




OFFICE OF LABOR RELATIONS

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TO: HEADS OF CONCERNED CITY DEPARTMENTS AND AGENCIES
FROM: ROBERT W. LINN, COMMISSIONER 
SUBJECT: EXECUTED CONTRACT: INSTITUTIONAL SERVICES
TERM: MARCH 3, 2008 TO MARCH 2, 2010

Attached for your information and guidance is a copy of the executed contract entered into by the Commissioner of Labor Relations and the Health and Hospitals Corporation behalf of the City of New York and District Council 37 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: December 12, 2014

| | |
|---------------------------|-------------------------|
| OFFICE OF LABOR RELATIONS | |
| REGISTRATION | |
| OFFICIAL | CONTRACT |
| NO: 15002 | DATE: December 12, 2014 |

2008 - 2010
INSTITUTIONAL SERVICES
UNIT AGREEMENT

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AGREEMENT entered into this 12th day of December, 2014 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 and the New York City Health and Hospitals Corporation (hereinafter referred to jointly as the "Employer"), and District Council 37, A.F.S.C.M.E., AFL-CIO (hereinafter referred to as the "Union"), for the twenty-four (24) month period, March 3, 2008 to March 2, 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):

| | |
|--------------------|-------------------------------------|
| 004560 | Central Supply Assistant |
| 81801,818010 | Dietary Aide |
| 09533 | Dietary Aide (JOP) |
| 05256 | Dietary Aide (Correction) |
| 004860 | Home Health Aide |
| 81802,818020 | Housekeeping Aide |
| 81803,818030,08775 | Institutional Aide |
| 06469 | Institutional Aide (DOC) |
| 90110,901100 | Laundry Worker |
| 50901,509010 | Nurse's Aide |
| 50905 | Nurse's Aide (Handicapped Children) |
| 001160 | Nurse's Aide (Transport Escort) |
| 06415 | Nurse's Aide (Correction) |
| 90135,901350 | Senior Laundry Worker |
| 987010 | Service Aide |
| 90111,901110 | Washer |

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 check-off 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 Check-off 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 37.5 hours for Laundry Worker, Senior Laundry Worker and Washer; and 40 hours for all remaining titles represented herein (except in Health and Hospitals Corporation and the Department of Social Services, where the normal work week is 37.5 hours). In accordance with Article IX, Section 24 of the 1995 – 2001 Citywide Agreement, an Employee who works on a full-time, per-diem basis shall receive their base salary (including salary increment schedules) and/or additions-to-gross payment in the same manner as a full-time, per-annum employee. An employee who works on a part-time per annum basis and who is eligible for any salary adjustments provided in this Agreement shall receive the appropriate pro-rata portion of such salary adjustment computed on the relationship between the number of hours regularly worked each week by such employee and the number of hours in the said normal work week, unless otherwise specified.

- 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.
 - 37 1/2 hour week basis - 1/1957.5 of the appropriate minimum basic salary.
 - 35 hour week basis - 1/1827 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. Salaries

Employees in the following title(s) shall be subject to the following specified salary(ies), salary adjustment(s), and/or salary range(s):

| <u>TITLE</u> | a. Effective March 3, 2008 | | | b. Effective March 3, 2009 | | |
|-------------------------------------------|----------------------------|-------------------|-----------------|----------------------------|-------------------|-----------------|
| | Hiring Rate* | Incumbent Rate | Maximum Rate | Hiring Rate* | Incumbent Rate | Maximum Rate |
| Central Supply Assistant | \$28,446 | \$32,713 | \$38,216 | \$29,584 | \$34,022 | \$39,745 |
| Dietary Aide | \$28,062 | \$32,271 | \$35,752 | \$29,184 | \$33,562 | \$37,182 |
| Dietary Aide (JOP) | \$28,062 | \$32,271 | \$35,752 | \$29,184 | \$33,562 | \$37,182 |
| Dietary Aide (DOC) | \$28,062 | \$32,271 | \$35,752 | \$29,184 | \$33,562 | \$37,182 |
| Home Health Aide | \$28,446 | \$32,713 | \$38,216 | \$29,584 | \$34,022 | \$39,745 |
| Housekeeping Aide | \$28,062 | \$32,271 | \$35,752 | \$29,184 | \$33,562 | \$37,182 |
| Institutional Aide (incl. DOC) | \$28,062 | \$32,271 | \$35,752 | \$29,184 | \$33,562 | \$37,182 |
| Laundry Worker | \$25,932 | \$29,822 | \$33,858 | \$26,970 | \$31,015 | \$35,212 |
| Nurse's Aide | \$28,446 | \$32,713 | \$38,216 | \$29,584 | \$34,022 | \$39,745 |
| Nurse's Aide (DOC) | \$28,446 | \$32,713 | \$38,216 | \$29,584 | \$34,022 | \$39,745 |
| Nurse's Aide (H.H.C.) | \$28,446 | \$32,713 | \$38,216 | \$29,584 | \$34,022 | \$39,745 |
| Nurse's Aide (T.E.) | \$28,446 | \$32,713 | \$38,216 | \$29,584 | \$34,022 | \$39,745 |
| Service Aide # | see footnote | \$32,648 | \$35,752 | see footnote | \$33,954 | \$37,182 |
| Senior Laundry Worker Washer | \$26,364 | \$30,319 | \$35,416 | \$27,419 | \$31,532 | \$36,833 |
| | \$26,806 | \$30,827 | \$36,687 | \$27,878 | \$32,060 | \$38,154 |

* See Article III, Section 4 (New Hires)

Not Applicable

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Section 3. General Wage Increases

- a. The general wage increases, effective as indicated, shall be:
 - i. Effective on March 3, 2008, Employees shall receive a general increase of 4%.
 - ii. Effective on March 3, 2009, Employees shall receive an additional general increase of 4 %.
 - iv. Part-time per annum, part-time per diem (including seasonal appointees), per session and hourly paid Employees and Employees whose normal work year is less than a full calendar year shall receive the increases provided in subsections 3. (a)(i) and 3. (a)(ii) on the basis of computations heretofore utilized by the parties for all such Employees.
- b. The increases provided for in Section 3. (a) shall be calculated as follows:
 - i. The general increase in Section 3. (a)(i) shall be upon the base rates (including salary or incremental salary schedules) of the applicable titles in effect on March 2, 2008;
 - ii. The general increase in Section 3. (a)(ii) shall be based upon the base rates (including salary or increment salary schedules) of the applicable titles in effect on March 2, 2009.
 - iii. Notwithstanding the provisions set forth in Section 3, the appointment rate for any Employee newly hired on or after July 1, 2005 shall be in accordance with Section 4 ("New Hires") of this *2008-2010 Institutional Services Agreement*.
- c.
 - i. The general increases provided for in subsections 3. (a)(i) and 3. (a)(ii) shall be applied to the base rates, incremental salary levels and the minimum and maximum rates (including levels) if any, fixed for the applicable titles, and to recurring increment payments.
 - ii. A general increase of 5.47%, effective on the last day of the Agreement, and consistent with the terms of the Stipulation of Settlement (A-13472-10; BCB 2864-10)) shall be applied to the following "additions to gross": uniform maintenance allowances, assignment differentials, service increments, longevity differentials, longevity increments, advancement increases, assignment (level) increases, and experience, certification, educational, license, evening, or night shift differentials. Recurring increment payments are excluded from this provision.

Section 4. New Hires

- a. The appointment rate for an employee newly hired on or after March 3, 2008 and appointed at a reduced hiring rate shall be the applicable minimum “hiring rate” set forth in subsections 2(a), 2(b) and 2(c). On the two year anniversary of the employee’s original date of appointment, such employee shall be paid the indicated minimum “incumbent rate” for the applicable title that is in effect on such two year anniversary as set forth in subsection 2(a), 2(b) and 2(c) of this Article III.
- b. i. For a title subject to an incremental pay plan, the employee shall be paid the appropriate increment based upon the employee’s length of service. Section 2 of this Article III reflects the correct amounts and has been adjusted in accordance with the provisions of Section 3(c)(i) of this Article III.
- ii. Employees who change titles or levels before attaining two years of service will be treated in the new title or level as if they had been originally appointed to said title or level on their original hiring date.
- c. For the purposes of Sections 4(a) and 4(b), employees 1) who were in active pay status before March 3, 2008, and 2) who are affected by the following personnel actions after said date shall not be treated as “newly hired” employees and shall be entitled to receive the indicated minimum “incumbent rate” set forth in subsections 2(a), 2(b), and 2(c) of this Article III:
- i. Employees who return to active status from an approved leave of absence.
- ii. Employees in active status (whether full or part-time) appointed to permanent status from a civil service list, or to a new title (regardless of jurisdictional class or civil service status) without a break in service of more than 31 days.
- iii. Employees who were laid off or terminated for economic reasons who are appointed from a recall/preferred list or who were subject to involuntary redeployment.
- iv. Provisional employees who were terminated due to a civil service list who are appointed from a civil service list within one year of such termination.
- v. Permanent employees who resign and are reinstated or who are appointed from a civil service list within one year of such resignation.
- vi. Employees (regardless of jurisdictional class or civil service status) who resign and return within 31 days of such resignation.
- vii. A provisional employee who is appointed directly from one provisional appointment to another.

viii. For employees whose circumstances were not anticipated by the parties, the First Deputy Commissioner of Labor Relations is empowered to issue, on a case-by-case basis, interpretations concerning application of this Section 4. Such case-by-case interpretations shall not be subject to the dispute resolution procedures set forth in Article VI of this Agreement.

d. The First Deputy Commissioner of Labor Relations may, after notification to the affected union(s), exempt certain hard to recruit titles from the provisions of subsection 4.

Section 5.

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, for the title formerly occupied, effective on the date indicated shall be applied.

Section 6.

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 adjustment specified in Article III.

Section 7.

a. A person permanently employed by the Employer who is appointed or promoted on a permanent, provisional, or temporary basis in accordance with the Personnel Rules and Regulations of the City of New York or, where the Personnel Rules and Regulations of the City of New York are not applicable to a public employer, such other Rules or Regulations as are applicable to the public employer, without a break in service to any of the following title(s) from another title in the direct line of promotion or from another title in the Career and Salary Plan, the minimum rate of which is exceeded by at least 8 percent by the minimum rate of the title to which appointed or promoted, shall receive upon the date of such appointment or promotion either the minimum basic salary for the title to which such appointment or promotion is made, or the salary received or receivable in the lower title plus the specified advancement increase, whichever is greater:

| Effective Date: | <u>Advancement Increase</u> | |
|-----------------------|-----------------------------|---------------|
| | <u>3/3/08</u> | <u>3/2/10</u> |
| Senior Laundry Worker | \$765 | \$807 |
| Washer | \$765 | \$807 |

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- b. Except as provided below, any employee advanced to the title of Nurse's Aide (including specialties) or Central Supply Assistant from a class of positions included in this Agreement shall receive as of the effective date of such advancement either the appointment rate then in effect for the title of Nurse's Aide or Central Supply Assistant, whichever is applicable, or the rate received in the former class of positions on the date immediately preceding the effective date of such advancement plus the advancement increase stated below, whichever is greater:

| | <u>Advancement Increase</u> | |
|-----------------|-----------------------------|---------------|
| Effective Date: | <u>3/3/08</u> | <u>3/2/10</u> |
| | \$236 | \$249 |

Notwithstanding the above, any employee advanced to the title Central Supply Assistant from the title Nurse's Aide (including specialties) shall not be eligible for the advancement increase provided for in this subsection b.

Section 8. Longevity Increment:

- a. Employees with 15 years or more of "City" service in pay status shall receive a longevity increment of \$800 per annum.
- b. The rules for eligibility for the longevity increment described above in subsection 8(a), shall be set forth in Appendix A of this Agreement and are incorporated by reference herein.

Section 9. - Service Increments - Dietary Aide/Dietary Aide (JOP)/Dietary Aide(Corrections)

The service increments described below shall be paid to employees in the titles Dietary Aide, Dietary Aide (JOP) and Dietary Aide (Correction) who are assigned to a kitchen or other food service function in the Department of Correction:

| <u>Service Eligibility</u> | <u>3/3/08</u> | <u>3/2/10</u> |
|----------------------------|---------------|---------------|
| After 5 years of service | \$350 | \$369 |
| After 7 years of service | \$525 | \$554 |
| (An additional) | (\$175) | (\$185) |
| After 10 years of service | \$697 | \$735 |
| (An additional) | (\$172) | (\$181) |

The service increment is part of each eligible employee's basic salary rate except that it shall not be pensionable until the employee has received it for two years. Service eligibility is related to length of City service in the appropriate occupational group. Subsequent service increment payments are effective on the January 1, April 1, July 1 or October 1 subsequent to the employee's anniversary date.

Section 10. - Differentials

**a. Dietary Aide/Dietary Aide (JOP)/
Dietary Aide (Correction)/Housekeeping Aide**

A differential in the pro-rated annual amount stated below shall be provided for each Dietary Aide, Dietary Aide (JOP), Dietary Aide (Correction), and Housekeeping Aide who is regularly assigned on a continuing basis to perform more complex duties of a supervisory nature or in a technician capacity:

| <u>Effective Date</u> | <u>Annual Amount</u> |
|-----------------------|----------------------|
| 3/3/08 | \$859 |
| 3/2/10 | \$906 |

For employees in the titles of Dietary Aide and Dietary Aide (JOP), the specified duties for which the differential is to be paid are as noted below:

- (i) Assists cook with food preparation as needed according to standard recipes and portion control allocations; relieves cook to complete cooking processes; may be responsible for preparation of modified diets; may be responsible for grill work.
- (ii) Serves as group or team leader for other dietary aides; organizes counter set-up in cafeteria or in central tray services.
- (iii) Serves as group or team leader for Dietary Aides involved in receipt and storage of foodstuffs, equipment, material and supplies necessary for the operations of the Food Service Division, the issuance and distribution thereof, and maintenance of usage and inventory records.
- (iv) Serves as group or team leader for the complete dishwashing and/or pot washing operation in unit.

b. Dietary Aide/Dietary Aide(JOP)/Dietary Aide(Correction)

A differential in the pro-rata annual amount stated below shall be provided for each Dietary Aide, Dietary Aide(JOP) and Dietary Aide(Correction) assigned to and working in a kitchen or other food service function in the Department of Correction:

| <u>Effective Date</u> | <u>Annual Amount</u> |
|-----------------------|----------------------|
| 3/3/08 | \$1,836 |
| 3/2/10 | \$1,936 |

c. Institutional Aide

A differential in the pro-rata annual amount stated below shall continue to be provided for each Institutional Aide regularly assigned on a continuing basis to perform more complex work of a supervisory nature in the Department of Social Services and in the Health and Hospitals Corporation:

| <u>Effective Date</u> | <u>Annual Amount</u> |
|-----------------------|----------------------|
| 3/3/08 | \$859 |
| 3/2/10 | \$906 |

d. Institutional Aide

A differential in the pro-rated annual amount stated below shall be provided for each Institutional Aide who is regularly assigned on a continuing basis to perform more difficult tasks in the Pharmacy Service where a significant, major portion of assignment under the direct supervision of a Registered Pharmacist or Pharmacist Intern involves: (a) assisting in filling ward orders, (b) performing stocking in wards or other dispensing areas, (c) assisting in manufacture of drug solutions or other pharmaceutical preparations, (d) issuing bulk drugs from stores, (e) maintaining and operating mechanical devices and equipment in the manufacture, packaging and labeling operations:

| <u>Effective Date</u> | <u>Annual Amount</u> |
|-----------------------|----------------------|
| 3/3/08 | \$859 |
| 3/2/10 | \$906 |

e. Institutional Aide

A differential in the pro-rated annual amount stated below shall be provided for each Institutional Aide assigned on a regular and continuing basis to the autopsy rooms at either the Office of the Chief Medical Examiner or the Health and Hospitals Corporation for performing more difficult duties such as the cleaning of the autopsy room.

| <u>Effective Date</u> | <u>Annual Amount</u> |
|-----------------------|----------------------|
| 3/3/08 | \$836 |
| 3/2/10 | \$882 |

f. Housekeeping Aide/Institutional Aide-HHC

A differential in the pro-rata annual amount stated below shall be provided for employees in the titles Housekeeping Aide and Institutional Aide who are assigned on a regular and continuing basis by the Health and Hospitals Corporation to perform the more difficult duties of handling "red bag" waste or performing as a member of a grounds crew or moving crew.

| <u>Effective Date</u> | <u>Annual Amount</u> |
|-----------------------|----------------------|
| 3/3/08 | \$859 |
| 3/2/10 | \$906 |

g. Laundry Worker, Sr. Laundry Worker, Washer - HHC

A differential in the pro-rata annual amount stated below shall be paid to full time HHC employees only in the titles of Laundry Worker, Senior Laundry Worker and Washer, when assigned on a regular and continuing basis by HHC to perform the more difficult duties of handling "red bag" waste.

| <u>Effective Date</u> | <u>Annual Amount</u> |
|-----------------------|----------------------|
| 3/3/08 | \$859 |
| 3/2/10 | \$906 |

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h. Nurse's Aide/Nurse's Aide (Handicapped Children)

A differential in the pro-rata annual amount stated below shall continue to be provided for each Nurse's Aide, and Nurse's Aide (Handicapped Children) who is regularly assigned on a continuing basis to perform more complex work when assigned to X-Ray (Radiology):

| <u>Effective Date</u> | <u>Annual Amount</u> |
|-----------------------|----------------------|
| 3/3/08 | \$859 |
| 3/2/10 | \$906 |

i. Nurse's Aide in the Department of Correction Only

A differential in the pro-rata annual amount stated below shall be provided for each Nurse's Aide who is regularly assigned on a continuing basis to direct patient care in the Department of Correction:

| <u>Effective Date</u> | <u>Annual Amount</u> |
|-----------------------|----------------------|
| 3/3/08 | \$736 |
| 3/2/10 | \$776 |

j. Laundry Worker/Senior Laundry Worker/Washer

A differential in the hourly amount stated below shall be paid to each Laundry Worker, Senior Laundry Worker, or Washer for the performance of an assigned dyeing operation:

| <u>Effective Date</u> | <u>Hourly Amount</u> |
|-----------------------|----------------------|
| 3/3/08 | \$0.61/hour |
| 3/2/10 | \$0.64/hour |

k. Central Supply Assistant

A differential in the pro-rata annual amount stated below shall be provided for each Central Supply Assistant who is functioning as a Team Leader.

| <u>Effective Date</u> | <u>Annual Amount</u> |
|-----------------------|----------------------|
| 3/3/08 | \$859 |
| 3/2/10 | \$906 |

Section 11. - Training Fund

Effective July 1, 1982, and pursuant to the provisions of a separate agreement between the City and District Council 37, a Training Fund contribution at the rate of twenty-five dollars (\$25) per annum shall continue to be made to the District Council 37 Education Fund on behalf of each full-time per annum incumbent of a position in a class of positions included in this Agreement, provided however that no contribution shall be made to such fund during any period in which the separate agreement between the

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City and District Council 37 relating to the operation of such fund is of no force and effect. The New York City Health and Hospitals Corporation shall participate in the determination of the uses of each fund. This Section shall be subject to the waiver in Article IV, Section 1(b) of this Agreement.

Section 12. - Uniform Allowance

a. A uniform allowance in the annual amount stated below shall be provided for each Nurse's Aide, Nurse's Aide (Handicapped Children), Nurse's Aide (Corrections) and Nurse's Aide (Transport Escort) who is required to purchase and wear a uniform:

| <u>Effective Date</u> | <u>Annual Amount</u> |
|-----------------------|----------------------|
| 3/3/08 | \$521 |
| 3/2/10 | \$549 |

b. The employing agency shall continue to provide on a pro-rated basis five (5) uniforms annually to each incumbent in the title of Laundry Worker, Senior Laundry Worker, and Washer who is required to wear a uniform. In addition, a uniform maintenance allowance in the annual amount stated below shall be provided to employees in these titles who are required to wear a uniform:

| <u>Effective Date</u> | <u>Annual Amount</u> |
|-----------------------|----------------------|
| 3/3/08 | \$293 |
| 3/2/10 | \$309 |

c. A uniform allowance in the annual amount stated below shall be provided for each Central Supply Assistant who is required to purchase and wear a uniform:

| <u>Effective Date</u> | <u>Annual Amount</u> |
|-----------------------|----------------------|
| 3/3/08 | \$521 |
| 3/2/10 | \$549 |

d. A uniform maintenance allowance in the annual amount stated below shall be paid to employees in the titles Dietary Aide (including JOP and Correction), Housekeeping Aide, and Institutional Aide:

| <u>Effective Date</u> | <u>Annual Amount</u> |
|-----------------------|----------------------|
| 3/3/08 | \$293 |
| 3/2/10 | \$309 |

e. A uniform maintenance allowance in the annual amount stated below shall be paid to employees in the title Home Health Aide.

| <u>Effective Date</u> | <u>Annual Amount</u> |
|-----------------------|----------------------|
| 3/3/08 | \$293 |
| 3/2/10 | \$309 |

f. A uniform maintenance allowance in the annual amount stated below shall be paid to employees in the title Service Aide.

| <u>Effective Date</u> | <u>Annual Amount</u> |
|-----------------------|----------------------|
| 3/3/08 | \$293 |
| 3/2/10 | \$309 |

ARTICLE IV - WELFARE FUND

Section 1.

- a. In accordance with the election by the Union pursuant to the provisions of Article XIII of the *1995-2001 Citywide Agreement* as amended between the City of New York and related public employers and District Council 37, A.F.S.C.M.E., AFL-CIO, 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.
- b. When an election is made by the Union pursuant to the provisions of Article XIII, Section 1 b, of the *1995-2001 Citywide Agreement* as amended between the City of New York and related public employers and District Council 37, A.F.S.C.M.E., AFL-CIO, or any successor(s) thereto, the provisions of Article XIII, Section 1 b of the *Citywide Agreement* as amended or any successor(s) thereto, shall apply to employees covered by this Agreement, and when such election is made, the Union hereby waives its right to training, education and/or legal services contributions provided in this Agreement. In no case shall the single contribution provided in Article XIII, Section 1 b of the *Citywide Agreement* as amended or any successor agreement(s) thereto, exceed the total amount that the Union would have been entitled to receive if the separate contributions had continued.

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 V - 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 VI - 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 or the Rules and Regulations of the Health and Hospitals Corporation with respect to those matters set forth in the first paragraph of Section 7390.1 of the Unconsolidated Laws 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;
- e. A claimed wrongful disciplinary action taken against a permanent employee covered by Section 75(1) of the Civil Service Law or a permanent employee covered by the Rules and Regulations of the Health and Hospitals Corporation 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. Failure to serve written charges as required by Section 75 of the Civil Service Law or the Rules and Regulations of the Health and Hospitals Corporation upon a permanent employee covered by Section 75(1) of the Civil Service Law or a permanent employee covered by the Rules and Regulations of the Health and Hospitals Corporation where any of the penalties (including a fine) set forth in Section 75(3) of the Civil Service Law have been imposed.
- g. 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.
- h. A claimed wrongful disciplinary action taken against a non competitive employee as defined in Section 11 of this Article.
- i. A claimed wrongful disciplinary action taken against a per diem employee who has been employed in the Health and Hospitals Corporation as defined in Section 12 of this Article.

Section 2.

The Grievance Procedure, except for grievances as defined in Sections 1d, 1e, 1g, 1h and 1i 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 1 (c), no monetary award shall in any event cover any period prior to the date of the filing of the **Step I** grievance unless such grievance has been filed within thirty (30) days of the assignment to alleged out-of-title work. No monetary award for a grievance alleging a miscalculation of salary rate resulting in a payroll error of a continuing nature shall be issued unless such grievance has been filed within the time limitation set forth in **Step I** below for such grievances; if the grievance is so filed, any monetary award shall in any event cover only the period up to six years prior to the date of the filing of the 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 except that grievances alleging a miscalculation of salary rate resulting in a payroll error of a continuing nature shall be presented no later than 120 days after the first date on which the grievant discovered the payroll error. The employee may also request an appointment to discuss the grievance and such request shall be granted. 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.

NOTE: *The following **STEP I(a)** shall be applicable only in the Health and Hospitals Corporation in the case of grievances arising under Section 1a through 1c and 1f of this Article and shall be applied prior to **Step II** of this Section:*

STEP I(a) - An appeal from an unsatisfactory determination at **Step I** shall be presented in writing to the person designated by the agency head for such purpose. The appeal must be made within five (5) work days of the receipt of the **Step I** determination. A copy of the grievance appeal shall be sent to the person who initially passed upon the grievance. The person designated to receive the appeal at this Step shall meet with the employee and/or the Union for review of the grievance and shall issue a determination to the employee and/or the Union by the end of the fifth work day following the day on which the appeal was filed.

STEP II - An appeal from an unsatisfactory determination at **STEP I** or **STEP I(a)**, where applicable, 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** or **STEP I(a)** 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 Title 61 of the Rules of the City of New York. The costs and fees of such arbitration shall be borne equally by the Union and the Employer.

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.

a. Any grievance under Section 1 (d) relating to a claimed improper holding of an open-competitive rather than a 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 a 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 5.

In any case involving a grievance under Section 1 (e) 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 or the Rules and Regulations of the Health and Hospitals Corporation. 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 or the Rules and Regulations of the Health and Hospitals Corporation.

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 or the Rules and Regulations of the Health and Hospitals Corporation. 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 the Rules and Regulations of the Health and Hospitals Corporation 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 meet with the employee 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 this Agreement.

Section 6.

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

Section 7.

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 except that a grievance concerning employees of the Health and Hospitals Corporation may be filed directly at **STEP II** 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 8.

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 9.

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 10.

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 11.

Grievances relating to a claimed wrongful disciplinary action taken against a non-competitive employee shall be subject to and governed by the following special procedure:

The provisions contained in this section shall not apply to any of the following categories of employees covered by this contract:

- a. Per diem employees.
- b. Temporary employees.
- c. Probationary employees.
- d. Trainees, provisionals.
- e. Non-competitive employees with less than three (3) months service in the title.
- f. Competitive class employees.
- g. Employees covered by Section 75(1) of the Civil Service Law or Section 7.5.1 of the Rules and Regulations of the Health and Hospitals Corporation.

STEP I(n) - Following the service of written charges upon an employee a conference shall be held with respect to such charges by a person who is designated by the agency head to review such charges. The employee may be represented by 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 decision in writing by the end of the fifth day following the date of the conference.

STEP II(n) - If the employee is dissatisfied with the decision in **Step I** above, he or she may appeal such decision. The appeal must be within five (5) working days of the receipt of such decision. Such appeal shall be treated as a grievance appeal beginning with **Step II** of the Grievance Procedure set forth herein.

Section 12.

Grievances relating to a claimed wrongful disciplinary action taken against a per diem employee employed by the Health and Hospitals Corporation shall be subject to and governed by the following special procedure:

The provisions contained in this Section 12 shall only apply to employees who meet *all* of the following criteria:

1. The employee is serving in a title represented by District Council 37, Local 420, *and*
2. The employee is employed by the Health and Hospitals Corporation, *and*
3. The employee has served as a per diem in the same title or in two or more titles covered by this Agreement for two continuous calendar years, with no break in service

and

4. The employee has been assigned to work and has worked 37.5 hours per week each week during the prior two calendar years (less approved time off for usage of annual and sick leave), *and*
5. The employee has been employed as described in numbers 1, 2, 3, and 4 above for the two consecutive calendar years immediately preceding the filing of charges, *and*
6. The employee has not been separated from service for more than 2 calendar weeks in the preceding two calendar years.

In any case involving a grievance under Section 1 (i) of this Article upon service of written charges of incompetence or misconduct the following procedures shall govern:

STEP I - Following the service of written charges upon an employee a conference shall be held with respect to such charges by a person who is designated by the agency head to review such charges. 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 decision in writing by the end of the fifth day following the date of the conference.

STEP II - If the employee is dissatisfied with the decision in **Step I** above, he or she may appeal such decision. The appeal must be within five (5) working days of the receipt of such decision. Such appeal shall be treated as a grievance appeal beginning with **Step II** of the Grievance Procedure set forth herein.

Section 13.

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 14.

A non-Mayoral agency not covered by this Agreement but which employs employees in titles identical to those covered by this Agreement may elect to permit the Union to appeal an unsatisfactory determination received at the last step of its Grievance Procedure prior to arbitration on fiscal matters only to the Commissioner of Labor Relations. If such election is made, the Union shall present its appeal to the Commissioner of Labor Relations in writing within ten (10) work days of the receipt of the last step determination. The Union should submit copies of the grievance filings at the prior steps of its Grievance Procedure and any agency responses thereto. Copies of such appeals shall be sent to the agency head. The Commissioner of Labor Relations, or the Commissioner's designee, shall review all such appeals and answer all such appeals within fifteen (15) work days. An appeal from a determination of the Commissioner of Labor Relations may be taken to arbitration under procedures, if any, applicable to the non-Mayoral agency involved.

Section 15.

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 16. 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 16 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.

ARTICLE VII - ACCEPTANCE OF COMPETITIVE POSITIONS

A non-competitive employee covered by this Agreement employed in the Department of Health and Mental Hygiene who accepts a competitive position in the Department of Health and Mental Hygiene and who has not completed the probationary period in such competitive position upon the employee's request shall be restored to a position of a like status but not necessarily to the same assignment previously held.

ARTICLE VIII - RECLASSIFICATION OF INSTITUTIONAL AIDES

Each employee of the Health and Hospitals Corporation in the title of Institutional Aide who is regularly assigned to work as a Dietary, Housekeeping or Nurse's Aide shall be appointed without competitive examination to one of those three titles most appropriate to the employee's work assignment. Such appointment shall not be considered a break in service.

Each employee in the Human Resources Administration in the title of Institutional Aide who is regularly assigned to work as a Nurse's Aide shall be appointed without competitive examination to the Nurse's Aide title. Such appointment shall not be considered a break in service.

Each employee in the Human Resources Administration in the title of Institutional Aide who is regularly assigned to work as a Dietary Aide at the Neponsit Home for the Aged shall be appointed without competitive examination to the Dietary Aide title. Such appointment shall not be considered a break in service.

Each employee in the Human Resources Administration in the title of Institutional Aide who is regularly assigned to work as a Dietary Aide or a Housekeeping Aide in a Family and Adult Services or Special Services for Children institution, or their successor(s), shall be reclassified to the appropriate title. Such reclassification shall not be considered a break in service.

ARTICLE IX - LEAVE PRORATION

Per diem Institutional Aides in the Department of Social Services shall accrue all annual and sick leave on the same basis as all other per diem workers of the Department, pro-rated to the time actually worked.

ARTICLE X - ROTATION OF WEEKEND WORK

The Department of Social Services shall continue its policy where there is a fair rotation of weekend assignments and shall establish after discussion with the Union on an institution by institution basis an equitable rotation system at all locations.

ARTICLE XI - VACANCIES

The provisions of this Article XI shall apply only to assignments covered in Article III, Section 10A, C, D and F.

All vacancies for positions in the titles covered by this Agreement carrying special assignment differentials such as housekeeping team leader, dietary aide trainer, etc. shall be posted (when the vacancy is authorized to be filled) on bulletin boards in the areas of the general office of the hospital where the vacancy exists. Such posting shall continue for a period of five (5) days before the position is filled.

Selection shall be made in accordance with established agency policy, with consideration being given to the employee applicants' qualifications in relation to job specifications for the title, attendance, punctuality, work performance records and seniority.

ARTICLE XII - TRANSFERS

Voluntary transfers from one shift to another, one area of a hospital or other work location to another, or between hospitals or work locations when vacancies arise, shall be made on the basis of greatest seniority in the hospital or other work location from among per annum employees who are qualified. Involuntary transfers shall generally be made on the basis of least seniority within a hospital or other work location. However, if transfers are directed out of seniority, such transfers should not be arbitrary and capricious. Any complaint with respect to such transfers shall constitute a grievance subject to the grievance procedure under this Agreement.

The following shall apply when an individual employee's normal work week schedule is to be changed within the same work location:

- a) Volunteers who are qualified shall be utilized, in order of seniority based on the determination of the location head
- b) Non-volunteers who are qualified in inverse order of seniority.

For purposes of this Article, full time uninterrupted service as a per diem, for those eligible, shall be calculated in determining seniority. The Human Resources Administration reserves the right to transfer an employee on an emergency basis for not more than ten (10) working days.

ARTICLE XIII - FIRST AID

The Corporation agrees that in emergency situations employees in the Health and Hospitals Corporation shall have access for treatment to the employee health services, or if such service is not available, to emergency room facilities.

ARTICLE XIV - 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 XV - 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 XVI - CITYWIDE ISSUES

This Agreement is subject to the provisions, terms and conditions of the Agreement which has been or may be negotiated between the City and the Union recognized as the exclusive collective bargaining representative on Citywide matters which must be uniform for specified employees, including the employees covered by this Agreement.

Employees in Rule X titles shall receive the benefits of the *Citywide Agreement* unless otherwise specifically excluded herein.

ARTICLE XVII - 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 other applicable Executive Order.

ARTICLE XVIII - 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 in each of the agencies having at least fifty employees covered by this Agreement.

Section 2.

Each 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.

Each 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 XIX - CAREER DEVELOPMENT

A joint committee composed of representatives of the Officer of Management and Budget, Labor Relations, Department of Citywide Administrative Services, the Health and Hospitals Corporation and/or appropriate Mayoral Agency, and the Union shall meet to study problems related to career development and retention of personnel, and where deemed necessary make recommendations to the appropriate Employer officials.

ARTICLE XX - 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 XXI - APPENDICES

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

ARTICLE XXII - 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.

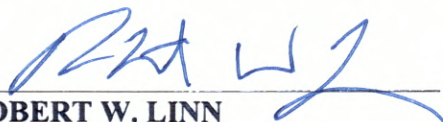
ARTICLE XXIII - CONTRACTING-OUT CLAUSE

The problem of "Contracting Out" or "Farming Out" of work normally performed by personnel covered by this Agreement shall be referred to the Labor-Management Committee as provided for in Article XVIII of this Agreement.

WHEREFORE, we have hereunto set our hands and seals this 12th day of December, 2014.

FOR THE CITY OF NEW YORK AND RELATED
PUBLIC EMPLOYERS AS DEFINED HEREIN:

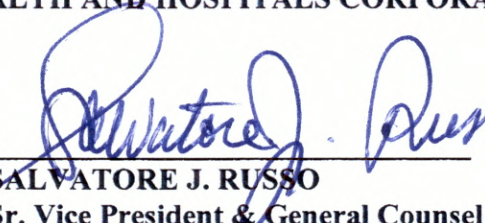
FOR DISTRICT COUNCIL 37
A.F.S.C.M.E., AFL-CIO

BY: 
ROBERT W. LINN
Commissioner of Labor Relations

BY: 
LILLIAN ROBERTS
Executive Director

FOR THE NEW YORK CITY
HEALTH AND HOSPITALS CORPORATION

FOR LOCAL 420
DISTRICT COUNCIL 37
A.F.S.C.M.E., AFL-CIO

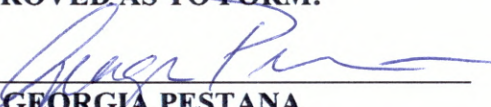
BY: 
SALVATORE J. RUSSO
Sr. Vice President & General Counsel

BY: 
CARMEN CHARLES
President

FOR LOCAL 371, S.S.E.U. DISTRICT
COUNCIL 37
A.F.S.C.M.E., AFL-CIO

BY: 
ANTHONY WELLS
President

APPROVED AS TO FORM:

BY: 
GEORGIA PESTANA
Acting Corporation Counsel

CERTIFIED TO THE FINANCIAL CONTROL BOARD:

DATE: _____

UNIT: Institutional Services
TERM: March 3, 2008 to March 2, 2010

| | |
|-------------------------------------------|----------------------------|
| OFFICE OF LABOR RELATIONS REGISTRATION | |
| OFFICIAL | CONTRACT |
| NO: 15002 | DATE: December 12, 2014 |

Appendix A

Longevity Increment Eligibility Rules

The following rules shall govern the eligibility of employees for the longevity increments provided for in Article III, Section 8 of the *2008-2010 Institutional Services Unit Agreement*:

1. Only service in pay status shall be used to calculate the 15 years of service, except that for other than full time per annum employees only a continuous year of service in pay status shall be used to calculate the 15 years of service. A continuous year of service shall be a full year of service without a break of more than 31 days. Where the regular and customary work year for a title is less than a twelve month year, such as a school year, such regular and customary year shall be credited as a continuous year of service counting towards the 15 years of service. If the normal work year for an employee is less than the regular and customary work year for the employee's title, it shall be counted as a continuous year of service if the employee has customarily worked that length work year and the applicable agency verifies that information.
2. Service in pay status prior to any breaks in service of more than one year shall not be used to calculate the 15 years of service. Where an employee has less than seven years of continuous service in pay status, breaks in service of less than one year shall be aggregated. Where breaks in service aggregate to more than one year they shall be treated as a break in service of more than one year and the service prior to such breaks and the aggregated breaks shall not be used to calculate the 15 years of service. No break used to disqualify service shall be used more than once.
3. The following time in which an employee is not in pay status shall not constitute a break in service as specified in paragraph 2 above:
 - a. Time on a leave approved by the proper authority which is consistent with the **Personnel Rules and Regulations of the City of New York** or the appropriate personnel authority of a covered organization.
 - b. Time prior to a reinstatement.
 - c. Time on a preferred list pursuant to **Civil Service Law Sections 80 and 81** or any similar contractual provision.
 - d. Time not in pay status of 31 days or less.

Notwithstanding the above, such time as specified in subsections a, b and c above shall not be used to calculate the 15 years of service.

4. Once an employee has completed the 15 years of "City" service in pay status and is eligible to receive the \$800 longevity increment, the \$800 shall become part of the employee's base rate for all purposes except as provided in paragraph 5 below.
5. The \$800 longevity increment shall not become pensionable until fifteen months after the employee begins to receive such \$800 increment. Fifteen months after the employee begins to receive the \$800 longevity increment, such \$800 longevity increment shall become pensionable and as part of the employee's base rate, the \$800 longevity increment shall be subject to the general increases provided in Article III, Section 3a of this Agreement.



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

May 18, 2012

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

Dear Ms. Seinfeld:

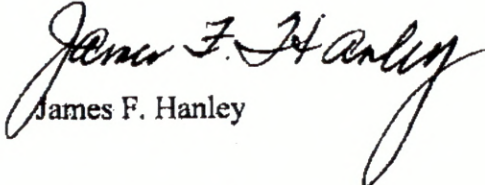
This letter serves to confirm that the "Disciplinary Procedure for Provisional Employees" and side letter agreement between the City and DC 37 is deemed appended to the following unit agreements:

Accounting and EDP
Blue Collar
Clerical
Motor Vehicle Operators

As other applicable unit agreements are registered, provided such unit agreements previously extended such coverage to provisional employees, the "Disciplinary Procedure for Provisional Employees" and side letter agreement shall be appended.

The "Disciplinary Procedure for Provisional Employees" and side letter agreement specifically excludes the New York City Health and Hospitals Corporation.

Very truly yours,


James F. Hanley

c: Mary O'Connell

15002

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 employee 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. Rephen*
PAUL T. REPHEN
Acting Corporation Counsel

Attachment A
School Based Employees

An employee of the Department of Health who is regularly and exclusively assigned to work at a Board of Education facility (hereinafter, "School Based Employee" or "SBE") shall be covered by the provisional disciplinary provisions set forth herein, provided that the following criteria are met:

- a. Such SBE must regularly work the listed full-time work week established for a per annum title set forth in Appendix A of the 1995-2001 Citywide Agreement during the customary school year without a break in service of more than 31 days.
- b. If such SBE is placed in unpaid status at the end of the customary school year, such period in unpaid status during the customary break between school years shall be deemed an authorized leave without pay and not considered a break in service. However, such authorized leave without pay during the break between customary school years shall not be creditable towards meeting the required two years of service required for provisional disciplinary rights.
- c. Such SBE, upon return to paid status from the break between customary school years, must continue to be assigned to regularly work on a full-time basis without a break in service of more than 31 days.
- d. If such SBE is assigned to work during all or part of the break between customary school years, such time in paid status shall count towards meeting the two year service requirement for provisional disciplinary rights provided such service is on a full-time basis. However, no part-time service rendered during such break between customary school years shall be creditable towards meeting the required two years of service required for provisional disciplinary rights.
- e. SBEs meeting the above criteria shall become eligible for the provisional disciplinary rights set forth herein when their aggregated full-time service during consecutive customary school years (inclusive of any *full-time* service rendered during the breaks between such consecutive customary school years) totals the required two years. Under typical circumstances, this would be expected to occur sometime during their third school year of employment.

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

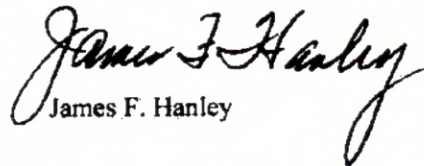
Dear Ms. Seinfeld:

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.

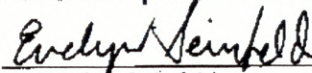
In addition to the limitation set forth in Section 5. of the "Disciplinary Process for Provisional Employees", in determining a "back pay" award, if any, the arbitrator shall exclude the period of time from the date of the Long Beach decision through January 28, 2008. An arbitrator may award "back pay" 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

15002