



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
MARGARET M. CONNOR
First Deputy Commissioner

TO: HEADS OF CONCERNED CITY DEPARTMENTS AND AGENCIES
FROM: JAMES F. HANLEY, COMMISSIONER *James F. Hanley*
SUBJECT: EXECUTED CONTRACT: INSPECTORS (HIGHWAY & SEWERS)
TERM: OCTOBER 15, 2008 TO OCTOBER 14, 2010

Attached for your information and guidance is a copy of the executed contract entered into by the Commissioner of Labor Relations on behalf of the City of New York and Laborers International Union of North America, Pavers and Road Builders District Council, AFL-CIO 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: FEB 24 2009

OFFICE OF LABOR RELATIONS	
REGISTRATION	
OFFICIAL	CONTRACT
NO: <u>09012</u>	DATE: <u>FEB 24 2009</u>

**Inspectors (Highways & Sewers), et al.
2008–2010 Agreement**

TABLE OF CONTENTS

ARTICLE I - UNION RECOGNITION AND UNIT DESIGNATION	2
ARTICLE II - DUES CHECKOFF	3
ARTICLE III - SALARIES	3
ARTICLE IV - WELFARE FUND	10
ARTICLE V - PRODUCTIVITY AND PERFORMANCE	11
ARTICLE VI - GRIEVANCE PROCEDURE	12
ARTICLE VII - BULLETIN BOARDS: EMPLOYER FACILITIES.....	20
ARTICLE VIII - NO STRIKES.....	20
ARTICLE IX - CITYWIDE ISSUES	21
ARTICLE X - UNION ACTIVITY	21
ARTICLE XI - LABOR-MANAGEMENT COMMITTEE.....	21
ARTICLE XII - FINANCIAL EMERGENCY ACT.....	22
ARTICLE XIII - APPENDICES.	22
ARTICLE XIV - SAVINGS CLAUSE	22
ARTICLE XV - CONTRACTING-OUT CLAUSE.....	22
Appendix A.....	24

09012

**Inspectors (Highways & Sewers), et al.
2008 -2010 Agreement**

AGREEMENT entered into this ^{24th} day of *February* 2009, 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 **Laborers International Union of North America, Pavers and Road Builders District Council** (Local 1042) (hereinafter referred to as the "**Union**"), for the twenty-four (24) month period **October 15, 2008 to October 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):

31626 Highways and Sewers Inspector
31645 Associate Inspector (Highways & Sewers)
35007 Apprentice Inspector (Highways & Sewers)
33765 Service Inspector (DOT)
33766 Senior Service Inspector

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 35 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.

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.

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

a. Effective October 15, 2008

<u>TITLE</u>	i. Minimum*		ii. Maximum
	(1) Hiring Rate	(2) Incumbent Rate	
Apprentice Inspector (Highways/Sewers)			
Minimum	\$26,770	\$30,785	
After 1 yr.	\$29,083	\$33,445	
After 2 yrs.		\$36,167	
After 3 yrs.		\$39,120	
After 4 yrs.		\$42,069	
Associate Inspector (Highways/Sewers)			
Level I	\$50,839	\$58,465	\$72,503
Level II	\$56,586	\$65,074	\$79,730
Highways and Sewers Inspector	\$45,923	\$52,812	\$65,200
Service Inspector (DOT)	\$29,596	\$34,035	\$41,105
Senior Service Inspector	\$33,370	\$38,376	\$45,388

b. Effective October 15, 2009

<u>TITLE</u>	i. Minimum*		ii. Maximum
	(1) Hiring Rate	(2) Incumbent Rate	
Apprentice Inspector (Highways/Sewers)			
Minimum	\$27,840	\$32,016	
After 1 yr.	\$30,246	\$34,783	
After 2 yrs.		\$37,614	
After 3 yrs.		\$40,685	
After 4 yrs.		\$43,752	
Associate Inspector (Highways/Sewers)			
Level I	\$52,873	\$60,804	\$75,403
Level II	\$58,850	\$67,677	\$82,919
Highways and Sewers Inspector	\$47,760	\$54,924	\$67,808
Service Inspector (DOT)	\$30,779	\$35,396	\$42,749
Senior Service Inspector	\$34,705	\$39,911	\$47,204

NOTES:

09012

Employees hired on or after 10/15/08 and 10/15/09 shall be paid the hiring rates in effect on 10/15/08 and 10/15/09. Upon completion of two (2) years of active or qualified inactive service, such employee shall be paid the indicated "minimum" for the applicable title that is in effect on the two year anniversary of their original appointment as set forth in the applicable Successor Separate Unit Agreement. In no case shall an employee receive less than the stated hiring rate.

Section 3. General Wage Increase

- a. The general increases, effective as indicated, shall be:
 - i. Effective October 15, 2008, Employees shall receive general increase of 4 percent.
 - ii. Effective October 15, 2009, Employees shall receive general increase of 4 percent.
 - iii. Part-time per annum, per session, hourly paid and part time per diem Employees (including seasonal appointees) and Employees whose normal work year is less than a full calendar year shall receive the increases provided in subsection 3(a)(i) on the basis of computations heretofore utilized by the parties for all such Employees.
- b. The general increases provided for in Section 3(a) 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 14, 2008.
 - 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 October 14, 2009.
- c.
 - i. The general increases provided for in this Section 3 shall be applied to the base rates, incremental salary levels and the minimum "hiring rates," minimum "incumbent rates" and maximum rates (including levels), if any, fixed for the applicable titles.
 - ii. The general increases provided for in this Section 3 **shall not** be applied to the following "additions to gross:" advancement increases, assignment (level) increases and longevity differentials.

Section 4. New Hires

a. For the purposes of Sections 4(b) and 4(c), employees 1) who were in active pay status before October 15, 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 subsection 2(a)(i)(2) 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.

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 Sections 3(b)(i) and (ii) of this Article III.

ii. Employees who change titles or levels before attaining one year 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. The following provisions shall apply to Employees newly hired on or after October 15, 2008:

i. During the first two (2) years of service, the "appointment rate" for a newly hired employee shall be fifteen percent (15%) less than the applicable "incumbent minimum" for said title

09.012

that is in effect on the date of such appointment as set forth in this *Agreement*. The general increases provided for in subsections 3(a)(i) and (ii) shall be applied to the "appointment rate."

ii. Upon completion of two (2) years of service such employees shall be paid the indicated "incumbent minimum" for the applicable title that is in effect on the two (2) year anniversary of their original date of appointment as set forth in 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 subsections 4(b) and 4(c).

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 adjustments specified in Article III.

Section 7.

A person permanently employed by the Employer who is appointed or promoted on a permanent, provisional, or temporary basis in accordance with the Title 59, Appendix A of the Rules of the City of New York (City Personnel Director Rules) or, where Title 59, Appendix A is inapplicable 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:

Advancement Increases

<u>Title</u>	<u>Effective</u>
Associate Inspector (Highways & Sewers)	10/15/08 \$1,180

Section 8. Assignment Level Increase

An Employee assigned to Assignment Level II, Associate Inspector (Highways & Sewers), shall receive as of the effective date of such assignment either the appointment rate for the assigned level or the rate received in the former assignment level plus the amount indicated below, whichever is greater.

Effective
10/15/08
\$1,323

Note: Level Increase – Denotes payment due to assignment to a higher level within a title.

Section 9. Longevity Increment

- a. Employees with 15 years or more of “City” service in pay status who are not in a title already eligible for a longevity differential or service increment established by the Salary Review or Equity Panel shall receive a longevity increment of **\$500** per annum.
- b. The rules for eligibility for the longevity increment described above in subsection a, shall be set forth in Appendix A of this Agreement and are incorporated by reference herein.

Section 10. Longevity Differential

The longevity differential for Employees with the specified years of City service in pay status shall receive the pro-rata annual amount set forth below. Eligible Employees shall begin to receive such pro-rata payment on their anniversary date.

	<u>10/15/08</u>
5 years or more	\$869
10 years or more	\$1,834

Note: Longevity Differentials become pensionable when they have been received by an employee for 2 years.
INSPECTORS ET AL.

ARTICLE IV - WELFARE FUND

Section 1.

- a. In accordance with the election by the Union pursuant to the provisions of Article XIII of the Citywide Agreement between the City of New York and related public employers and District Council 37, AFSCME, AFL-CIO, the Welfare Fund provisions of the 1995-2001 Citywide Agreement, as amended or any successor agreement(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 1b, of the Citywide Agreement between the City of New York and related public employers and District Council 37, AFSCME, AFL-CIO, the provisions of Article XIII, Section 1 b of the 1995-2001 Citywide Agreement, as amended or any successor agreement (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, if any. In no case shall the single contribution provided in Article XIII, Section 1 (b) of the 1995-2001 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 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 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 upon a permanent Employee covered by Section 75(1) of the Civil Service Law 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 a provisional employee who

has served for two years in the same or similar title or related occupational group in the same agency.

Section 2.

The Grievance Procedure, except for grievances as defined in Sections 1(d), 1(e) and 1(g) 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. 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.

STEP II An appeal from an unsatisfactory determination at **STEP I**, 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** 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.

09012

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 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

09012

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 Employee may choose to proceed in accordance with the Grievance Procedure set forth in 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 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.

09012

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 1(g) of this Article, the following procedure shall govern upon service of written charges of incompetence or misconduct:

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.

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 a determination satisfactory to the Union at any level of the Grievance Procedure is not implemented with 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

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.

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 12.

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 13.

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 14. 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.

09012

- 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. When the parties agree to submit a case to expedited arbitration; the following procedure 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 14 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) 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 not be similarly limited and may be submitted as a "packet" exhibit.
- (2) In the event either party is unable to proceed with hearing a particular case,

09012

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 - 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 VIII - 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.

09012

ARTICLE IX - 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 X - 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 XI - 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

chairperson ship 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 XII - 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 XIII - 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 XIV - 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 XV - 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 XI of this Agreement.

WHEREFORE, we have hereunto set our hands and seals this 27th day of February, 2009

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

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

**LABORERS INTERNATIONAL
UNION OF NORTH AMERICA
PAVERS AND ROAD BUILDERS
DISTRICT COUNCIL (Local 1042)**

BY: *Albert P. Bosco*
ALBERT P. BOSCO
Civil Service Representative

APPROVED AS TO FORM:

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

DATE SUBMITTED TO THE FINANCIAL CONTROL BOARD: _____, 2009

UNIT: Inspector (Highways & Sewers) et al.

TERM: October 15, 2008 to October 14, 2010

OFFICE OF LABOR RELATIONS REGISTRATION	
OFFICIAL	CONTRACT
NO: <u>09012</u>	DATE: <u>FEB 24 2009</u>

Appendix A

Longevity Increment Eligibility Rules

The following rules shall govern the eligibility of Employees for the longevity increment provided for in Article III, Section 9b of the 2007 – 2008 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 **Rules and Regulations of the New York City Personnel Director** 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 \$500, the \$500 shall become part of the Employee's base rate for all purposes except as provided in paragraph 5 below.
5. The \$500 longevity increment shall not become pensionable until fifteen months after the Employee becomes eligible to receive such payment. Fifteen months after the Employee begins to receive the \$500 longevity increment, such \$500 longevity increment shall become pensionable and as part of the Employee's base rate, the \$500 longevity increment shall be subject to the general increases provided in Article III, Section 3(a) of this **Agreement**.

09012



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
MARGARET M. CONNOR
First Deputy Commissioner

Appendix B

January 9, 2009

Mr. Al Bosco
Municipal Highway Inspectors
Local Union 1042, 5th Floor
136-25 37th Avenue
Flushing, NY 11354

Re: 2008-2010 Inspectors (Highway and Sewers) et al. Agreement

Dear Mr. Bosco:

This is to confirm certain mutual understandings and agreements regarding the above captioned Agreement.

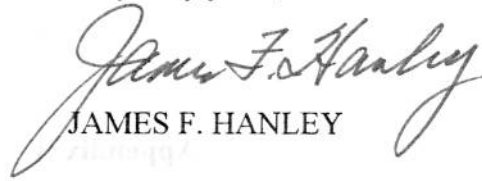
For the purposes of Article III Section 4(a)(i), "approved leave of absence" is further defined to include:

- a. maternity/childcare leave
- b. military leave
- c. unpaid time while on jury duty
- d. unpaid leave for union business pursuant to Executive Order 75
- e. unpaid leave pending workers' compensation determination
- f. unpaid leave while on workers' compensation option 2
- g. approved unpaid time off due to illness or exhaustion of paid sick leave
- h. approved unpaid time off due to family illness
- i. other pre-approved leaves without pay

THE CITY OF BOSTON
OFFICE OF LABOR RELATIONS
Director of Labor Relations

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

Very truly yours,


JAMES F. HANLEY

**AGREED AND ACCEPTED ON BEHALF OF
Pavers and Road Builders District Council**

BY: 

ALBERT P. BOSCO

09012



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
MARGARET M. CONNOR
First Deputy Commissioner

Appendix C

January 9, 2009

Mr. Al Bosco
Municipal Highway Inspectors
Local Union 1042, 5th Floor
136-25 37th Avenue
Flushing, NY 11354

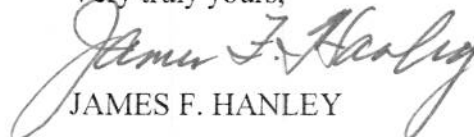
Re: 2008-2010 Local 1042 Inspectors (Highway & Sewers) --ACF Payment

Dear Mr. Bosco:

This is to confirm the understanding of the parties that effective on October 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. The funds available shall be based on the December 31, 2007 payroll, including spinoffs and pensions.

If this conforms to your understanding, please counter sign below.

Very truly yours,


JAMES F. HANLEY

**AGREED AND ACCEPTED ON BEHALF OF
Pavers and Road Builders District Council**

BY: 

ALBERT P. BOSCO

