City reserves the right and power appropriately and for just cause to discipline or to discharge an employee for excessive lateness.
- e. Contractual provisions or agency policies regarding lateness or excusal periods or lateness penalties inconsistent with the uniform lateness policy set forth in this Section shall be superseded by this Section 15.
- f. Latenesses caused by a verified major failure of public transportation, such as a widespread or total power failure of significant duration or other catastrophe of similar severity, shall be excused.
- g. The Agency will prepare contingency plans for operation during a major failure of public transportation which would cause disabled employees, as defined in the Americans with Disabilities Act, great difficulty in reaching their regular work location. Such plans will include, where practicable and productive, provisions assigning disabled employees to report to agency locations closer to their homes. Such plans shall also include provisions for excusal by the agency head of absences on an individual basis for disabled employees. Decisions of the agency head with respect to absences under such plans shall not be subject to the grievance procedure.

Section 17.

- a. Effective January 1, 1975, the terminal leave provision for all employees except as provided in subsections b. and c., below shall be as follows:

Terminal leave with pay shall be granted prior to final separation to employees who have completed at least ten (10) years of service on the basis of one (1) – 8 hour day of terminal leave for each two (2) - 8 hour days of accumulated sick leave up to a maximum of one hundred-twenty (120) - 8 hour days of terminal leave. Such leave shall be computed on the basis of work days rather than calendar days.

For Employees Hired on or After September 1, 2004:

- b. Terminal leave with pay shall be granted prior to final separation to employees who have completed at least ten (10) years of service on the basis of one (1) – 8 hour day of terminal leave for each three (3) – 8 hour days of accumulated sick leave up to a maximum of one hundred-twenty (120) – 8 hour days of terminal leave. Such leave shall be computed on the basis of work days rather than calendar days.
- c. In the case where an employee has exhausted all or most of the employee's accrued sick leave due to a major illness, the agency head, in the agency head's discretion, may apply two and one-fifth (2 1/5) work days for each year of paid service as the basis for computing terminal leave in lieu of any other terminal leave. An employee's request for the application of this subsection shall not be unreasonably denied. The denial of an employee's request may be appealed solely to the Commissioner of Labor Relations.
- d. Where an employee has an entitlement to terminal leave and the City's fiscal situation requires that employees who are terminated, laid off or retired be removed from the payroll on or before a specific date, because of budgetary considerations, the Employer shall provide a monetary lump sum payment for terminal leave in accordance with the provisions of Executive Order 31, dated June 24, 1975.

Section 18.

- a. A child care leave of absence without pay shall be granted to any employee (male or female) who becomes the parent of a child up to four years of age (or whose domestic partner registered pursuant to the New York City Administrative Code Section 3-240 et seq.) becomes the parent of a child up to four years of age), either by birth or by adoption, for a period of up to forty-eight (48) months. The use of this maximum allowance will be limited to one instance only. All other child care leaves of an employee shall be limited to a thirty-six (36) month maximum.
- b. Prior to the commencement of child care leave, an employee shall be continued in pay status for a period of time equal to all of the employee's unused accrued annual leave and compensatory time (including FLSA compensatory time).
- c. Employees, who initially elect to take less than the forty-eight (48) month maximum period of leave or the thirty-six (36) months, may elect to extend such leave by up to two extensions, each

extension to be a minimum of six (6) months. However, in no case may the initial leave period plus the one or two extensions total more than forty-eight (48) months or thirty-six (36) months.

d. This provision shall not diminish the right of the Agency Head or the Personnel Director, as set forth in Rule 5.1 of the Leave Regulations, to grant a further leave of absence without pay for child care purposes.

Section 19.

a. Bereavement leave shall be granted for the death of an employee's spouse; "domestic partner," as defined in the New York Administrative Code Section 1-112(21); natural, foster or step parent; child; brother or sister; father-in-law; mother-in-law; or other relative residing in the household.

b. Effective November 26, 1999, bereavement leave shall be granted for the death of a grandchild.

c. When a death in an employee's family occurs while the employee is on annual or sick leave, such time as is excusable for death in the family shall not be charged to annual or sick leave.

Section 20.

Individual employee grievants shall be granted leave with pay for such time as is necessary to testify at arbitration hearings.

Leave with pay shall be granted to three (3) employees who are named grievants in a group arbitration proceeding for such time as is necessary for them to testify at their group arbitration hearings.

Leave with pay for such time as is necessary to testify at their hearings shall be granted to employees who, after final adjudication of proceedings under Section 210 paragraph 2(h) of the Civil Service Law, are determined not to have been in violation of Section 210.

Section 21.

If at any time during the period of this Agreement the parties agree that it is impracticable to recruit for certain titles covered by this Agreement, the employer with the agreement of the Union may apply a variation of the provisions contained in Article VIII of this Agreement for those titles.

ARTICLE IX - HEALTH INSURANCE

Section 1.

The existing Labor-Management Health Insurance Policy Committee, with representation from the Municipal Labor Committee and from the Employer, for the purpose of consultation on policy only shall be continued.

Section 2.

- a. Retirees shall continue to have the option of changing their previous choice of Health Plans. This option shall be:
- i. a one-time choice;
 - ii. exercisable only after one year of retirement; and
 - iii. exercisable at any time without regard to contract periods.

Such changes to a new plan shall be effectuated as soon as practicable but no later than the first day of the month three months after the month in which the application has been received by the New York City Employee Health Benefits Program.

- b. Effective with the reopener period for health insurance subsequent to January 1, 1980 and every two years thereafter, retirees shall have the option of changing their previous choice of health plans. This option shall be exercised in accordance with procedures established by the Employer. The Union will assume the responsibility of informing retirees of this option.

Section 3.

If an employee has filed for any disability retirement and, prior to the approval of the application makes direct payment pursuant to the Comprehensive Omnibus Budget Reconciliation Act ("COBRA") to prevent discontinuation of the basic health insurance coverage, upon approval of the disability application the Employer shall request the basic health insurance carrier to reimburse the employee in the amount of the direct premiums paid by the employee which premiums were also paid by the Employer. The Employer shall upon request provide the employee with a letter to the carrier indicating the effective dates of coverage under the New York City Employee Health Benefits Program.

Section 4.

If an employee is laid off, on leave, or disabled, and has City contributions for basic health insurance discontinued, the Union may make direct COBRA payments on behalf of such employee to the New York City Employee Health Benefits Program carriers at 102 percent of the group rate for such coverage for a maximum period of thirty-six (36) months from the date of discontinuance.

Section 5.

The Commissioner of Labor Relations and the Commissioner of Citywide Administrative Services will recommend to the New York City Employee Health Benefits Program that retirees be permitted to add dependents to such retirees' coverage under the New York City Employee Health Benefits Program on the same terms and conditions as active employees.

Section 6.

At the present time, the Employer is providing certain electronic data and other relevant information necessary for the administration of certain supplemental health and welfare plans. The cost of supplying such electronic data and information will be borne by the entity requesting same.

ARTICLE X - CAR ALLOWANCES

Section 1.

Employees who are receiving a per diem allowance in lieu of a mileage allowance for authorized and actual use of their own cars may elect reimbursement on a standard mileage basis. Such election shall be irrevocable.

Effective as of the dates set forth below, compensation to employees for authorized and required use of their own cars shall be at the indicated rate. There shall be a minimum guarantee of thirty (30) miles for each day of authorized and actual use. Said mileage allowance is not to include payment for the distance traveled from the employee's home to the first work location in a given day or from the last work location to the employee's home unless the employee is authorized and required to carry special equipment or materials which cannot feasibly be transported via mass transit.

Effective November 26, 28¢ per mile
1999

ARTICLE XI - PERSONNEL AND PAY PRACTICES

Section 1.

All regular paychecks of City employees shall be itemized to include overtime, additional wage benefits (including back pay), and differentials.

Section 2.

Upon transfer of a permanent employee from one agency covered by the sick leave and annual leave provisions of this Agreement to another agency so covered, or appointment of any employee to another agency so covered from an eligible list promulgated by the Commissioner of Citywide Administrative Services immediately following continuous City service, all sick leave and annual leave balances shall be transferred with the employee.

Section 3.

- a. When a transfer is accomplished with the consent of the employee, all compensatory time due for overtime worked shall be granted to the employee prior to the effective date of the transfer except where:
 - i. the receiving agency agrees in writing to accept the transfer of these accrued compensatory time balances in whole or in part to its records,
 - ii. or the employee requests in writing that these accrued compensatory time balances be converted to sick leave credits as of the date of the transfer.

Initiation of action to liquidate this compensatory time shall be the responsibility of the

transferring employee.

- b. When an employee is subjected to a functional or involuntary transfer, all the employee's accrued compensatory time balances shall be transferred to the records of the receiving agency.
- c. When a current employee is appointed to another City agency from a list promulgated by the New York City Department of Citywide Administrative Services, all compensatory time shall be transferred to the records of the appointing agency.

Section 4.

- a. The Employer shall furnish identification cards to all employees who have served continuously for six (6) months.
- b. Each employee who is a member of the New York City Employee's Retirement System (NYCERS) as of the effective date of this Agreement shall receive a Tax-Pension Identification Card showing the name, withholding tax number, pension number, pension plan, and the date the last membership in the System began. Employees joining the NYCERS during the life of this Agreement shall be given a Tax-Pension Identification Card when the employing agency is notified by the System of the date membership was granted and the pension number assigned. In the discretion of an agency head, the identification card required by subsection 4(a) above may be combined with the Tax-Pension Identification Card.
- c. Lost cards shall be reported immediately and replaced at cost to the employee. Upon separation from service, an employee shall not receive the employee's final paycheck until the employee has returned the identification card issued, or has submitted an appropriate affidavit of loss.

Section 5.

Any employee who is promoted or who is affected by an individual change in title or rate of compensation of an adverse nature shall be notified in writing no later than two (2) weeks after the effective date of such promotion, change in title, or rate of compensation. Present agency agreements on this subject shall not be affected by this Section.

Section 6.

Consistent with, and subject to security requirements, paychecks shall be released on the preceding day as soon as possible after 3:00 P.M. for all employees who would not normally receive their paychecks during their working hours on the scheduled payday.

Section 7.

Agencies shall be authorized to establish and maintain imprest funds for the reimbursement to employees of all necessary carfare, telephone, automobile and meal expenses and such other types of expenses as the Comptroller may approve. The funds shall be administered in accordance with the

rules and regulations of the Comptroller. Authorized carfare and telephone expenses shall be reimbursed within one month of submission of an appropriate claim for reimbursement.

Section 8.

a. In the event of an overpayment to an employee which is agreed by both parties to be erroneous, the employer shall not make wage deductions for recoupment purposes in amounts greater than: 10% if the employee's gross pay is under \$17,500, 15% if the employee's gross pay is \$17,500 or over and under \$32,500, and 25% if the employee's gross pay is \$32,500 or more. In the event the employee disputes the alleged erroneous overpayment, the employee or the union, may appeal to the Office of Labor Relations ("OLR") within 20 days of a notice by the employer of its intent to recoup the overpayment and no deduction for recoupment shall be made until OLR renders a decision, which decision shall be final. Nothing contained above shall preclude the parties or affected individuals from exercising any rights they may have under law.

b. Any recoupment shall be limited to the period up to six years prior to the commencement of such proceedings for recoupment.

c. In lieu of wage deductions for recoupment purposes, the Employer may, with the consent of the employee, make deductions from the employee's annual leave or compensatory leave banks.

Section 9.

Any employee who is required to take a medical examination to determine if the employee is physically capable of performing the employee's full duties, and who is found not to be so capable, shall, as far as practicable, be assigned to in-title and related duties in the same title during the period of the employee's disability. If a suitable position is not available, the Employer shall offer the employee any available opportunity to transfer to another title for which the employee may qualify by the change of title procedure followed by the New York City Department of Citywide Administrative Services pursuant to Rule 6.1.1 of the Personnel Rules and Regulations of the City of New York or by noncompetitive examination offered pursuant to Rule 6.1.9 of the Personnel Rules and Regulations of the City of New York. If such an employee has ten (10) years or more of retirement system membership service and is considered permanently unable to perform all the duties of the employee's title and no suitable in-title position is available, the employee shall be referred to the New York City Employee's Retirement System and recommended for ordinary disability retirement.

Section 10.

a. Interest on wage increases shall accrue at the rate of three percent (3%) per annum from one hundred-twenty (120) days after execution of the applicable agreement or one hundred-twenty (120) days after the effective date of the increase, whichever is later, to the date of actual payment.

b. Interest on shift differentials, holiday and overtime pay, shall accrue at the rate of three percent (3%) per annum from one hundred twenty (120) days following their earning or one hundred twenty (120) days after the execution of this Agreement, whichever is later, to the date of actual payment.

c. Interest accrued under subsections 10(a) or 10(b) shall be payable only if the amount of interest due to an individual employee exceeds five dollars (\$5.00).

Section 11.

The Employer shall make every reasonable effort to provide adequate notice of employee salary garnishments.

Section 12.

No employee shall receive a lower basic salary rate following promotion than the basic salary rate received preceding the promotion.

Section 13.

The Employer shall not withhold entire paychecks when an employee has no leave balance to cover absences without pay, due to illness, up to a maximum of five (5) days, provided the affected employee has five (5) years of service as a member of the New York City Employee's Retirement System. Appropriate deductions shall be made in a subsequent paycheck. Employees with a negative leave balance shall not be covered by this Section.

Section 14.

The Employer shall distribute material describing pension benefits and provisions to all newly hired employees who are covered at the time of appointment by the employing Agency.

Section 15.

a. If an employee's paycheck is lost by the Employer, the Employer shall secure a supplementary paycheck for the employee within three (3) working days after receipt of an affidavit by the employee stating that he/she has not received the lost check or any proceeds from it.

b. If the paycheck of an employee who is already on payroll is withheld as the result of an error which is solely the fault of the Employer, the Employer shall make payment in (4) four working days except when the large effort of paying retroactive monies is involved.

Section 16.

When a permanent employee is summoned to an interview which may lead to a disciplinary action and which is conducted by someone outside the normal supervisory chain of command, the following procedure shall apply:

a. Employees who are summoned to the appropriate office of their agency shall be notified, whenever feasible, in writing at least two (2) work days in advance of the day on which the interview or hearing is to be held, and a statement of the reason for the summons shall be attached, except where an emergency is present or where considerations of confidentiality are involved.

b. Whenever such an employee is summoned for an interview or hearing for the record which may lead to disciplinary action, the employee shall be entitled to be accompanied by a Union representative or a lawyer, and the employee shall be informed of this right. Upon the request of the

employee and at the discretion of the Inspector General, the Inspector General may agree to the employee being accompanied by a lawyer and a Union representative. Such permission shall not be unreasonably denied. If a statement is taken, the employee shall be entitled to a copy.

- c. Wherever possible, such hearings and interviews shall be held in physical surroundings which are conducive to privacy and confidentiality.
- d. This Section shall not alter the provisions of any existing unit Agreement which contains a more beneficial procedure.

Section 17.

- d. Upon the conclusion of an investigation conducted pursuant to Executive Order 16, dated July 26, 1978, the summoned employee shall be entitled, upon request, to a copy of any sworn statement the employee has given to an Inspector General or the Inspector General's designee or representative.
- e. Upon the conclusion of an investigation conducted pursuant to Executive Order 16, dated July 26, 1978, an employee who has been notified that he or she has been the subject of said investigation, shall, upon the employee's request, be advised of its disposition.

Section 18.

The certified Union shall be provided with a copy of the applicable personnel rules, regulations, policies and procedures as distributed by the agency.

Section 19.

At the time of the final approval of an agreement, the Employer shall notify NYCERS of an adjustment in compensation to be included in retirement benefits.

Employees who have retired or left employment for other reasons shall be paid negotiated increases, premium pay, shift differential, overtime, and any other monies due them as soon as possible.

Section 20. Notice of Major Renovations

Effective November 26, 1999, Agencies shall give the Union notice two weeks in advance of the commencement of any major renovation (i.e., funded through the Capital Budget) of an agency facility.

Section 21. Functional Transfers

- h. For the purposes of Article XVII (Disciplinary Procedure for Provisional Employees), time served immediately prior to a functional transfer of a provisional employee in the employee's former agency shall count as time served in the employee's new agency.

- i. For the purposes of Article XVIII (Job Security), time served immediately prior to a functional transfer of a non-competitive or labor class employee in the employee's former agency shall count as time served in the employee's new agency.

Section 22. Conflict of Interest Board Submissions

When permitted by law, the Employer may withhold the final paycheck of an employee who is required by law to file a report with the Conflict of Interest Board upon the termination of employment until the employee has submitted such report.

ARTICLE XII - EVALUATIONS AND PERSONNEL FOLDERS

Section 1.

An employee shall be required to accept a copy of any evaluatory statement of the employee's work performance or conduct prepared during the term of this Agreement if such statement is to be placed in the employee's permanent personnel folder whether at the central office of the agency or in another work location. Prior to being given a copy of such evaluatory statement, the employee must sign a form which shall indicate only that the employee was given a copy of the evaluatory statement but that the employee does not necessarily agree with its contents. The employee shall have the right to answer any such evaluatory statement filed and the answer shall be attached to the file copy. Any evaluatory statement with respect to the employee's work performance or conduct, a copy of which is not given to the employee, may not be used in any subsequent disciplinary actions against the employee. At the time disciplinary action is commenced, the Employer shall review the employee's personnel folder and remove any of the herein-described material which has not been seen by the employee.

An employee shall be permitted to view the employee's personnel folder once a year and when an adverse personnel action is initiated against the employee by the Employer. The viewing shall be in the presence of a designee of the Employer and held at such time and place as the Employer may prescribe.

Section 2.

If an employee finds in the employee's personnel folder any material relating to the employee's work performance or conduct in addition to evaluatory statements prepared after July 1, 1967, the employee shall have the right to answer any such material filed and the answer shall be attached to the file copy.

ARTICLE XIII - CIVIL SERVICE, CAREER DEVELOPMENT

Section 1.

When vacancies in promotional titles covered by this Agreement are authorized to be filled by the appropriate body and the agency with such vacancies decides to fill them, a notice of such vacancies shall be posted in all relevant areas of the agency involved at least five (5) working days prior to filling except when such vacancies are to be filled on an emergency basis. Present agency agreements on this subject shall not be affected by this Section.

Section 2.

- a. The duly certified union representative shall be given a copy of proposed changes in job specifications for any title certified to such union for its perusal at least seven (7) working days in advance of the final approval of such changes.
- b. Notice of final revisions shall be distributed to the agency and shall be posted in appropriate areas for thirty (30) days.

Section 3.

After promotion, if an employee is returned to his/her former title in accordance with existing Personnel Rules and Regulations of the City of New York, the employee may request of the Employer a conference to discuss the basis for the employee's return to the former title. The Employer's decision is neither arbitrable nor reviewable under the Civil Service Law.

Section 4.

An employee on a promotion list who is on a leave of absence without pay shall be notified prior to promotions being made past the employee's list number at the last address of record on file with the City Department of Citywide Administrative Services.

Time served by an employee in a higher assignment level of the employee's permanent title shall count towards the lock-in of the employee's salary at a lower level of that title.

Section 5.

The hiring agency or Department of Citywide Administrative Services, as applicable, shall notify all eligibles at least one week in advance of scheduled hiring or promotional pools or interviews from civil service lists.

ARTICLE XIV - UNION RIGHTS

Section 1.

- a. Where orientation kits are supplied to new employees, unions certified to represent such employees shall be permitted to have included in the kits union literature, provided such literature is first approved for such purpose by the Office of Labor Relations.

- b. The Employer shall distribute to all newly hired employees information regarding their union administered health and security benefits, including the name and address of the fund that administers said benefits, provided such fund supplies the Employer the requisite information printed in sufficient quantities.
- c. The Employer shall distribute information regarding the New York City Employee Health Benefits Program and enrollment forms to eligible employees prior to the completion of thirty (30) days of employment.

Section 2.

The certified union shall have reasonable access to its dues check-off authorization cards in the custody of the Employer.

Section 3.

When an employee is promoted or reclassified to another title certified to the same union as the employee's former title, the dues check-off shall continue uninterrupted. The Employer will issue an appropriate administrative instruction to all agencies to insure compliance with this Section.

Section 4.

When an employee returns from an approved leave of absence without pay, is reappointed or temporarily appointed from a preferred list to the same agency in the same title or in another title represented by the same certified union, any dues check-off authorization in effect prior to the approved leave or the layoff shall be reactivated. The Employer will issue an appropriate administrative instruction to all agencies to insure compliance with this Section.

Section 5.

The Employer shall furnish to a certified union, once a year between March 15 and July 1, a listing of employees by Job Title Code, home address when available, Social Security Number and Department Code Number, as of December 31st of the preceding year. This information shall be furnished to a certified union through the Municipal Labor Committee.

Section 6.

- a. Any certified union, for the purposes of this Agreement, which elects to participate in a separate segregated fund established pursuant to applicable law, including Title 2 USC, Section 441b, to receive contributions to be used for the support of candidates for federal office shall have the exclusive right in conformance with applicable law to the checkoff for such political purposes in a manner as described in a supplemental agreement hereby incorporated by reference into this Agreement.
- b. Any eligible employee covered by this Agreement may voluntarily authorize in writing the deduction of such contributions from the employee's wages for such purpose in an authorization form acceptable to the employer which bears the signature of the employee.

- c. A copy of the Summary Annual Report to the Federal Elections Commission ("FEC") of each fund shall be submitted by the appropriate participating union to the Comptroller and OLR at the time of its submission to the FEC.

ARTICLE XV- WELFARE FUND

Section 1.

In accordance with the election by the Union pursuant to the provisions of Article XIII of the *1995-2001 Citywide Agreement* negotiated pursuant to Section 1173-4.3 (a)(2) of the New York City Collective Bargaining Law recodified as Section 12-307 (a)(2) of the current New York City Collective Bargaining Law or its successor Agreement(s), the Welfare Fund provisions of that *Citywide Agreement* as amended or any successor(s) thereto shall apply to Employees covered by this Agreement.

Section 2.

The unions agree to provide welfare fund benefits to domestic partners of covered Employees in the same manner as those benefits are provided to spouses of married covered Employees.

Section 3.

In accordance with the Health Benefits Agreement dated January 11, 2001, each welfare fund shall provide welfare fund benefits equal to the benefits provided on behalf of an active Employee to widow(er)s, domestic partners and/or children of any Employee who dies in the line of duty as that term is referenced in Section 12-126(b)(2) of the New York City Administrative Code. The cost of providing this benefit shall be funded by the Stabilization Fund.

ARTICLE XVI- PRODUCTIVITY AND PERFORMANCE

Introduction

Delivery of municipal services in the most efficient, effective and courteous manner is of paramount importance to the Employer and the Union. Such achievement is recognized to be a mutual obligation of both parties within their respective roles and responsibilities. To achieve and maintain a high level of effectiveness, the parties hereby agree to the following terms:

Section 1. - Performance Levels

(a) The Union recognizes the Employer's right under the New York City Collective Bargaining Law to establish and/or revise performance standards or norms notwithstanding the existence of prior performance levels, norms or standards. Such standards, developed by usual work measurement procedures, may be used to determine acceptable performance levels, to prepare work schedules and to measure the performance of each employee or group of employees. Notwithstanding the above, questions concerning the practical impact that decisions on the above matters have on Employees are within the scope of collective bargaining. The Employer will give the Union prior notice of the establishment and/or revision of performance standards or norms hereunder.

(b) Employees who work at less than acceptable levels of performance may be subject to disciplinary measures in accordance with applicable law.

Section 2. - Supervisory Responsibility

(a) The Union recognizes the Employer's right under the New York City Collective Bargaining Law to establish and/or revise standards for supervisory responsibility in achieving and maintaining performance levels of supervised employees for employees in supervisory positions listed in Article I, Section 1, of this Agreement. Notwithstanding the above, questions concerning the practical impact that decisions on the above matters have on employees are within the scope of collective bargaining. The Employer will give the Union prior notice of the establishment and/or revision of standards for supervisory responsibility hereunder.

(b) Employees who fail to meet such standards may be subject to disciplinary measures in accordance with applicable law.

Section 3. Performance Compensation

The Union acknowledges the Employer's right to pay additional compensation for outstanding performance.

The Employer agrees to notify the Union of its intent to pay such additional compensation.

ARTICLE XVII- GRIEVANCE PROCEDURE

Section 1. - Definition:

The term "*Grievance*" shall mean:

- a. A dispute concerning the application or interpretation of the terms of this Agreement;
- b. A claimed violation, misinterpretation or misapplication of the rules or regulations, written policy or orders of the Employer applicable to the agency which employs the grievant affecting terms and conditions of employment; provided, disputes involving the Personnel Rules and Regulations of the City of New York shall not be subject to the grievance procedure or arbitration;
- c. A claimed assignment of Employees to duties substantially different from those stated in their job specifications;
- d. A claimed improper holding of an open-competitive rather than a promotional examination; and
- e. A claimed wrongful disciplinary action taken against a permanent Employee covered by Section 75(1) of the Civil Service Law upon whom the agency head has served written charges of incompetence or misconduct while the Employee is serving in the employee's permanent title or which affects the Employee's permanent status.
- f. A claimed wrongful disciplinary action taken against an eligible provisional Employee of a Mayoral Agency who has served without a break in service for two years in the same or similar title or related occupational group in the same agency on a full-time per annum or full-time per diem basis and has been assigned regularly to work the normal, full-time work week established for that title.

Section 2.

The Grievance Procedure, except for grievances as defined in Sections 1 d, 1e and 1f of this Article, shall be as follows:

Employees may at any time informally discuss with their supervisors a matter which may become a grievance. If the results of such a discussion are unsatisfactory, the employees may present the grievance at Step I.

All grievances must be presented in writing at all steps in the grievance procedure. For all grievances as defined in Section 1c, no monetary award shall in any event cover any period prior to the date of the filing of the Step I grievance.

Step I - The Employee and/or the Union shall present the grievance in the form of a memorandum to the person designated for such purpose by the agency head no later than 120 days after the date on which the grievance arose. The Employee may also request an appointment to discuss the grievance. The person designated by the Employer to hear the grievance shall take any steps necessary to a proper disposition of the grievance and shall issue a determination in

writing by the end of the third work day following the date of submission.

STEP II - An appeal from an unsatisfactory determination at STEP I shall be presented in writing to the agency head or the agency head's designated representative who shall not be the same person designated in STEP I. The appeal must be made within five (5) work days of the receipt of the STEP I determination. The agency head or designated representative, if any, shall meet with the Employee and/or the Union for review of the grievance and shall issue a determination in writing by the end of the tenth work day following the date on which the appeal was filed.

STEP III - An appeal from an unsatisfactory determination at STEP II shall be presented by the employee and/or the Union to the Commissioner of Labor Relations in writing within ten (10) work days of the receipt of the STEP II determination. The grievant or the Union should submit copies of the STEP I and STEP II grievance filings and any agency responses thereto. Copies of such appeal shall be sent to the agency head. The Commissioner of Labor Relations or the Commissioner's designee shall review all appeals from STEP II determinations and shall issue a determination on such appeals within fifteen (15) work days following the date on which the appeal was filed.

STEP IV - An appeal from an unsatisfactory determination at STEP III may be brought solely by the Union to the Office of Collective Bargaining for impartial arbitration within fifteen (15) work days of receipt of the STEP III determination. In addition, the Employer shall have the right to bring directly to arbitration any dispute between the parties concerning any matter defined herein as a "grievance." The Employer shall commence such arbitration by submitting a written request therefor to the Office of Collective Bargaining. A copy of the notice requesting impartial arbitration shall be forwarded to the opposing party. The arbitration shall be conducted in accordance with the Consolidated Rules of the Office of Collective Bargaining. The costs and fees of such arbitration shall be borne equally by the Union and the Employer. The assigned arbitrator shall hold a hearing at a time and place convenient to the parties and shall issue an award within 30 days after the completion of the hearing.

The arbitrator's decision, order or award (if any) shall be limited to the application and interpretation of the Agreement; and the arbitrator shall not add to, subtract from or modify the Agreement. The arbitrator's award shall be final and binding and enforceable in any appropriate tribunal in accordance with Article 75 of the Civil Practice Law and Rules. The arbitrator may provide for and direct such relief as the arbitrator deems necessary and proper, subject to the limitations set forth above and any applicable limitations of law.

Section 3.

As a condition to the right of the Union to invoke impartial arbitration set forth in this Article, including the arbitration of a grievance involving a claimed improper holding of an open-competitive rather than a promotional examination, the Employee or Employees and the

Union shall be required to file with the Director of the Office of Collective Bargaining a written waiver of the right, if any, of the Employee and the Union to submit the underlying dispute to any other administrative or judicial tribunal except for the purpose of enforcing the arbitrator's award.

Section 4.

In any case involving a grievance under Section 1e of this Article, the following procedure shall govern upon service of written charges of incompetence or misconduct:

STEP A - Following the service of written charges, a conference with such Employee shall be held with respect to such charges by the person designated by the agency head to review a grievance at STEP I of the Grievance Procedure set forth in this Agreement. The Employee may be represented at such conference by a representative of the Union. The person designated by the agency head to review the charges shall take any steps necessary to a proper disposition of the charges and shall issue a determination in writing by the end of the fifth day following the date of the conference.

If the Employee is satisfied with the determination in STEP A above, the Employee may choose to accept such determination as an alternative to and in lieu of a determination made pursuant to the procedures provided for in Section 75 of the Civil Service Law. As a condition of accepting such determination, the Employee shall sign a waiver of the Employee's right to the procedures available to him or her under Sections 75 and 76 of the Civil Service Law.

STEP B (i) - If the Employee is not satisfied with the determination at STEP A above then the Employer shall proceed in accordance with the disciplinary procedures set forth in Section 75 of the Civil Service Law. As an alternative, the Union with the consent of the Employee may choose to proceed in accordance with the Grievance Procedure set forth in this Agreement, including the right to proceed to binding arbitration pursuant to STEP IV of such Grievance Procedure. As a condition for submitting the matter to the Grievance Procedure the Employee and the Union shall file a written waiver of the right to utilize the procedures available to the employee pursuant to Sections 75 and 76 of the Civil Service Law or any other administrative or judicial tribunal, except for the purpose of enforcing an arbitrator's award, if any. Notwithstanding such waiver, the period of an employee's suspension without pay pending hearing and determination of charges shall not exceed thirty (30) days.

STEP B (ii) - If the election is made to proceed pursuant to the Grievance Procedure, an appeal from the determination of STEP A above, shall be made to the agency head or designated representative. The appeal must be made in writing within five (5) work days of the receipt of the determination. The agency head or designated representative shall review the grievance and shall issue a written reply to the Employee and the Union by the end of the tenth work day following the day on which the appeal was filed. The agency head or designated representative shall have

the power to impose the discipline, if any, decided upon, up to and including termination of the accused Employee's employment.

STEP C - If the grievant is not satisfied with the determination of the agency head or designated representative the grievant or the Union may appeal to the Commissioner of Labor Relations in writing within ten (10) days of the determination of the agency head or designated representative. The Commissioner of Labor Relations shall issue a written reply to the grievant and the Union within fifteen (15) work days.

STEP D- If the grievant is not satisfied with the determination of the Commissioner of Labor Relations, the Union with the consent of the grievant may proceed to arbitration pursuant to the procedures set forth in STEP IV of the Grievance Procedure set forth in this Agreement.

Section 5.

In any case involving a grievance under Section 1.f. of this Article, the "Disciplinary Procedure for Provisional Employees," including side-letter, appended, shall govern.

Section 6.

A grievance concerning a large number of employees and which concerns a claimed misinterpretation, inequitable application, violation or failure to comply with the provisions of this Agreement may be filed directly at STEP III of the grievance procedure. Such group grievance must be filed no later than 120 days after the date on which the grievance arose, and all other procedural limits including time limits set forth in this Article shall apply. All other individual grievances in process concerning the same issue shall be consolidated with the "group" grievance.

Section 7.

If a determination satisfactory to the Union at any level of the Grievance Procedure is not implemented within a reasonable time, the Union may re-institute the original grievance at STEP III of the Grievance Procedure; or if a satisfactory STEP III determination has not been so implemented, the Union may institute a grievance concerning such failure to implement at STEP IV of the Grievance Procedure.

Section 8.

If the Employer exceeds any time limit prescribed at any step in the Grievance Procedure, the grievant and/or the Union may invoke the next step of the procedure, except that only the Union may invoke impartial arbitration under STEP IV.

Section 9.

The Employer shall notify the Union in writing of all grievances filed by Employees, all grievance hearings, and all determinations. The Union shall have the right to have a representative present at any grievance hearing and shall be given forty-eight (48) hours' notice of all grievance hearings.

Section 10.

Each of the steps in the Grievance Procedure, as well as time limits prescribed at each step of this Grievance Procedure, may be waived by mutual agreement of the parties.

Section 11.

a. Any grievance relating to a claimed improper holding of an open-competitive rather than promotional examination shall be presented in writing by the Employee or the Union representative to the Commissioner of Labor Relations not later than thirty (30) days after the notice of the intention to conduct such open-competitive examination, or copy of the appointing officer's request for such open-competitive examination, as the case may be, has been posted in accordance with Section 51 of the Civil Service Law. The grievance shall be considered and passed upon within ten (10) days after its presentation. The determination shall be in writing, copies of which shall be transmitted to both parties to the grievance upon issuance.

b. A grievance relating to the use of an open-competitive rather than promotional examination which is unresolved by the Commissioner of Labor Relations may be brought to impartial arbitration as provided in Sections 2 and 3 above. Such a grievance shall be presented by the Union, in writing, for arbitration within 15 days of the presentation of such grievance to the Commissioner of Labor Relations, and the arbitrator shall decide such grievance within 75 days of its presentation to the arbitrator. The party requesting such arbitration shall send a copy of such request to the other party. The costs and fees of such arbitration shall be borne equally by the employer and the Union.

Section 12.

The grievance and the arbitration procedure contained in this Agreement shall be the exclusive remedy for the resolution of disputes defined as "grievances" herein. This shall not be interpreted to preclude either party from enforcing the arbitrator's award in court. This Section shall not be construed in any manner to limit the statutory rights and obligations of the Employer under Article XIV of the Civil Service Law.

Section 13. Expedited Arbitration Procedure.

- a. The parties agree that there is a need for an expedited arbitration process which would allow for the prompt adjudication of grievances as set forth below.
- b. The parties voluntarily agree to submit matters to final and binding arbitration pursuant to the New York City Collective Bargaining Law and under the jurisdiction of the Office of Collective Bargaining. An arbitrator or panel of arbitrators, as agreed to by the parties, will act as the arbitrator of any issue submitted under the expedited procedure herein.
- c. The selection of those matters which will be submitted shall include, but not limited to, out-of-title cases concerning all titles, disciplinary cases wherein the proposed penalty is a monetary fine of one week or less or written reprimand, and other cases pursuant to mutual agreement by the parties. The following procedures shall apply:

i. Selection and Scheduling of Cases:

- (1) The Deputy Chairperson for Disputes of the Office of Collective Bargaining shall propose which cases shall be subject to the procedures set forth in this Section 13 and notify the parties of proposed hearing dates for such cases.
- (2) The parties shall have ten business days from the receipt of the Deputy Chairperson's proposed list of cases and hearing schedule(s) to raise any objections thereto.
- (3) If a case is not proposed by the Deputy Chairperson for expedited handling, either party may, at any time prior to the scheduling of an arbitration hearing date for such case, request in writing to the other party and to the Deputy Chairperson of Disputes of the Office of Collective Bargaining that said case be submitted to the expedited procedure. The party receiving such request shall have ten business days from the receipt of the request to raise any objections thereto.
- (4) No case shall be submitted to the expedited arbitration process without the mutual agreement of the parties.

ii. Conduct of Hearings:

- (1) The presentation of the case, to the extent possible, shall be made in the narrative form. To the degree that witnesses are necessary, examination will be limited to questions of material fact and cross examination will be similarly limited. Submission of relevant documents, etc., will not be unreasonably limited and may be submitted as a "packet" exhibit.
- (2) In the event either party is unable to proceed with hearing a particular case, the case shall be rescheduled. However, only one adjournment shall be permitted. In the event that either party is unable to proceed on a second

occasion, a default judgment may be entered against the adjourning party at the Arbitrator's discretion absent good cause shown.

- 3) The Arbitrator shall not be precluded from attempting to assist the parties in settling a particular case.
- (4) A decision will be issued by the Arbitrator within two weeks. It will not be necessary in the Award to recount any of the facts presented. However, a brief explanation of the Arbitrator's rationale may be included. Bench decisions may also be issued by the Arbitrator.
- (5) Decisions in this expedited procedure shall not be considered as precedent for any other case nor entered into evidence in any other forum or dispute except to enforce the Arbitrator's award.
- (6) The parties shall, whenever possible, exchange any documents intended to be offered in evidence at least one week in advance of the first hearing date and shall endeavor to stipulate to the issue in advance of the hearing date.

Section 14. FLSA Dispute Procedure

- a. Any dispute, controversy or claim concerning or arising out of the application or interpretation of the Fair Labor Standards Act ("FLSA Controversy") shall be submitted by a claimant in accordance with this section.
- b. Any FLSA Controversy must be presented in writing and in the form prescribed by the FLSA Panel no later than sixty days after the date on which such FLSA Controversy arose.
- c.
 - i. Any FLSA Controversy arising out of a claimed wrongful computation of benefits shall be submitted by an employee in writing to the applicable agency head or designee for review and resolution. A copy shall also be submitted to the Office of Labor Relations and to the Union. The agency shall have thirty days to resolve the matter and issue a written decision; such period may be extended by mutual agreement of the parties.
 - ii. If the matter is not satisfactorily resolved at the agency level, the claimant may, within two weeks after receipt of the agency determination, appeal the matter to the FLSA Panel in writing.
- d. The FLSA Panel shall consist of a representative designated by the Municipal Labor Committee and a representative designated by the Commissioner of the Office of Labor Relations of the City of New York. The FLSA Panel shall establish appropriate forms and procedures to promptly review and resolve all FLSA Controversies submitted to it.
- e. Any FLSA Controversy arising out of the classification of a position or group of positions as exempt or non-exempt from the FLSA shall be submitted by an employee in writing to the FLSA Panel.

The Panel shall take any steps necessary for a proper disposition of any FLSA Controversy and shall issue a written determination within sixty days following the date of submission thereof. The FLSA Panel's time may be extended by mutual agreement of the parties. The decision of the Panel shall be final.

- f. Notwithstanding the provisions of this Section 14, the submission of a dispute by an employee under this procedure shall not constitute a waiver of the employee's rights under the FLSA.

ARTICLE XVIII - JOB SECURITY

Section 1. General Layoff Provisions

Where layoffs are scheduled affecting full-time employees in competitive class, non-competitive class, and labor classes the following procedures shall be used:

- a. Notice shall be provided by the Office of Labor Relations to the appropriate union(s) not less than thirty (30) days before the effective dates of projected layoffs. Such notification(s) shall apply to all proposed layoffs and shall include a summary by layoff unit of the number of affected positions by title (including title code number and civil service status) and shall also include in addition to the above information the name, social security number, city start date, and title start date of each affected employee.

It is understood by the parties that such notice is considered to be preliminary and is subject to change during the 30 days notice period. However, if new title(s) which were not part of the original notice are added to the proposed layoff notice or the number of employees in title(s) contained in the original notice is increased beyond the number in the original notice, an additional 30 days notice will be given to the affected union(s) covering solely such additional title(s) or numbers, except, such additional 30 days notice shall not apply to employees displaced by the "bumping" provisions mandated by the Civil Service Law or by appointments from special transfer, preferred, or other civil service lists. The parties may waive such additional notice by mutual consent.

- b. Within such 30-day period designated representatives of the Employer will meet and confer with the designated representatives of the appropriate union with the objective of considering feasible alternatives to all or part of such scheduled layoffs, including but not limited to:
 - i. the transfer of employees to other agencies with retraining, if necessary, consistent with Civil Service law but without regard to the Civil Service title,
 - ii. the use of Federal and State funds whenever possible to retain or re-employ employees scheduled for layoff,

- iii. the elimination or reduction of the amount of work contracted out to independent contractors, and
 - iv. encouragement of early retirement and the expediting of the processing of retirement applications.
- c. After meeting and conferring with the designated representatives of the union, the Employer shall have the right, when necessary, to transfer any employee, in lieu of layoff, from one agency to another provided such transfer is within title (and the employee meets all the legal requirements of the new position) and is being made without loss in pay, benefits, or seniority to the affected employee. The following procedure shall govern:
- i. Volunteers in order of title seniority.
 - ii. Non-volunteers in order of title seniority among those who would otherwise have to be laid off in the agency from which the transfer is being made.

Section 2. Competitive Class Preferred Lists

- a. When a layoff occurs, the Employer shall provide to the bargaining representative a list of permanent competitive class employees who are on a preferred list with the original date of appointment utilized for the purpose of such layoff.
- b. A laid off employee who is returned to service in the employee's former title or in a comparable title from a competitive class preferred list, shall receive the basic salary rate that would have been received by the employee had the employee never been laid off, up to a maximum of two (2) years of general salary increases.

ARTICLE XIX – BULLETIN BOARDS: EMPLOYER FACILITIES

The Union may post notices on bulletin boards in places and locations where notices usually are posted by the Employer for the Employees to read. All notices shall be on Union stationery, and shall be used only to notify Employees of matters pertaining to Union affairs. Upon request to the responsible official in charge of a work location, the Union may use Employer premises for meetings during Employees' lunch hours, subject to availability of appropriate space and provided such meetings do not interfere with the Employer's business.

ARTICLE XX – NO STRIKES

In accordance with the New York City Collective Bargaining Law, as amended, neither the Union nor any employee shall induce or engage in any strikes, slowdowns, work stoppages, mass absenteeism, or induce any mass resignations during the term of this Agreement.

ARTICLE XXI – UNION ACTIVITY

Time spent by employee representatives in the conduct of labor relations with the City and on Union activities shall be governed by the terms of Executive Order No. 75, as amended, dated March 22, 1973, entitled "Time Spent on the Conduct of Labor Relations between the City and Its employees and on Union Activity" or any successor thereto.

ARTICLE XXII – LABOR-MANAGEMENT COMMITTEE

Section 1. The Employer and the Union, having recognized that cooperation between management and employees is indispensable to the accomplishment of sound and harmonious labor relations, shall jointly maintain and support a labor-management committee.

Section 2.

The labor-management committee shall consider and recommend to the agency head changes in the working conditions of the employees within the agency who are covered by this Agreement. Matters subject to the Grievance Procedure shall not be appropriate items for consideration by the labor-management committee.

Section 3.

The labor-management committee shall consist of six members who shall serve for the term of this Agreement. The Union shall designate three members and the agency head shall designate three members. Vacancies shall be filled by the appointing party for the balance of the term to be served. Each member may designate one alternate. Each committee shall select a chairperson from among its members at each meeting. The chairpersonship of each committee shall alternate between the members designated by the agency head and the members designated by the Union. A quorum shall consist of a majority of the total membership of a committee. A committee shall make its recommendations to the agency head in writing.

Section 4.

The labor-management committee shall meet at the call of either the Union members or the Employer members at times mutually agreeable to both parties. At least one week in advance of a meeting the party calling the meeting shall provide, to the other party, a written agenda of matters

to be discussed. Minutes shall be kept and copies supplied to all members of the committee.

ARTICLE XXIII – FINANCIAL EMERGENCY ACT

The provisions of this Agreement are subject to applicable provisions of law, including the New York State Financial Emergency Act for the City of New York as amended.

ARTICLE XXIV - APPENDICES

The Appendix or Appendices, or Side Letters attached to the Agreement if any, attached hereto and initialed by the undersigned shall be deemed a part of this Agreement as if fully set forth herein.

ARTICLE XXV – SAVINGS CLAUSE

In the event that any provision of this Agreement is found to be invalid, such invalidity shall not impair the validity and enforceability of the remaining provisions of this Agreement.

WHEREFORE, we have hereunto set our hands and seals this th 16 day of December, 2011

FOR THE CITY OF NEW YORK:

FIRE ALARM DISPATCHERS
BENEVOLENT ASSOCIATION, INC.:

BY: James F. Hanley
JAMES F. HANLEY
Commissioner of Labor Relations

BY: Brian Kuntz
BRIAN KUNTZ
President

APPROVED AS TO FORM:

APPROVED AS TO FORM:

BY: Paul T. Rephen
PAUL T. REPHEN
Acting Corporation Counsel

BY: Joan Stern Kiok
JOAN STERN KIOK
General Counsel

DATE SUBMITTED TO THE FINANCIAL CONTROL BOARD:
_____, 2011

UNIT: Fire Alarm Dispatcher, et al.

TERM: September 13, 2006 – May 14, 2010

OFFICE OF LABOR RELATIONS
REGISTRATION
OFFICIAL CONTRACT
NO: 11003 DATE: Dec 16 2011



THE CITY OF NEW YORK
OFFICE OF LABOR RELATIONS
40 Rector Street, New York, NY 10006-1705
<http://nyc.gov/olr>

JAMES F. HANLEY
Commissioner

Brian Kuntz, President
Fire Alarm Dispatchers Benevolent Association, Inc.
139 Fulton Street, Room 318
New York, N.Y. 10038

RE: 2006-2010 FADBA Agreement

Dear Mr. Kuntz:

This is to confirm our mutual understanding and agreement regarding the above Agreement which was negotiated in the context of the April 15, 1986 effective date for the application of the Fair Labor Standards Act (*FLSA*) to State and Local governments:

Notwithstanding the provisions of the *FLSA*, Supervising Fire Alarm Dispatchers, Level I shall be compensated in the same manner as Fire Alarm Dispatchers for hours of work.

In the event that the *FLSA* is further modified by amendment, regulation or interpretation in a manner that impacts upon the costing of this Agreement, either party may reopen this Agreement for the limited and sole purpose of determining the cost impact of such modification under the above Agreement.

In the event that the Fire Department makes a change in the configuration of the work schedule which has more than a negligible impact upon the costing of this Agreement in light of the *FLSA*, the Union may reopen this Agreement for the limited and sole purpose of determining the cost impact of such modification under the above Agreement, and shall have the right to bargain on that impact.


In no event shall any such reopening result in a cost that exceeds the costs previously agreed upon.

Dispatcher Directive #84-7 (Revised) dated December 3, 1985, shall be amended in part to read:

The availability of personnel on a city-wide basis will be the criterion upon which approval will be made. SFAD Level I requests will be approved to a level of one SFAD Level I below the scheduled city-wide SFAD, Level I manning for each tour. SFADs, Level I on terminal leave will not be counted as part of the scheduled manning.

If the above accords with your understanding, please execute the signature line below.

Very truly yours,


JAMES F. HANLEY

Agreed and accepted on behalf of FADBA

By: 

Brian Kuntz, President



THE CITY OF NEW YORK
OFFICE OF LABOR RELATIONS
40 Rector Street, New York, NY 10006-1705
<http://nyc.gov/olr>

JAMES F. HANLEY
Commissioner

Brian Kuntz, President
Fire Alarm Dispatchers Benevolent Association, Inc.
139 Fulton Street, Room 318
New York, NY 10038

Re: 2006-2010 FADBA Agreement

Dear Mr. Kuntz:

This is to confirm our mutual understanding and agreement regarding the 2006-2010 FADBA Agreement .

Welfare Fund

- a. Effective September 13, 2006, the City's contribution on behalf of each full-time active member and retiree shall be increased by \$100 per annum.
- b. Effective January 13, 2007, there shall be a one-time lump sum cash payment to the welfare fund in the amount of \$166.67 on behalf of each full-time active member and retiree who is receiving benefits on January 13, 2007.
- c. The per annum contribution rate, and the one-time lump sum cash payment on behalf of eligible part-time per annum, hourly paid, per session and per diem (including seasonal appointees) whose normal work year is less than a full calendar year shall be adjusted in the same proportion heretofore utilized by the parties for all such Employees/retirees as the per annum contribution rate is adjusted for full-time Employees/retirees.

Additional Compensation Fund

Effective on May 14, 2010, the bargaining unit shall have available funds not to exceed 0.10% to purchase recurring benefits, mutually agreed to by the parties, other than to enhance the general wage increases set forth in Section 2 c and d. The funds available shall be based on the December 31, 2007 payroll, including spinoffs and pensions.

Miscellaneous

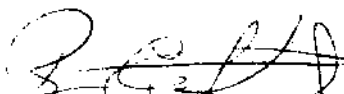
The Union also agrees not to pursue the "Joint Labor Management Committee on Productivity Initiatives" referenced in the side letter to the 2002-2005 FADBA *Unit Agreement* dated December 8, 2004 and the side letter to the 2005-2006 FADBA *Unit Agreement* dated May 22, 2006 and their respective side letters shall have no further force and effect.

If the above accords with your understanding, please execute the signature line below.

Very truly yours,


JAMES F. HANLEY

Agreed and Accepted on behalf of FADBA

By: 

Brian Kuntz, President

11003



THE CITY OF NEW YORK
OFFICE OF LABOR RELATIONS
 40 Rector Street, New York, NY 10006-1705
<http://nyc.gov/olr>

JAMES F. HANLEY
 Commissioner

August 13, 2009

Brian Kuntz, President
 Fire Alarm Dispatchers Benevolent Association, Inc.
 139 Fulton Street, Room 318
 New York, N.Y. 10038

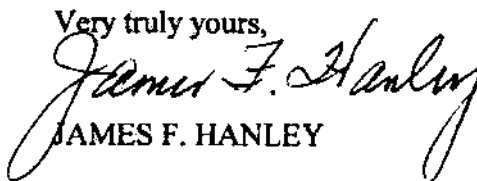
Dear Mr. Kuntz:

This is to confirm our mutual understanding and agreement regarding the uniform allowance for employees in your bargaining unit.

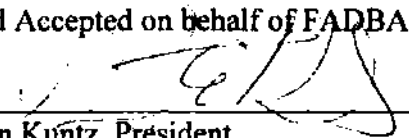
There shall be a \$100.00 per annum uniform allowance paid to all employees in this Agreement who wear a uniform.

Uniform allowance payments will be made to those employees who have completed six months of service in the applicable title; those employees who have not completed six months of service or those on leave of absence without pay or restored to duty shall, upon completion of six months of service receive the uniform allowance payment. Absence without pay in excess of six days will advance the eligibility date by the number of days absent without pay.

If the above accords with your understanding, please execute the signature line below.

Very truly yours,

 JAMES F. HANLEY

Agreed and Accepted on behalf of FADBA

By: 
 Brian Kuntz, President



THE CITY OF NEW YORK
OFFICE OF LABOR RELATIONS
 40 Rector Street, New York, NY 10008-1705
<http://nyc.gov/olr>

JAMES F. HANLEY
 Commissioner

October 6, 2011

Ms. Mary O'Connell
 General Counsel
 District Council 37
 125 Barclay Street
 New York, New York 10007

Dear Ms. O'Connell:

This letter serves to convey the City of New York's position regarding due process procedures for provisional employees outlined in the agreement dated August 30, 2011 which was entered into between the City of New York and District Council 37 after the Union's withdrawal of the Improper Practice Petition docketed as BCB-2899-18.

The Office of Labor Relations (OLR) shall apply the terms of the attached "Disciplinary Procedure for Provisional Employees" and side letter agreement between the City and DC 37 to other unions covered by the Career and Salary plan. However, this "Disciplinary Procedure for Provisional Employees" and side letter agreement shall not expand rights previously embodied in Article XVI of the January 1, 1995 through June 30, 2001 Citywide Agreement, as amended, nor shall it confer any rights or benefits that provisional employees did not enjoy under the Citywide Agreement, or under an applicable unit agreement, before the decision in *CSEA v. Long Beach*.

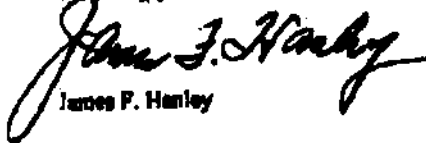
The "Disciplinary Procedure for Provisional Employees" and side letter agreement specifically excludes the New York City Health and Hospitals Corporation ("HHC") even though HHC is a signatory to the Citywide Agreement.

OLR shall amend the "Disciplinary Procedure for Provisional Employees" and side letter agreement attached to the Citywide Agreement and to unit agreements provided such unit agreements previously extended such coverage to provisional employees.

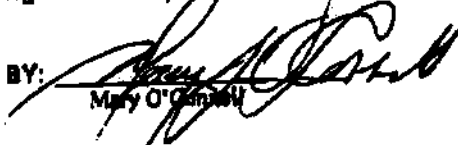
In consideration of the above, District Council 37 shall withdraw with prejudice both its October 3, 2011 letter to the Board of Collective Bargaining requesting that the Board issue a decision on BCB-2899-18, as well as the Improper Practice Petition that the Union previously withdrew on August 17, 2011.

If the above terms are acceptable to DC 37, please execute the signature line provided below.

Very truly yours,


 James F. Hanley

Agreed and Accepted on Behalf of DC 37

BY: 
 Mary O'Connell

11003

DISCIPLINARY PROCEDURE FOR PROVISIONAL EMPLOYEES

1. Purpose

New York State Civil Service Law, Article 4, Title B, §65 governs provisional appointments. The purpose of this agreement is to establish a disciplinary procedure for certain provisional employees in the context of the City of New York's five-year plan to reduce provisional appointments as approved, with certain modifications, by the New York State Civil Service Commission on September 22, 2008 and accepted by the Commissioner of Citywide Administrative Services on October 22, 2008.

2. Eligibility Criteria

- a. The employee must have served for at least two (2) years in the same or similar title or related occupational group in the same agency without a break in service (see: below) of more than 31 days; and
- b. The employee must have been serving provisionally in such competitive class position on a full-time per annum or full-time per diem basis and assigned regularly to work the normal, full-time work week established for that title. (see: Attachment A for special provisions applicable to School Based Employees.)
- c. Prior provisional service followed by permanent service may not be aggregated with current provisional service (e.g. prior provisional service as a temporary or seasonal "step-up" followed by permanent service may not be counted towards meeting the service requirement in an employee's current provisional position.)

The following unpaid time in excess of 31 days will not be deemed a break in service or be counted as service:

- (i) for maternity/childcare leave;
- (ii) for military leave;
- (iii) jury duty;
- (iv) for union business pursuant to Executive Order 75;
- (v) while pending workers' compensation determination;
- (vi) while on workers' compensation option 2;
- (vii) due to illness or exhaustion of paid sick leave; and
- (viii) due to family illness.

3. Exceptions

- a. No provisional employees shall be deemed to be permanently appointed under any circumstances, nor shall this disciplinary procedure be deemed to preclude removal of any provisional employee as a result of the establishment of, or appointment from, an appropriate eligible list, or in accordance with any other provision of law.
- b. Notwithstanding the provisions in Section 2, Eligibility Criteria, above, this Disciplinary Procedure shall not be available to any employee appointed on a provisional basis to any position for which one or more appropriate eligible lists have been established including but not limited to any list established pursuant to a plan approved in accordance with NYS Civil Service Law Section 65(5)(b).

4. Procedure

When a claimed wrongful disciplinary action has been taken against an eligible provisional employee (see: Eligibility Criteria), the following procedure shall govern upon service of written charges of incompetence or misconduct:

- STEP A** Following the service of written charges, a conference with such employee shall be held with respect to such charges by the person designated by the agency head to review a grievance at STEP I of the Grievance Procedure set forth in Article XV of this Agreement.¹ The employee may be represented at such conference by a representative of the Union. The person designated by the agency head to review the charges shall take any steps necessary to a proper disposition of the charges and shall issue a determination in writing by the end of the fifth day following the date of the conference.
- STEP B(I)** If the employee is not satisfied with the determination at STEP A above, then the employee may choose to proceed in accordance with the Grievance Procedure set forth in Article XV of this Agreement through STEP III. The Union, with the consent of the employee, shall have the right to proceed to binding arbitration pursuant to STEP IV of such Grievance Procedure. The period of an employee's suspension without pay pending hearing and determination of charges shall not exceed thirty (30) days.
- STEP B(II)** An appeal from the determination of STEP A above shall be made to the agency head or designated representative. The appeal must be made in writing within five (5) work days of the receipt of the determination. The agency head or designated representative shall meet with the employee

¹ Reference is to 1995-2001 Citywide Agreement.

and the Union for review of the grievance and shall issue a determination to the employee and the Union by the end of the tenth work day following the day on which the appeal was filed. The agency head or designated representative shall have the power to impose the discipline, if any, decided upon, up to and including termination of the accused employee's employment. In the event of such termination or suspension without pay totaling more than thirty (30) days, the Union with the consent of the grievant may elect to skip STEP C of this Section and proceed directly to STEP D.

STEP C If the grievant is not satisfied with the determination of the agency head or designated representative the grievant or the Union may appeal to the Commissioner of Labor Relations in writing within ten (10) days of the determination of the agency head or designated representative. The Commissioner of Labor Relations shall issue a written reply to the grievant and the Union within fifteen (15) work days.

STEP D If the grievant is not satisfied with the determination of the Commissioner of Labor Relations, the Union with the consent of the grievant may proceed to arbitration pursuant to the procedures set forth in STEP IV of the Grievance Procedure set forth in Article XV of this Agreement.

The arbitrator's decision, order or award (if any) shall be limited to the application and interpretation of the Agreement and the arbitrator shall not add to, subtract from or modify the Agreement. The arbitrator's award shall be final and binding and enforceable in any appropriate tribunal in accordance with Article 75 of the Civil Practice Law and Rules. The arbitrator may provide for and direct such relief as the arbitrator deems necessary and proper, subject to the limitations set forth in this Procedure and any applicable limitations of law.

5. Limitations on Arbitrator's Award

Notwithstanding any inconsistent provision of this Procedure, when an eligible list exists for the title that the employee held provisionally, an Arbitrator shall not be empowered to order reinstatement of an employee.

This limitation shall not preclude a monetary remedy for any portion of the period covered from the implementation of the disciplinary penalty at issue in the grievance to the date of the establishment of an eligible list.

6. Expiration Date

This Disciplinary Procedure shall expire on the earlier of either of the following:

- a. the expiration or termination of a plan approved pursuant to subdivision 5 of section 65 of the Civil Service Law; or
- b. December 31, 2014.

FOR THE CITY OF NEW YORK

**FOR DISTRICT COUNCIL 37,
AFSCME, AFL-CIO**

BY: *James F. Hanley*
JAMES F. HANLEY
Commissioner of Labor Relations

BY: *Lillian Roberts*
LILLIAN ROBERTS
Executive Director

APPROVED AS TO FORM:

8/30/11

BY: *Paul T. Repien*
PAUL T. REPIEN
Acting Corporation Counsel

August 10, 2011

Evelyn Seinfeld
Director of Research and Negotiations
District Council 37
125 Barclay Street
New York, New York 10007

Re: Pending Provisional Employee Disciplinary Cases

Dear Ms. Seinfeld:

This letter confirms our mutual understanding and agreement concerning certain provisional employees on whose behalf grievances alleging claimed wrongful disciplinary actions by the agency were filed prior to and/or subsequent to the Court of Appeals' decision in *CSEA v. Long Beach* but which cases have been held in abeyance and have not progressed to arbitration.

In addition to the limitation set forth in Section 5. of the "Disciplinary Process for Provisional Employees". In determining a "back pay" award, if any, the arbitrator shall exclude the period of time from the date of the Long Beach decision through January 28, 2008. An arbitrator may award "back pay" for the period subsequent to the affected employee's discipline/termination but prior to the Court of Appeals' decision in *CSEA v. Long Beach* (that is, May 1, 2007.) However, in no case may "back pay" be awarded for any period during which a provisional employee was serving while an eligible list existed for the title the employee held provisionally. Moreover, in awarding backpay, the Arbitrator must consider the efforts of the employee in mitigating his or her damages and must also offset any backpay award by any and all interim earnings, including unemployment compensation. In no event may an employee be awarded backpay in excess of one year's base salary for the position s/he held provisionally.

If you concur with the contents set forth herein, please execute the signature line provided below.

Very truly yours,


James F. Hanley

Agreed and Accepted on Behalf of District Council 37

BY: 
Evelyn Seinfeld

11003