

BEFORE THE COMPTROLLER OF THE CITY OF NEW YORK

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In the Matter of the Complaints of

**SEWAGE TREATMENT WORKER (90739)
and
SENIOR SEWAGE TREATMENT WORKER (90767)**

**for the fixation of their compensation as employees of the City of New York,
et al., at the prevailing rate of wages pursuant to New York State Labor Law
§ 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 Local 1320 of 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 rate 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:

SEWAGE TREATMENT WORKER

<u>PERIOD</u>	<u>HOURLY RATE</u>	<u>SATURDAY RATE</u>	<u>SUNDAY RATE</u>	<u>HOLIDAY RATE</u>
7/1/02 – 6/28/03	\$29.66	\$37.08	\$44.49	\$59.32
6/29/03 – 6/26/04	\$30.54	\$38.18	\$45.81	\$61.08
6/27/04 – 1/1/05	\$31.46	\$39.33	\$47.19	\$62.92
1/2/05 – 6/25/05	\$31.62	\$39.53	\$47.43	\$63.24
6/26/05 – 6/24/06	\$32.72	\$40.90	\$49.08	\$65.44
6/25/06 – 6/23/07	\$33.86	\$42.33	\$50.79	\$67.72
6/24/07 – 6/28/08	\$34.97	\$43.71	\$52.46	\$69.94

SENIOR SEWAGE TREATMENT WORKER

<u>PERIOD</u>	<u>HOURLY RATE</u>	<u>SATURDAY RATE</u>	<u>SUNDAY RATE</u>	<u>HOLIDAY RATE</u>
7/1/02 – 6/28/03	\$32.67	\$40.84	\$49.01	\$65.34
6/29/03 – 6/26/04	\$33.65	\$42.06	\$50.48	\$67.30
6/27/04 – 1/1/05	\$34.66	\$43.33	\$51.99	\$69.32
1/2/05 – 6/25/05	\$34.83	\$43.54	\$52.25	\$69.66
6/26/05 – 6/24/06	\$36.05	\$45.06	\$54.08	\$72.10
6/25/06 – 6/23/07	\$37.31	\$46.64	\$55.97	\$74.62
6/24/07 – 6/28/08	\$38.52	\$48.15	\$57.78	\$77.04

Overtime after eight (8) hours worked and overtime after forty (40) hours worked shall be computed at the rate of time and one-half (1 1/2x). All time during which an employee is in full pay status, except hours worked after an eight (8) hour shift and paid for as premium rate overtime, are to be counted towards computing the forty (40) hours worked in a week for the purpose of earning overtime.

In addition to the above rates, both titles shall be paid a shift differential of 6.3% per shift from 4:00 P.M. to 12:00 midnight or from 12:00 midnight to 8:00 A.M. Employees who work four

(4) or more hours between 4:00 P.M. and 8:00 A.M. are entitled to receive the shift differential. Such differential shall be paid in addition to the rates set forth herein above for overtime work and work performed for any day of the week including Saturdays, Sundays and holidays.

Martin Luther King Day, the third Monday in January, shall continue to be a regular holiday with pay. This holiday is in addition to those set forth in Appendix A.

Appendix A is further modified to provide for:

Annual Leave:

Effective July 1, 2002, 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 accrue as follows:

<u>Annual Leave</u>		
<u>Years In Service</u>	<u>Allowance</u>	<u>Monthly Accrual</u>
At the beginning of the employee's 1st year	15 work days	1-1/4 days per month
At the beginning of the employee's 5th year	20 work days	1-2/3 days per month
At the beginning of the employee's 8th year	25 work days	2 days per month plus one additional leave day at the end of the leave year
At the beginning of the employee's 15th year	27 work days	2-1/4 days per month

Effective, as soon as practicable upon ratification of the Memorandum of Understanding between parties dated March 15, 2010, the annual leave accrual allowance for all Employees covered by this Determination shall be as follows:

Annual Leave

<u>Years In Service</u>	<u>Allowance</u>	<u>Monthly Accrual</u>
At the beginning of the employee's 1st year	10 work days	$\frac{3}{4}$ days per month plus one (1) additional day at the end of the leave year
After the completion of the employee's 3rd year	11 work days	$\frac{3}{4}$ days per month plus two (2) additional days at the end of the leave year
After the completion of the employee's 4th year	12 work days	1 day per month
After the completion of the employee's 5th year	16 work days	1-1/3 days per month
After the completion of the employee's 12th year	17 work days	1-1/3 days per month plus one (1) additional day at the end of the leave year
After the completion of the employee's 13th year	18 work days	1-1/2 days per month
After the completion of the employee's 14th year	19 work days	1-1/2 days per month plus one (1) additional day at the end of the leave year
After the completion of the employee's 15th year	21 work days	1-3/4 days per month
After the completion of the employee's 22nd year	22 work days	1-3/4 days per month plus one (1) additional day at the end of the leave year
After the completion of the employee's 23rd year	23 work days	1-3/4 days per month plus two (2) additional day at the end of the leave year
After the completion of the employee's 24th year	24 work days	2 days per month
After the completion of the employee's 25th year	25 work days	2 days per month plus one (1) additional day at the end of the leave year

This provision supersedes the annual leave accrual provisions set forth in Article I, Section (2) of Appendix A.

Sick Leave:

Effective, as soon as practicable upon ratification of the Memorandum of Understanding between parties dated March 15, 2010, the annual sick leave accrual allowance for all Employees covered by this Determination shall be **6 days per annum**

Other Authorized Absences With Pay:

Effective, as soon as practicable upon ratification of the Memorandum of Understanding between parties dated March 15, 2010, for employees in the titles covered by this Consent Determination, the paid leave benefits set forth in Article III, Sections (1)(a)-(f) of Appendix A **shall not apply.**

Line of Duty Injury Fund:

The program known as the "Sewage Treatment Worker Occupational Group Line of Duty Injury/Illness Benefit Fund" (the "Fund"), which provides a supplemental benefit to employees who are physically disabled in the performance of their official duties as Sewage Treatment Workers and Senior Sewage Treatment Workers, shall remain in effect until all the existing monies contained in the Fund's Trust and Agency account have been expended. The payment which was made to the Fund on September 4, 2009 in the amount of \$473,215.66 shall be the last payment made by the city and it shall no longer make any contributions to the Fund unless and until the parties mutually agree on a source of funding.

Welfare Fund: Effective July 1, 2002, a Welfare Fund contribution shall continue to be paid at the rate of \$1,475 per annum per employee. Effective June 25, 2006, a Welfare Fund contribution shall be paid at the rate of \$1,575 per annum per employee. The annual contribution shall be paid per employee by the City of New York to District Council 37 Benefits 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 through such program; or are retirees of the New York City Employees Retirement System who have completed five (5) years of full in 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.

The beneficiary, or if no beneficiary is designated, then the estate, of a City employee Sewage Treatment Worker or Senior Sewage Treatment Worker, 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 Section of the Law Department and the head of 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.

Annuity Fund

Effective July 1, 2002 the City of New York, et al., shall continue to contribute to an annuity fund at a rate of \$3.76 for each paid working day up to a maximum of \$981.36 per annum 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 \$981.36 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.

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.

- 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.

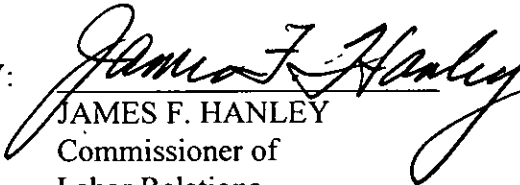
l) The submission of any Labor Law complaint, effective on **June 29, 2008**, can be made to the Bureau of Labor Law, Office of the Comptroller on or after that date.


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 LOCAL 1320 OF
DISTRICT COUNCIL 37, AFSCME, AFL-CIO

BY: 
JAMES F. HANLEY
Commissioner of
Labor Relations

BY: 
JAMES TUCCIARELLI
President
Local 1320

FOR DISTRICT COUNCIL 37,
AFSCME, AFL-CIO:

BY: 
LILLIAN ROBERTS
Executive Director

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


JOHN C. LIU.
Comptroller

Dated: 4/16/10
New York, New York

UNIT: Sewage Treatment Workers
Senior Sewage Treatment Workers

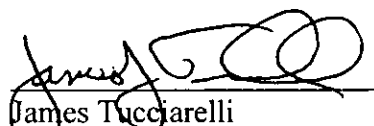
TERM: July 1, 2002 through June 28, 2008

GENERAL RELEASE AND WAIVER

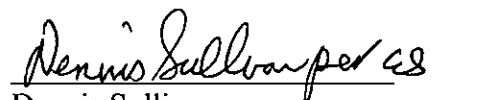
Local 1320 of District Council 37, AFSCME, AFL-CIO (hereinafter referred to as the "Union"), as the certified collective bargaining representative of employees in the titles, **Sewage Treatment Worker and Senior Sewage Treatment Worker** for and in consideration of the wage rates and supplemental benefit 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 **July 1, 2002 and terminating June 28, 2008**, 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 **July 1, 2002 to June 28, 2008**.
3. Waive any and all interest on all differentials of basic rates of wages and supplemental benefits from **July 1, 2002 to June 28, 2008** 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, cariances, 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 **July 1, 2002 to June 28, 2008** except as expressly agreed upon in writing by the Union and the City for that period.

LOCAL 1320


James Tucciarelli
President, Local 1320

DISTRICT COUNCIL 37,
AFSCME, AFL-CIO


Dennis Sullivan
Director of Research and Negotiations