

# 2008 DISTRICT COUNCIL 37 MEMORANDUM OF ECONOMIC AGREEMENT

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## 2008 DISTRICT COUNCIL 37 MEMORANDUM OF ECONOMIC AGREEMENT

MEMORANDUM OF ECONOMIC AGREEMENT made this 30<sup>th</sup> day of Oct., 2008, ("2008 DC 37 MEA") by and between the undersigned District Council 37, AFSCME, AFL-CIO, and its affiliated locals (the "Union"); and the City of New York (the "City") and the undersigned employers (collectively the "Employers.")

### WITNESSETH

WHEREAS, the undersigned parties desire to enter into collective bargaining agreements, including this 2008 DC 37 MEA and agreements successor to those terminating on March 2, 2008; and May 10, 2008 ("*Successor Separate Unit Agreements*") to cover the employees represented by the Union ("Employees");

WHEREAS, the undersigned parties intend by this 2008 DC 37 MEA to cover all economic matters and to incorporate the terms of this 2008 DC 37 MEA into the *Successor Separate Unit Agreements*,

NOW, THEREFORE, it is jointly agreed as follows:

#### Section 1. Term

- a. The term of each *Successor Separate Unit Agreement* shall be twenty-four (24) months from the date of termination of the applicable existing separate unit agreement.
- b. The term of this 2008 DC 37 MEA shall be from the day following the termination of the applicable predecessor separate unit agreement to the date a *Successor Separate Unit Agreement* between the union and employer becomes final except as provided in Section 12 ("Resolution of Disputes") and except for Section 7 ("Transit Check"), Section 8 ("Welfare Funds"), Section 9 ("Salary Review Panel"), Section 10 ("Labor-Management Committee on Pension Issues"), Section 11 ("Privatization"), Section 13 ("Continuation of Certain Health Benefits"), Section 15 ("Approval of Agreements"), Section 16 ("Incorporation of Certain Provisions into Other Agreements"), Section 17 ("Savings Clause") and Appendices which shall be coterminous with the applicable *Successor Separate Unit Agreement*.

#### Section 2. Continuation of Terms

The terms of the predecessor separate unit agreements shall be continued except as modified pursuant to this 2008 DC 37 MEA and Appendices.

### **Section 3. Prohibition of Further Economic Demands**

No Party to this agreement shall make additional economic demands during the term of the *2008 DC 37 MEA* or during the negotiations for the applicable *Successor Separate Unit Agreement*. Any disputes hereunder shall be promptly submitted and resolved.

### **Section 4. General Wage Increase**

- a. The general wage increases, effective as indicated, shall be:
  - i. Effective on the first day of the applicable *Successor Separate Unit Agreement*, Employees shall receive a general increase of 4%.
  - ii. Effective on the first day of the thirteenth month of the applicable *Successor Separate Unit Agreement*, Employees shall receive an additional general increase of 4%.
  - iii. Part-time per annum, part-time per diem (including seasonal appointees), per session and hourly paid Employees and Employees whose normal work year is less than a full calendar year shall receive the increases provided in subsections 4. (a)(i) and 4. (a)(ii) on the basis of computations heretofore utilized by the parties for all such Employees.
- b. The increases provided for in Section 4. (a) shall be calculated as follows:
  - i. The general increase in Section 4. (a)(i) shall be upon the base rates (including salary or incremental salary schedules) of the applicable titles in effect on the last day of the applicable predecessor separate unit agreement;
  - ii. The general increase in Section 4. (a)(ii) shall be based upon the base rates (including salary or increment salary schedules) of the applicable titles in effect on the last day of the twelfth month of the applicable *Successor Separate Unit Agreement*.
  - iii. Notwithstanding the provisions set forth in Section 4, the appointment rate for any Employee newly hired on or after March 3, 2008 shall be in accordance with Section 5 ("New Hires") of this *2008 DC 37 MEA*.
- c.
  - i. The general increases provided for in subsections 4. (a)(i) and 4. (a)(ii) shall be applied to the base rates, incremental salary levels and the minimum and maximum rates (including levels) if any, fixed for the applicable titles and to recurring increment payments.
  - ii. Effective on the last day of the *Successor Separate Unit Agreement*, the general increases provided for in subsections 4. (a)(i) and 4. (a)(ii) shall be applied to "additions to gross." "Additions to gross" shall be defined to

include uniform allowances, equipment allowances, transportation allowances, uniform maintenance allowance, assignment differentials, service increments, longevity differentials, longevity increments, , advancement increases, assignment (level) increases, and experience, certification, educational, license, evening, or night shift differentials.

- iii. Notwithstanding Section 4 (c)(ii) above, the total cost of the increase set forth in 4(c)(i) as it applies to “additions to gross” shall not exceed a cost of 0.10 percent of the December 31, 2007 payroll, including spinoffs and pensions. Recurring increment payments are excluded from this provision.

**Section 5. New Hires**

- a. Effective upon the execution of this *2008 DC 37 MEA*, the following provisions shall apply to Employees newly hired on or after March 3, 2008:
- b. 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 that is in effect on the date of such appointment as set forth in the applicable *Successor Separate Unit Agreement*. The general increases provided for in subsections 4(a)(i) and 4(a)(ii) shall be applied to the “appointment rate.”
- c. 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 the applicable *Successor Separate Unit Agreement*.

**Section 6. Conditions of Payment**

- a. The general increase pursuant to Section 4(a)(i) of this *2008 DC 37 MEA* shall be payable as soon as practicable upon ratification of this *2008 DC 37 MEA*.
- b. The general increase provided in Section 4(a)(ii) shall be payable as soon as practicable upon the execution of the successor unit agreement.

**Section 7. TransitCheck**

The parties agree that the City will expand the current Transit Check program to offer to eligible employees the ability to purchase a Transit Debit Card through payroll deductions in accordance with IRC Section 132. In addition to the current MTA Surface and Subway lines, the Transit Debit Card may be used to purchase tickets for mass transit commutation only (i.e. LIRR, LI MTA Buses, MetroNorth). The administrative fee for this benefit will be borne by the participants and will be deducted on a prorated basis from the participating employee's paycheck. After one year of experience with this benefit, the City will examine the level of participation and the associated costs of providing this benefit to determine whether or not the administrative fee requires adjustment.

The parties further agree to examine the possible expansion of this benefit to include other regional mass transit carriers.

**Section 8. Welfare Funds**

- a. 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.
- b. Pursuant to the Health Benefits Agreement, each welfare fund shall provide welfare fund benefits equal to the benefits provided on behalf of an active employee to widow(ers), 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.

**Section 9. Salary Review Panel**

The provisions of Section 13 and Appendix A of the 2005 DC 37 MEA shall continue.

**Section 10. Labor Management Committee on Pension Issues**

There shall be a joint Labor Management Committee on Pensions. The committee shall analyze the actual costs and additional contribution rate(s) for members of the New York City Employees' Retirement System (NYCERS) and the Board of Education Retirement System (BERS) associated with Chapter 96 of the Laws of 1995. Such analysis shall be based on, among other factors, the actual number of people who elected to participate under the provisions of said Chapter 96 of the Laws of 1995 as of September 26, 1995. The committee shall make recommendations regarding the establishment of revised additional contribution rate(s) and other remedies it deems appropriate so as to reflect the actual cost to members of NYCERS and BERS. Regardless of the comparison of actual costs to additional contributions for members of NYCERS and BERS, there shall be no adjustment to contributions under Chapter 96 without first considering the contributions by the employer to NYCERS and BERS on behalf of all employees, and the comparison of those contributions to actual costs. The parties further agree to discuss the following issues:

- Chapter 96 Reopener
- Chapter 96 Escape
- Age and Vesting Requirements
- Member Contribution Amounts and Duration
- Benefit Formula Changes
- Service Credits
- Any other areas the parties mutually agree to

**Section 11. Privatization/Contracting-Out/Contracting-In**

- a. It is the Employer's policy to have advance discussions with the Union to review its plans for letting a particular contract which may adversely affect employees covered by this

*2008 DC 37 MEA*. The Union shall be advised as early as possible, but in no case later than 90 days in advance of the contract being let, of the nature, scope, and approximate dates of the contract and the reasons therefor.

- b. The Employer will provide the Union as soon as practicable with information, in sufficient detail, so that the Union may prepare a proposal designed to demonstrate the cost effectiveness of keeping the work in-house. Such information, consistent with the applicable provisions of Section 312(a) of the New York City Charter, shall include but not be limited to, applicable solicitations to vendors, winning bids, descriptions of services to be provided by vendors, cost comparison analyses, and the agency's estimated direct operating and administrative costs of contracting out the work.
- c. Not less than 45 days prior to submission to the Comptroller of a recommendation for the award of the contract, the union shall have an opportunity to make a formal proposal to the employer demonstrating that it is cost effective or that it is in the best interest of the employer to continue to perform such work in house. The Employer agrees to consider such proposal before making a final determination. Such final determination shall be made in writing and submitted to the Union as soon as practicable.
- d. The parties agree to set up a labor-management study committee to discuss and review processes for the contracting-in of public services. The study committee will consider:
  - i. the conditions under which "contracting in" should be considered and the method by which it should be determined that City services should be contracted in;
  - ii. the establishment of pilot projects in mutually agreed upon targeted areas to determine the feasibility of providing such services in-house; and
  - iii. if the parties mutually agree to the study committee's recommendations, the City will examine the feasibility of contracting-in services during the period covered by this *2008 DC 37 MEA*.

**Section 12. Resolution of Disputes**

- a. Subject to the subsequent provisions of this Section 12(b), any dispute, controversy, or claim concerning or arising out of the execution, application, interpretation or performance of any of the terms or conditions of this *2008 DC 37 MEA* shall be submitted to arbitration upon written notice therefore by any of the parties to this *2008 DC 37 MEA* to the party with whom such dispute or controversy exists. The matter submitted for arbitration shall be submitted to an arbitration panel consisting of the three impartial members of the Board of Collective Bargaining pursuant to Title 61 of the Rules of the City of New York. Any award in such arbitration proceeding shall be final and binding and shall be enforceable pursuant to Article 75 of the CPLR.
- b. After incorporation of this *2008 DC 37 MEA* into an applicable *Successor Separate Unit Agreement*, any dispute, controversy or claim referred to in Section 12(a) which arises

between the parties to such separate unit agreement shall be submitted in accordance with the dispute resolution provisions of such applicable *Successor Separate Unit Agreement*.

- c. Any dispute, controversy or claim arising under Section 7 (“Transit Check”), Section 8 (“Welfare Funds”), Section 9 (“Salary Review”), Section 10 (“Labor-Management Committee on Pension Issues”), Section 11 (“Privatization”), Section 13 (“Continuation of Certain Health Benefits”), Section 15 (“Approval of Agreements”), Section 16 (“Incorporation of Certain Provisions into Other Agreements”), Section 17 (“Savings Clause”) and Appendices shall continue to be submitted under Section 12(a) above.
- d. The term of this Section 12 shall be from the date of execution of this *2008 DC 37 MEA* to the date of execution of any successor agreement(s) to this *2008 DC 37 MEA*.

### **Section 13. Continuation of Certain Health Benefits**

The parties acknowledge that collective bargaining regarding health benefits is within the purview of negotiations between the Municipal Labor Committee and the City. Cost-containment initiatives and program modifications in the City Health Benefits Program shall be discussed with the Municipal Labor Committee.

The parties agree that the following provisions of the 1993 Municipal Coalition Agreement shall remain in full force and effect except as otherwise modified by provisions of this *2008 DC 37 MEA* and the Appendices.

#### **Health Care Flexible Spending Account**

- a. A flexible health care spending account shall be established pursuant to Section 125 of the IRS code after July 1993. Those employees eligible for New York City health plan coverage as defined on page 32, section 4(B) of the 1992 New York City Health Summary Program Description shall be eligible to participate in the account. Participating employees shall contribute at least 260 dollars per year up to a maximum of \$5,000 per year. Said contribution minimum and maximum levels may be modified by the MLC Health Advisory Committee based on experience of the plan. Any unfunded balance may be deducted from final salary payments due an employee.
- b. Expenses of the account shall include but not be limited to deductibles, co-insurance, co-payments, excess expenses beyond plan limits, physical exams and health related transportation costs for vision, dental, medical and prescription drug plans where the employee and dependents are covered. In no case will any of the above expenses include those non-deductible expenses as defined as non-deductible in IRS Publication 502.

- c. An administrative fee of \$4.00 per month shall be charged for participation in the program. An employee's participation in the account is irrevocable during a plan year. At the close of the plan year any excess balance in an employee's account will not be refunded.

#### Health Insurance

- a. Effective April 1, 1995 and thereafter, the Employer's cost for each contract for each Employee and for each retiree (under age 65) shall be equalized at the community rated basic HIP/HMO plan payment rate as approved by the State Department of Insurance on a category basis of individual or family, (e.g. the payment for GHI-CBP/Blue Cross family coverage shall be equal to the payment for HIP/HMO family coverage).
- b. The Employers shall continue to contribute on a City employee benefits program-wide basis the additional annual amount of \$35 million to maintain the health insurance stabilization reserve fund created in Section 7 of the 1984-87 Municipal Coalition Economic Agreement. Said funds shall be paid in two installments of seventeen million five hundred thousand in January and July of each year.
- c. Pursuant to paragraph 7 of MLC Health Benefits Agreement, notwithstanding the above, in each of the fiscal years 2001 and 2002, the City shall not make the annual \$35 million contributions to the health insurance stabilization fund.
- d. In the event that there is a citywide or program-wide health insurance package which exceeds the cost of the equalization and stabilization fund described above, the parties may negotiate a reconfiguration of this package which in no event will provide for costs in excess of the total costs of this *2008 DC 37 MEA* as set forth herein. However, it is understood that no union will be treated any better or any worse than any other union participating in the citywide or program-wide Health Program with regard to increased health insurance costs.

#### **Section 14. Retroactivity**

In the event that any payment is not paid on the date due under this *2008 DC 37 MEA*, such payment when made shall be paid retroactive to such date due.

#### **Section 15. Approval of Agreements**

This *2008 DC 37 MEA* and the separate unit agreements are subject to approval in accordance with applicable law.

**Section 16. Incorporation of Certain Provisions into Other Agreements**


All provisions of this *2008 DC 37 MEA* shall be incorporated into the applicable Successor Separate Unit Agreement except for, Section 12 (“Resolution of Disputes”), Section 7 (“Transit Check”), Section 8 (“Welfare Funds”), Section 9 (“Salary Review Panel”), Section 10 (“Labor-Management Committee on Pension Issues”), Section 11 (“Privatization”), Section 13 (“Continuation of Certain Health Benefits”), Section 15 (“Approval of Agreements”), Section 16 (“Incorporation of Certain Provisions into Other Agreements”), Section 17 (“Savings Clause”) and Appendices.

**Section 17. Savings Clause**

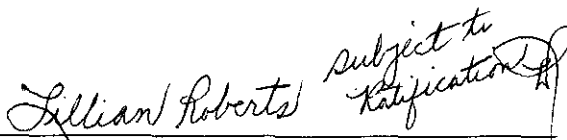
In the event that any provision of this *2008 DC 37 MEA* is found to be invalid, such invalidity shall not impair the validity and enforceability of the remaining provisions of this *2008 DC 37 MEA*.

WHEREFORE, we have hereunto set our hands and seals this 30 day of Oct., 2008.

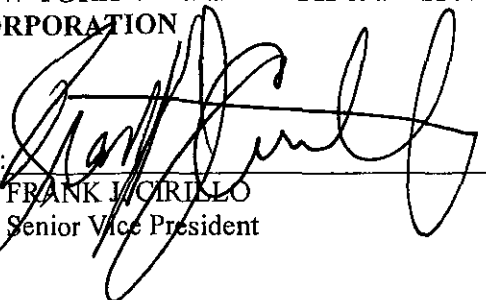
FOR THE CITY OF NEW YORK

BY:   
JAMES F. HANLEY  
Commissioner of Labor Relations

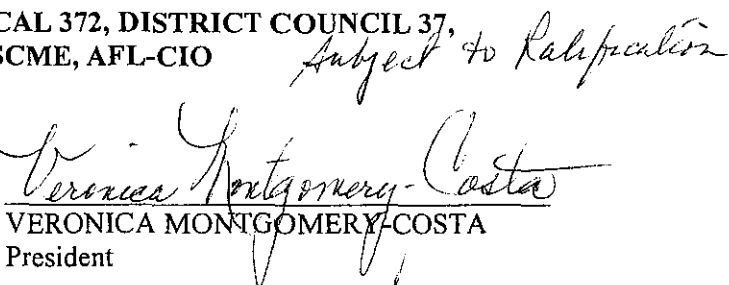
FOR DISTRICT COUNCIL 37,  
AFSCME, AFL-CIO

BY:  Subject to ratification  
LILLIAN ROBERTS  
Executive Director


NEW YORK CITY HEALTH & HOSPITALS  
CORPORATION

BY:   
FRANK J. CIRISLO  
Senior Vice President

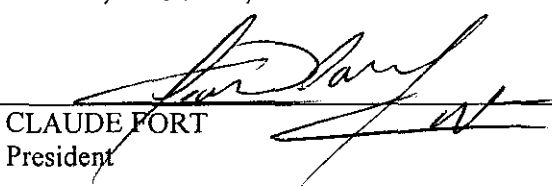
LOCAL 372, DISTRICT COUNCIL 37,  
AFSCME, AFL-CIO

 Subject to Ratification  
BY: VERONICA MONTGOMERY-COSTA  
President

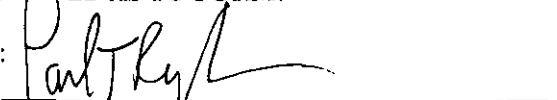
NEW YORK CITY DEPARTMENT OF  
EDUCATION

BY:   
JOEL KLEIN  
Chancellor

CIVIL SERVICE TECHNICAL GUILD  
LOCAL 375, AFSCME, AFL-CIO

BY:   
CLAUDE FORT  
President

APPROVED AS TO FORM:

BY:   
PAUL T. REHEN  
Acting Corporation Counsel

SUBMITTED TO THE FINANCIAL CONTROL BOARD:



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 A**

Lillian Roberts  
Executive Director  
District Council 37, AFSCME, AFL-CIO  
125 Barclay Street  
New York, New York 10007

**Re: 2008 District Council 37 Memorandum of Economic Agreement**

Dear Ms. Roberts:

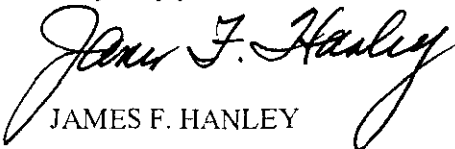
This letter is to confirm certain mutual understandings and agreements regarding the above-captioned agreement.

1. The First Deputy Commissioner of Labor Relations may, after notification to the affected union(s), exempt certain hard to recruit titles, as defined in relevant cases by DCAS and by HHC, from the provisions of Section 5 of the *2008 DC 37 MEA*.
2. For the purposes of Section 5 of the *2008 DC 37 MEA*, employees who were in active pay status prior to the date of execution of the *2008 DC 37 MEA* 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 minimum incumbent salary set forth in Section 4 on the dates indicated therein.
  - a. Employees who return to active pay status from an approved leave of absence.
  - b. Employees in active pay 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.
  - c. 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.
  - d. 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.
  - e. Permanent employees who resign and are reinstated within one year of such resignation.

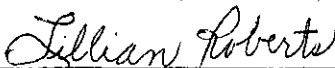
- f. Employees (regardless of jurisdictional class or civil service status) who resign and return within 31 days of such resignation.
  - g. A provisional employee who is appointed directly from one provisional appointment to another.
  - h. A provisional employee who was terminated for economic reasons and who is rehired no later than March 2, 2010.
  - i. For circumstances that were not anticipated by the parties, the First Deputy Commissioner of Labor Relations may elect to issue, on a case-by-case basis, interpretations concerning the application of Section 5 of the *2008 DC 37 MEA*. Such interpretations shall not be subject to the dispute resolution procedures set forth in Section 8 of the *2008 DC 37 MEA*.
3. For the purposes of Section 2(a), “approved leave” 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

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  
District Council 37, AFSCME, AFL-CIO**

BY:   
LILLIAN ROBERTS  
Executive Director



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**

Lillian Roberts  
Executive Director  
District Council 37, AFSCME, AFL-CIO  
125 Barclay Street  
New York, New York 10007

**Re: 2008 District Council 37 Memorandum of Economic Agreement**

Dear Ms. Roberts:

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

- a. Funding was not provided to permit the application of the general increases to the 15-year longevity increments provided in various separate unit agreements. Therefore the provisions of Section 4(a)(i) and (ii) of the *2008 DC 37 MEA* shall *not* apply to such longevity increments.
- b. Notwithstanding the above, once an employee has completed the 15 years of "City" service in pay status and is eligible to receive the \$800 longevity increment, the \$800 shall become part of the employee's base rate for all purposes except as provided in paragraph c. below.
- c. The \$800 longevity increment shall not become pensionable until fifteen months after the employee begins to receive such \$800 increment. Fifteen months after the employee begins to receive the \$800 longevity increment, such \$800 longevity increment shall become pensionable and as part of the employee's base rate, the \$800 longevity increment shall be subject to the general increases provided in Section 4(a) of this Agreement.

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  
District Council 37, AFSCME, AFL-CIO**

BY:   
LILLIAN ROBERTS  
Executive Director



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

Lillian Roberts  
 Executive Director  
 District Council 37, AFSCME, AFL-CIO  
 125 Barclay Street  
 New York, New York 10007

**Re: 2008 District Council 37 Memorandum of Economic Agreement**

Dear Ms. Roberts:

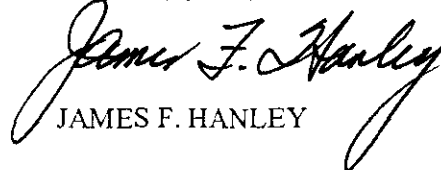
This is to confirm certain mutual understandings and agreements regarding the above captioned Agreement.

The terms of the Citywide Agreement dated May 19, 2000, covering the period January 1, 1995 to June 30, 2001, shall continue in full force and effect except as previously modified by Section 7 of the 2002 DC 37 MEA, whose modifications shall remain in full force and effect.

The provisions of Appendix A of the 2008 DC 37 MEA shall apply to the modifications of Section 7 of the 2002 DC 37 MEA.

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  
 District Council 37, AFSCME, AFL-CIO**

BY:   
 LILLIAN ROBERTS  
 Executive Director



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**JAMES F. HANLEY**  
*Commissioner*  
**MARGARET M. CONNOR**  
*First Deputy Commissioner*

Lillian Roberts  
Executive Director  
District Council 37, AFSCME, AFL-CIO  
125 Barclay Street  
New York, New York 10007

**Re: Fire Protection Inspector and Associate Fire Protection Inspector**

Dear Ms. Roberts:

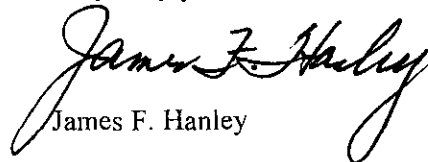
This is to confirm certain mutual understandings and agreements regarding the 2005 DC 37 MEA and the 2008 DC 37 MEA and the application of such agreements to employees in the titles of *Fire Protection Inspector (TC #31661)* and *Associate Fire Protection Inspector (TC#31662)*.

The execution of the 2005 DC 37 MEA and the 2008 DC 37 MEA shall not be cited or referred to by either party to prejudice or enhance the respective positions of the parties in OCB Docket No. AC-36-07 or in any appeal that might flow therefrom.

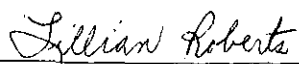
The parties reserve their legal rights to pursue their respective claims regarding AC-36-07.

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  
DISTRICT COUNCIL 37**

BY:   
Lillian Roberts, Executive Director