

**THE COMPTROLLER OF THE CITY OF NEW YORK**  
-----X

**In the matter of the Complaint of**  
**Local 376, District Council 37, AFSCME, AFL-CIO**

**NOTICE**  
**OF**  
**FILING**

**Against**

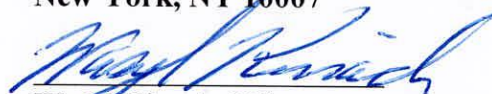
**CITY OF NEW YORK OFFICE OF LABOR RELATIONS,**

**For a determination of the prevailing rate of wage and  
supplements in accordance with New York State Labor Law  
Article Eight.**  
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PLEASE TAKE NOTICE that annexed hereto is a true copy of a Consent Determination that was duly filed on November 20, 2017 in the Office of the Comptroller in the matter of a complaint for the fixation of compensation of Construction Laborers (90756) and Group C+ Laborers.

**Scott M. Stringer**  
**Comptroller of the City of New York**  
**One Centre Street**  
**New York, NY 10007**

By:



Wasyf Kinach, P.E.  
Director of Classifications  
Bureau of Labor Law  
Tel: (212) 669-2203  
Fax: (212) 815-8584

TO: ROBERT W. LINN  
Commissioner  
City of New York Office of Labor Relations  
40 Rector Street, 4<sup>th</sup> Floor  
New York, NY 10006

HENRY GARRIDO  
Executive Director  
DC 37, AFSCME, AFL-CIO  
125 Barclay Street  
New York, NY 10007-2179

**BEFORE THE COMPTROLLER OF THE CITY OF NEW YORK**

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**In the Matter of the Complaint on behalf of employees in the titles:**

**CONSTRUCTION LABORERS (90756)  
GROUP C+ LABORERS**

**for the fixation of their compensation as employees of the City of New York, et al., at the prevailing rate of wages and supplemental benefits pursuant to New York State Labor Law Section 220 et seq.**

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**CONSENT DETERMINATION**

A Complaint under Section 220 of the New York State Labor Law, having been filed by District Council 37, AFSCME, AFL-CIO, ("Complainant"), representing employees of the City of New York, et al., in the above referenced titles ("employees"), and this Consent Determination having been agreed to between the Mayor's Office of Labor Relations ("OLR") on behalf of the City of New York, et al., and the Complainant, compromising and settling certain disputes of basic rates of wages, supplemental benefits and jurisdiction on all issues of law and fact as to the titles set forth in the caption,

**NOW, THEREFORE, IT IS HEREBY DETERMINED BY CONSENT that:**

The compromised basic rates of wages and supplemental benefits agreed upon are and have been for the above-mentioned employees of the City of New York, et al., as follows:

The job descriptions, bearing the appropriate rates contained in the schedule hereinafter, are agreed upon as follows:

### CONSTRUCTION LABORER

#### DUTIES AND RESPONSIBILITIES

Under supervision, performs work in repair and maintenance of Water Supply Distribution Systems and Sewer Systems; operates motor vehicles and motor powered equipment; performs related work.

#### EXAMPLES OF TYPICAL TASKS

Repairs broken water mains and leaking water services.

Engages in the removal and replacement of broken sewer pipes, appurtenances, castings and heads, gate boxes, broken water mains, broken hydrants, water boxes and heads and wet connections and taps.

Repairs sewer interiors of all kinds including brickwork and masonry.

Breaks road surfaces with hand or power driven tools.

Excavates and refills in the performance of the work herein.

Engages in the shoring and sheeting of excavation.

Mixes concrete as part of the work herein.

Flushes, cleans and excavates culverts, sewers, drains and sewer basins and appurtenances.

Operates various types of motor equipment, including specialized mounted equipment, towed or portable powered equipment and/or attachments.

May work from sketches and working drawings.

May keep records of work assignments and progress.

May weld in the performance of the duties herein.

Loads and unloads equipment and supplies as part of the duties herein.

### GROUP "C+" LABORERS

#### GENERAL STATEMENT OF DUTIES AND RESPONSIBILITIES

Under direct supervision, performs common laboring work for which physical strength is essential in the repair of road services with asphalt and concrete mixes, operates motorized vehicles and equipment; performs related work.

#### EXAMPLES OF TYPICAL TASKS

Engages in the repair of road surfaces of all kinds, including surfaces on bridges, fills road depressions with tar, oils surfaces of unpaved roads.

Using portland cement, epoxies, etc., performs sidewalk and other concrete construction and repair work, exclusive of finishing.

Excavates and refills in the performance of the above work.

Mixes concrete in the performance of the above work.

Breaks surfaces with hand or power-driven tools.

Engages in the shoring and sheeting of excavations, and in the laying of curb stone, culverts and catch basins.

Lays foundations for the repair of road surfaces.

Engages in mud-jack operations.



Operates motorized vehicles and various types of portable or towed powered equipment and attachments as required to perform the above tasks (pumps, blowers, compressors, concrete mixers, etc.).

Loads and unloads repair materials and equipment in connection with above as part of the above tasks.

Actual manufacture of synthetic top soil for reclamation purposes involving excrements.

Performs general laboring duties unrelated to the above when weather conditions do not permit such operations.

May prepare trip reports. Keeps job records and prepares requisitions for materials.

The phrase "performs related work," when used herein above, appended to each of the job descriptions shall mean only such related work which bears directly to the antecedent descriptive phrases of operations contained in the job descriptions.

CONSTRUCTION LABORER AND GROUP "C+" LABORERS

<u>PERIOD</u>	<u>HOURLY RATES</u>	SATURDAY, SUNDAY, HOLIDAY, AND OVERTIME <u>RATES</u>
6/20/2010 - 6/30/2010	\$37.07	\$55.61
7/1/2010 - 6/30/2011	\$37.60	\$56.40
7/1/2011 - 6/30/2012	\$38.20	\$57.30
7/1/2012 - 6/30/2013	\$38.70	\$58.05
7/1/2013 - 6/30/2014	\$39.25	\$58.88
7/1/2014 - 6/30/2015	\$39.85	\$59.78
7/1/2015 - 6/30/2016	\$40.50	\$60.75
7/1/2016 - 7/30/2017	\$41.00	\$61.50

Work performed on the following holidays shall be paid at the above-indicated Holiday

Rates:

New Year's Day	July 4th	Veteran's Day
Lincoln's Birthday	Labor Day	Thanksgiving Day
Washington's Birthday	Columbus Day	Christmas Day
Memorial Day	Election Day	Dr. Martin Luther King, Jr. Day

Work performed in excess of the regularly scheduled forty (40) hours within the work week, shall be paid in cash at the hourly overtime rates set forth above.

A regularly scheduled work week is the five (5) days posted by the Department which are to be worked by a particular employee within a calendar week except in Agencies where there is now an existing different practice. The posting by the Department shall be made not less than fourteen (14) days prior to the day to be worked.

All of the aforesaid rates (except for Outside New York City and Nassau County) are applicable only to those City employed Laborers performing more than 50% of the work within the

geographical confines of New York City and Nassau County.

**NIGHT SHIFT DIFFERENTIAL**

When four (4) or more hours are actually worked in any assigned shift between the hours of 4:00 P.M. and 8:00 A.M., employees shall be paid a shift differential of 6.1% per shift based on the hourly rate set forth herein above.

Appendix A is modified to provide for:

Effective June 20, 2010:

The annual leave allowance for employees who work at least a 249 day year and who were hired on or after July 1, 1985 shall continue to accrue as follows:

<u>Annual Leave</u>		
<u>Years In Service</u>	<u>Annual Allowance</u>	<u>Monthly Accrual (hh:mm)</u>
At the beginning of the employee's 1st year	15 work days	10:00
At the beginning of the employee's 5th year	20 work days	13:20
At the beginning of the employee's 8th year	25 work days	16:40
At the beginning of the employee's 15th year	27 work days	18:00

This provision supersedes the annual leave accrual provisions set forth in Section 2 of Appendix A for employees hired on or after July 1, 1985.

**Welfare Fund:** Effective June 20, 2010, a Welfare Fund contribution shall continue to be paid at the rate of \$1,575 per annum per employee.

Effective April 1, 2017, the Welfare Fund contribution shall be paid at the rate of \$1,775 per annum per employee.

The contribution shall be paid per complainant by the City of New York to District Council 37 Benefit Fund Trust.

Employees who have been separated from service subsequent to June 30, 1970 and who were



covered by a Welfare Fund at the time of such separation pursuant to a separate agreement between the City of New York and the certified union representing such employees, shall continue to be so covered subject to the provisions hereof, on the same contributory basis as incumbent employees. Contributions shall be made only for such time as said individuals remain primary beneficiaries of the New York City Health Insurance Program and are entitled to benefits paid for by the City of New York through such program; or are retirees of the New York City Employees' Retirement System who have completed at least five (5) years of full time service with the City of New York , except that contributions for those employees hired after December 27, 2001 shall be governed by the provisions of §12-126 of the Administrative Code of the City of New York, as amended.

**Annuity Fund:** Effective June 20, 2010 the City of New York, et al., shall continue to contribute to an annuity fund \$3.90 for each paid working day up to a maximum of \$ \$1,017.90 on behalf of all full-time and full-time per diem employees. For part-time employees who work less than eight hours a day, the amount paid shall be based on a prorated amount which is calculated against an eight hour day, up to a maximum of \$1,017.90.per annum.

Effective July 30, 2017 the City of New York, et al., shall contribute to an annuity fund \$4.80 for each paid working day up to a maximum of \$1,252.80 on behalf of all full-time and full-time per diem employees. For part-time employees who work less than eight hours a day, the amount paid shall be based on a prorated amount which is calculated against an eight hour day, up to a maximum of \$1,252.80 per annum. For the purpose of these payments, excluded from paid working days are all scheduled days off, all days in non-pay status, and all paid overtime.

In addition, effective July 30, 2017, a separate contribution to the Annuity Fund shall be made for each overtime hour worked. This contribution shall be \$18.34 per hour. This hourly contribution shall be applicable to overtime hours (i.e. outside schedule hours paid at 1.5x) and shall be prorated for work performed in increments of less than a full hour.

This annuity fund will be subject to a separate agreement between the City of New York, et al., and the Complainant. The liability of the City of New York, et al., shall in no event exceed the amounts hereinabove set forth for each effective day payable, irrespective of any taxes, liens, attorneys' fees or otherwise, and provided further that the amount of contributions by the City of New York, et al., shall be limited to the payments as provided herein.

**Health Savings:** The May 5, 2014 letter agreement regarding health savings and welfare fund contributions between the Municipal Labor Committee and the City will be attached as an Appendix and is deemed to be part of this Consent Determination.

**Death Benefit:** The beneficiary, or if no beneficiary is designated, then the estate of a complainant who dies while in the City's employ during the term of this determination, because of an injury arising out of and in the course of his employment through no fault of his own and in the proper performance of his duties as certified by the Worker's Compensation Division of the Law Department and the head of the Employee's Agency, shall receive upon Certificate of the Comptroller, a total payment of \$25,000 from funds other than those of the Retirement System, in addition to any other payment which may be made as a result of such death.

a) The provisions of this Consent Determination shall be consistent with the applicable provisions of the New York State Financial Emergency Act for the City of New York, as amended.

b) The Complainant agrees to execute a full release to the City of New York et al., for the period embraced herein, such release being set forth in the General Release and Waiver attached hereto as Exhibit "A".

c) The Complainant agrees to waive any and all interest on all differentials of basic rates of wages and supplemental benefits. It is expressly understood that such waiver, set forth in Exhibit "A" annexed hereto, shall include the waiver of any right to interest payments due pursuant to subdivision 8c of Section 220 of the Labor Law (L. 1967, c, 502, 1). However,

(1) Interest on wage increases shall accrue at the rate of three percent (3%) per annum from one hundred twenty (120) days after the filing date of this Consent Determination, or one hundred twenty (120) days after the effective date of the increase, whichever is later, to the date of actual payment,

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

(3) Interest accrued under (1) or (2) above shall be payable only if the amount of interest due to an individual Employee exceeds five dollars (\$5.00).

d) The Complainant herein shall refrain from filing any Article 78 proceedings in whole or in part with respect to any provision made herein and for any additional benefits other than those contained herein excepting that the right is reserved to bring any necessary proceedings for the enforcement of the terms of the Consent Determination.



e) The Complainant agrees to withdraw any and all objections in all of the periods embodied herein.

f) The Complainant agrees to waive any and all supplemental benefits payable under subdivision 3 of Section 220 of the Labor Law of the State of New York, such waiver being set forth in Exhibit "A" annexed hereto, and accept in lieu thereof the supplemental benefits set forth in this Consent Determination, and as set forth in Appendix A annexed hereto as modified herein.

g) Any new Employee who may be hired by the City of New York, et al., during the term of this settlement shall be required to comply with all of the terms and conditions herein upon the payment of the rates and supplemental benefits herein.

h) Any legal claims of any nature, including specifically, but not limited thereto, premium rates, holiday rates, shift rates, overtime rates or any other legal claims affecting rates and supplemental benefits of any kind whatsoever, are merged in this compromise and settlement for the period of the compromise and settlement contained herein.

i) The foregoing basic rates of wages and supplemental benefits are due and payable to each and every employee of the City of New York, et al., serving in the above-referenced titles beginning as of the effective date of the complaint filed herein, and shall be applicable to all employees of the City of New York, et al., serving in the above-referenced titles who are represented by the Complainant.

j) The basic rates and supplemental benefits herein are not to be construed as true prevailing rates and supplemental benefits but shall be considered rates and benefits in compromise and settlement of all issues of law and fact.



k) It is further understood and agreed that in consideration of the compromise and settlement reached herein, the complaint in this matter is hereby settled.

l) The submission of any Labor Law complaint, effective on **August 1, 2017**, can be made at the Labor Law Division of the Office of the Comptroller on or after that date.

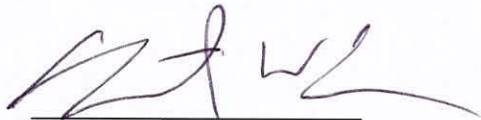
IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

CONSENTED TO:

FOR THE CITY OF NEW YORK

FOR DISTRICT COUNCIL 37, AFSCME, AFL-CIO

BY:



ROBERT W. LINN  
Commissioner of Labor Relations

BY:



HENRY GARRIDO  
Executive Director  
District Council 37  
AFSCME, AFL-CIO

The basic rates and supplemental benefits agreed to herein between the parties are not to be construed as true prevailing rates and supplemental benefits, but shall be deemed substitute rates and benefits in compromise and settlement of all issues of law and fact raised in the complaint filed herein pursuant to Labor Law Section 220.8-d.

IT IS SO DETERMINED AND ENTERED



SCOTT M. STRINGER  
Comptroller

Dated: **11/20/17**  
New York, New York

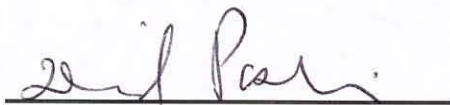
UNIT: Construction Laborers and Group C+ Laborers  
TERM: **June 20, 2010 through July 30, 2017**

## GENERAL RELEASE AND WAIVER

District Council 37, AFSCME, AFL-CIO (hereinafter referred to as the "Union"), as the certified collective bargaining representative of employees in the titles, Construction Laborers and Group C+ Laborers for and in consideration of the wage rates and supplemental benefit package negotiated and agreed upon by the Union and the City of New York as set forth in a collective bargaining agreement for the period beginning **June 20, 2010 through July 30, 2017**, a copy of which has been made available to the Union, hereby voluntarily and knowingly agrees to:

1. Waive, withdraw, relinquish, and refrain from filing, pursuing or instituting any claim for wages, supplements or other benefits, or any right, remedy, action or proceeding, which the Union has or may have under Section 220 of the Labor Law.
2. Discontinue any and all action or proceedings, if any, heretofore commenced by me or on my behalf of the above mentioned titles under and pursuant to Section 220 of the Labor Law applicable to the period **June 20, 2010 through July 30, 2017**.
3. Waive any and all interest on all differentials of basic rates of wages and supplemental benefits from **June 20, 2010 through July 30, 2017** except as expressly agreed upon in writing by the Union and the City. It is expressly understood that such waiver shall include the waiver of any right to interest payments pursuant to Subdivision 8c of Section 220 of the Labor Law (L. 1967, c. 502, Section 1).
4. Release and forever discharge the City of New York from all manner of actions, cause and causes of actions, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, covenances, trespasses, damages, judgments, extents, executions, claims and demands whatsoever in law or in equity which the Union, on behalf of employees in the above titles, shall or may have, by reason of any claim for wages or supplemental benefits pursuant to Section 220 of the Labor Law from **June 20, 2010 through July 30, 2017** except as expressly agreed upon in writing by the Union and the City for that period.

DISTRICT COUNCIL 37, AFSCME, AFL-CIO



David Paskin

Director of Research and Negotiations



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

**ROBERT W. LINN**  
*Commissioner*

May 5, 2014

Harry Nespoli  
Chair, Municipal Labor Committee  
125 Barclay Street  
New York, NY 10007

Dear Mr. Nespoli:

This is to confirm the parties' mutual understanding concerning the following issues:

1. Unless otherwise agreed to by the parties, the Welfare Fund contribution will remain constant for the length of the successor unit agreements, including the \$65 funded from the Stabilization Fund pursuant to the 2005 Health Benefits Agreement between the City of New York and the Municipal Labor Committee.
2. Effective July 1, 2014, the Stabilization Fund shall convey \$1 Billion to the City of New York to be used to support wage increases and other economic items for the current round of collective bargaining (for the period up to and including fiscal year 2018). Up to an additional total amount of \$150 million will be available over the four year period from the Stabilization Fund for the welfare funds, the allocation of which shall be determined by the parties. Thereafter, \$ 60 million per year will be available from the Stabilization Fund for the welfare funds, the allocation of which shall be determined by the parties.
3. If the parties decide to engage in a centralized purchase of Prescription Drugs, and savings and efficiencies are identified therefrom, there shall not be any reduction in welfare fund contributions.
4. There shall be a joint committee formed that will engage in a process to select an independent healthcare actuary, and any other mutually agreed upon additional outside expertise, to develop an accounting system to measure and calculate savings.



5. The MLC agrees to generate cumulative healthcare savings of \$3.4 billion over the course of Fiscal Years 2015 through 2018, said savings to be exclusive of the monies referenced in Paragraph 2 above and generated in the individual fiscal years as follows: (i) \$400 million in Fiscal Year 2015; (ii) \$700 million in Fiscal Year 2016; (iii) \$1 billion in Fiscal Year 2017; (iv) \$1.3 billion in Fiscal Year 2018; and (v) for every fiscal year thereafter, the savings on a citywide basis in health care costs shall continue on a recurring basis. At the conclusion of Fiscal Year 2018, the parties shall calculate the savings realized during the prior four-year period. In the event that the MLC has generated more than \$3.4 billion in cumulative healthcare savings during the four-year period, as determined by the jointly selected healthcare actuary, up to the first \$365 million of such additional savings shall be credited proportionately to each union as a one-time lump sum pensionable bonus payment for its members. Should the union desire to use these funds for other purposes, the parties shall negotiate in good faith to attempt to agree on an appropriate alternative use. Any additional savings generated for the four-year period beyond the first \$365 million will be shared equally with the City and the MLC for the same purposes and subject to the same procedure as the first \$365 million. Additional savings beyond \$1.3 billion in FY 2018 that carry over into FY 2019 shall be subject to negotiations between the parties.

6. The following initiatives are among those that the MLC and the City could consider in their joint efforts to meet the aforementioned annual and four-year cumulative savings figures: minimum premium, self-insurance, dependent eligibility verification audits, the capping of the HIP HMO rate, the capping of the Senior Care rate, the equalization formula, marketing plans, Medicare Advantage, and the more effective delivery of health care.

7. Dispute Resolution

- a. In the event of any dispute under this agreement, the parties shall meet and confer in an attempt to resolve the dispute. If the parties cannot resolve the dispute, such dispute shall be referred to Arbitrator Martin F. Scheinman for resolution.
- b. Such dispute shall be resolved within 90 days.
- c. The arbitrator shall have the authority to impose interim relief that is consistent with the parties' intent.
- d. The arbitrator shall have the authority to meet with the parties at such times as the arbitrator determines is appropriate to enforce the terms of this agreement.
- e. If the parties are unable to agree on the independent health care actuary described above, the arbitrator shall select the impartial health care actuary to be retained by the parties.
- f. The parties shall share the costs for the arbitrator and the actuary the arbitrator selects.



If the above accords with your understanding and agreement, kindly execute the signature line provided.

Sincerely,

A handwritten signature in cursive script, appearing to read "R. W. Linn", written in dark ink.

Robert W. Linn  
Commissioner

Agreed and Accepted on behalf of the Municipal Labor Committee

BY:

A handwritten signature in cursive script, appearing to read "Harry Nespoli", written in dark ink.

Harry Nespoli, Chair

IN THE EVENT OF ANY INCONSISTENCY BETWEEN APPENDIX A AND REQUIREMENTS IMPOSED BY FEDERAL, STATE, OR LOCAL LAW, SUCH AS THOSE THAT APPLY TO MATERNITY LEAVE, THE FEDERAL, STATE, OR LOCAL LAW SHALL TAKE PRECEDENCE UNLESS SUCH FEDERAL, STATE, OR LOCAL LAW AUTHORIZES SUCH INCONSISTENCY.

## **APPENDIX A**

### **Time and Leave Benefits:**

#### **1- ANNUAL LEAVE ALLOWANCE**

##### **Section 1**

A combined vacation, personal business and religious holiday leave allowance, shall be established, which shall be known as "annual leave allowance".

##### **Section 2**                      **EFFECTIVE MAY 1, 1970**

Annual leave allowance shall be granted to permanent employees who work at least a 250-day year, as follows:

<b><u>CATEGORY</u></b>	<b><u>ANNUAL LEAVE ALLOWANCE</u></b>	<b><u>MONTHLY ACCRUAL</u></b>
Employees who have completed 15 years of service.	27 Work Days (5 weeks and 2 days)	2 - 1/4 days
Employees who have completed 8 years of service .	25 Work Days (5 weeks)	2 days, plus 1 day at end of of vacation year.
All other employees	20 Work Days (4 weeks)	1 - 2/3 days

##### **Section 3**

There shall be a pro-rating of the above allowance for employees who work less than a 250-day year.

##### **Section 4**

For the earning of annual leave credits, the time recorded on the payroll at the full rate of pay, and the first six months of absence while receiving Workmen's Compensation payments shall be considered as time "served" by the employee.

In the calculation of annual leave credits, a full month's credit shall be given to an employee who has been in full pay status for at least 15 calendar days during that month, provided however,

that (a) where an employee has been absent without pay for an accumulated total of more than 30 calendar days in the vacation year, he shall lose the annual leave credits earnable in one month for each 30 days of such accumulated absence even though in full pay status for at least 15 calendar days in each month during this period; and (b) if an employee loses annual leave credits under this rule for several months in the vacation year because he has been in full pay status for fewer than 15 days in each month, but accumulates during said months a total of 30 or more calendar days in full pay status, he shall be credited with the annual leave credits earnable in 1 month for each 30 days of such full pay status.

### **Section 5**

Calculation of annual leave credits for vacation purposes shall be based on a year beginning May 1st, hereafter known as a "vacation year." All annual leave allowance of an employee to the employee's credit on April 30th and not used in the succeeding vacation year may be carried over from said vacation year to the next succeeding vacation year only, with the approval of the agency head; and any such time not used within the prescribed period shall be added to the employee's sick leave balance.

a. All annual leave accumulations to the credit of employees on May 1, 1961, which exceed the allowance permitted in Article I, Section 5, shall remain to their credit but shall be reduced to the maximum set by the Leave Regulations by May 1, 1970. This shall be accomplished in the following manner:

(1) Any accumulations in excess of 40 days shall be established as an annual leave reserve bank, which shall be in existence until May 1, 1970.

(2) Any time left in the annual leave reserve bank on May 1, 1970 shall be transferred to the sick leave balances of employees. If any such transfer causes an employee's sick leave balance to rise above the 180-day maximum established by the Leave Regulations, the sick leave surplus which exceeds 180 days shall be placed in the employees sick leave bank and shall remain to his credit, notwithstanding the provisions of Article II, Sec. 2.

(3) After May 1, 1970, the full provisions of Article I, Section 5 apply.

b. In the event, however, that the Mayor or an elected official of any department calls upon an employee to forego his vacation or any part thereof in any year, that portion thereof shall be carried over as vacation even though the same exceeds the limits fixed in Article I, Sections 5 and 5 (a) above.

### **Section 6**

The normal unit of charge against annual leave allowance for vacation and personal business shall be one-half day. Smaller units of charge are authorized for time lost due to tardiness,



religious observance, and for the time lost by employee representatives duly designated by employee organizations operating under the Mayor's Executive Order No. 38 dated May 16, 1957, engaged in the following types of union activity:

- a. Attendance at union meetings or conventions.
- b. Organizing and recruitment
- c. Solicitation of member.
- d. Collection of union dues.
- e. Distribution of union pamphlets, circulars and other literature.

The agency is authorized to make such other exceptions as warranted.

#### **Section 7**

Earned annual leave allowance shall be taken by the employees at the time convenient to the department. In exceptional and unusual circumstances, an agency head may permit use of annual leave allowance before it is earned, not exceeding two weeks.

#### **Section 8**

Where certification of eligible lists permits, provisional and temporary employees shall have the same annual leave benefits as regular employees except that they may not be permitted to use annual leave allowances for other than religious holidays until they have completed four months of service.

#### **Section 9**

Penalties for unexcused tardiness may be imposed by the head of each agency in conformance with established rules of the agency. As a minimum, however, all unexcused tardiness both in the morning and upon return from lunch shall be charged to the annual leave allowance.

#### **Section 10**

Terminal Leave shall be allowed to employees who work at least 250 days per year at the rate of one month for every ten years of service, (a) the rates of which are fixed in accordance with a Comptroller's determination made under Section 220 of the Labor Law of the State of New York, and (b) of service under the Career and Salary Plan Leave Regulations, pro-rated for a fractional part thereof.

If the employee so selects, and as an alternative to the above method of computation, his Terminal Leave allowance may be computed on the basis of one day of Terminal Leave for each two days of unused sick leave accumulation, to a maximum of one hundred (100) days Terminal Leave Allowance. Under the latter option, Terminal Leave shall be computed on the basis of work



days, rather than calendar days.

## **II. SICK LEAVE ALLOWANCE**

### **Section 1**

Sick leave allowance of one day per month of service shall be credited to permanent employees, provisional employees and temporary employees and shall be used only for personal illness of the employee.

### **Section 2**

Sick leave allowance shall be cumulative up to a maximum of 200 work-days. After this maximum is reached, no more sick leave credits may be earned by the employee except to the extent of restoring credits subsequently drawn for sick leave and thereby building up accruals again to the maximum of 200 work-days. Existing balances to the credit of employees at the time of adoption of these regulations shall remain to their credit.

### **Section 3**

Sick leave may be granted at the discretion of the agency head and proof of disability must be provided by the employee, satisfactory to the agency head. Presentation of a physician's certificate in the prescribed form may be waived for absences up to and including three consecutive work days. In a case of a protracted disability, such certificate shall be presented to the agency head at the end of each month of continued absence.

### **Section 4**

The normal unit for computation of sick leave shall be not less than one-half day. The agency head may authorize smaller units of charge in exceptional and unusual circumstances. Credits cannot be earned for the period an employee is on leave of absence without pay. For the earning of sick leave credits, the time recorded on the payroll at the full rate of pay, and the first six months of absence while receiving Workmen's Compensation payments shall be considered as time "served" by the employee.

In the calculation of sick leave credits, a full month's credit shall be given to an employee who has been in full pay status for at least 15 calendar days during that month, provided however, that (a) where an employee has been absent without pay for an accumulated total of more than 30 calendar days in the vacation year, he shall lose the sick leave credits earnable in one month for each 30 days of such accumulated absence even though in full pay status for at least 15 calendar days in each month during this period, and (b) if an employee loses sick leave credits under this rule for several months in the vacation year because he has been in full pay status for fewer than 15 days

in each month, but accumulates during said months a total of 30 or more calendar days in full pay status, he shall be credited with the sick leave credits earnable in one month for each 30 days of such full pay status.

#### **Section 5**

In the discretion of the agency head, employees except provisional and temporary employees, who have exhausted all earned sick leave and annual leave balances due to personal illness may be permitted to use unearned sick leave allowance up to the amount earnable in one year of service, chargeable against future earned sick leave.

#### **Section 6**

At the discretion of the agency head, permanent employees may also be granted sick leave with pay for three months after ten years of City Service, after all credits have been used. In special instances, sick leave with pay may be further extended, with the approval of the agency head. The agency head shall be guided in this matter by the nature and extent of illness and the length and character of service.

### **III. OTHER AUTHORIZED ABSENCES WITH PAY**

#### **Section 1**

Absence of permanent employees, provisional employees and temporary employees for the reasons indicated below, shall be excusable in the discretion of the agency head without charge to sick leave or annual leave balances, upon submittal of evidence satisfactory to the agency head:

- a. Absence not to exceed four work-days in the case of death in the immediate family. Family shall be defined for this purpose as spouse; natural, foster, step-parent, child, brother or sister; father-in-law or mother-in-law; or any relative residing in the household.
- b. For Jury Duty. Leave for jury duty shall be granted to the employee provided that he endorses his check for jury duty to the City.
- c. For Court Attendance Under Subpoena or Court Order. Leave to attend court shall be granted when neither the employee nor anyone related to him has a personal interest in the case, and where said attendance at court is not related to any other employment of the employee.
- d. Absence required because of Health Department ruling with respect to quarantine.
- e. For attendance at New York City Civil Service examination, or for official investigation interview or appointment interview in relation to the resulting eligible list.



f. For attendance of delegates and alternates at State or National conventions of veterans' organizations and volunteer firemen's organizations.

g. Absence by employee representatives, duly designated by employee organizations operating under the Mayor's Executive Order No. 38 dated May 16, 1957, acting on matters related to the interests of employees of their own respective departments, to negotiate with and appear before departmental and other City officials and agencies including the Board of Estimate, the City Council, and the Department of Personnel.

## **Section 2**

Prior notice to and authorization by the agency head or his designated representative is required for absence under (b), (c), (e), (f), and (g) of Section 1 above. The employee shall give notice to the agency as soon as possible in all other cases.

## **Section 3**

Agency heads shall grant any leave of absence with pay required by law.

# **IV LEAVES OF ABSENCE WITHOUT PAY**

## **Section 1**

Maternity Leave. Existence of pregnancy shall be reported by the employee, in writing, to the head of agency not later than the completion of the fourth month of pregnancy. Maternity leave of absence, commencing not later than the completion of the fifth month of pregnancy, shall be granted for a period of twelve months, and upon application of the employee, may be extended by the agency head for an additional period, not to exceed six months. Total leave for this purpose shall not exceed 18 months. An employee on maternity leave may be required to report for physical examination before resuming service.

## **Section 2**

Leaves of absence without pay for reasons not covered in the foregoing rules may be granted to permanent employees by the agency head not to exceed one year. Extension of such leave may be granted by an agency head not to exceed an additional period of one year. Further extensions may be granted by an elected official, in an agency headed by such official, or by the City Personnel Director for agencies headed by appointed officials.

## **Section 3**

Agencies shall grant any leave of absence without pay, such as military leave, required by law.

## **V. MISCELLANEOUS PROVISIONS**

### **Section 1**

Daily time records shall be maintained showing the actual hours worked by each employee.

### **Section 2**

Upon transfer of a permanent employee, or appointment from an eligible list with continuous service in another City agency, sick leave and annual leave balances shall be transferred with the employee.

### **Section 3**

Upon reinstatement of an employee to a permanent position, unused sick leave and vacation balance at the time of resignation or layoff, shall be restored to his credit.

### **Section 4**

Subject to limitations of Art. I, Sec. 8 above, the annual leave allowance and the sick leave allowance herein granted shall be applicable to part-time employees on a pro-rated basis.

## **VI. ABSENCE DUE TO INJURY INCURRED IN THE PERFORMANCE OF OFFICIAL DUTIES**

### **Section 1**

Whenever an employee, not covered by Workmen's Compensation, is physically disabled in the performance of his official duties, the head of the agency is empowered to grant such employee a leave of absence with pay not to exceed one calendar year. In such case the employee shall be required to execute an agreement, wherein it is stipulated that, in the event that such employee makes any claim or institutes any action against any party whatsoever in relation to such disability, reimbursement in the amount of such pay shall be made to the City or the agency concerned, as the case may be, from the proceeds of the recovery by such employee but not to exceed the amount of such proceeds. Such agreement shall be in a form and manner prescribed by the Corporation Counsel or other duly empowered counsel. The Agency head may have the injured employee examined by a physician employed by the City in order to determine the extent of the employee's disability and the approval of said physician from a medical viewpoint shall be required for the time granted with pay under this rule. The agency head may require periodic medical examinations of the disabled employee to ascertain the need for continued leave of absence with pay. Notwithstanding the provisions of Article I, Section 4 and Article II, Section 5 annual and sick leave shall accrue during the first six months only of such absence, and shall be credited upon the employee's return to duty.



## **Section 2**

The agency head is empowered to grant leave of absence with pay for the first week's absence of an employee covered by Workmen's Compensation who is physically disabled in the performance of official duties.

## **Section 3**

a. An employee physically disabled in the performance of his official duties who has accrued sick and/or annual leave or has been advanced credits in accordance with the Comptroller's Leave Regulations may elect one of the following, in addition to the benefits to which he is entitled under the Workmen's Compensation Law, such election to be made within the first seven calendar days of absence by the employee or someone in his behalf:

1. To receive the difference between the amount of his weekly salary and the compensation rate, provided that:

a. The injured employee or any authorized person acting in his behalf makes the request in writing, and

b. The injured employee or any authorized person acting in his behalf agrees that a pro-rated charge be made against his sick leave and/or annual leave balances equal to the number of working days of absence less the number of working days represented by the Workmen's Compensation payments, and

c. The injured employee has the necessary accrued sick leave and/or annual leave balance or has been advanced credits in accordance with the Comptroller's Leave Regulations which the supplementary pay can be charged, and

d. The injured employee was not guilty of willful gross disobedience of safety rules or willful failure to use a safety device, or was not under the influence of alcohol or narcotics at the time of injury, or did not willfully intend to bring about injury or death upon himself or another, and

e. The injured employee undergoes such medical examinations as are requested by the Workmen's Compensation Division of the Law Department and his agency; and when found fit for duty by said physicians, returns to his employment.

2. To take annual leave and receive full pay and Workmen's Compensation medical coverage, provided that:

a. The injured employer or any authorized person acting in his behalf makes the request in writing, and

b. The injured employee or any authorized person acting in his behalf agrees to have his annual leave balance charged for such absence, and

c. The injured employee has the necessary accrued annual leave balance.

3. To receive Workmen's Compensation benefits in their entirety with no charge against sick leave and/or annual leave.

b. During the period when an injured employee is receiving Workmen's Compensation and the differential to bring him to full pay, he will be carried on full-pay status and this time shall be counted for retirement benefits.

## **VII HOLIDAYS WITH PAY**

### **Section 1**

On the following effective dates prevailing rate per diem and per annum employees shall be entitled to a day off with pay for each of the following holidays:

New Year's Day	Memorial Day	Columbus Day	Thanksgiving Day
Washington's Birthday	Independence Day	Election Day	Christmas Day
Lincoln's Birthday	Labor Day	Veteran's Day	