

Agreement

between

CWA Local 1180

and

Sustainable South Bronx, Inc.

December 1, 2010 through December 31, 2012

AGREEMENT

January

AGREEMENT made this 4th day of ^{January} 2011, between SUSTAINABLE SOUTH BRONX, INC., 890 Garrison Avenue, 4th Floor, Bronx, New York 10474 (hereinafter called the "Employer"), and CWA LOCAL 1180, 6 Harrison Street, New York, New York 10003 (hereinafter called the "Union"):

ARTICLE I – RECOGNITION

The Employer recognizes the Union as the exclusive collective bargaining representative of all full-time and regular part-time employees employed at the Employer's facility at 890 Garrison Avenue, Bronx, NY, excluding all other employees including the executive director, the development director, the director of operations and administration, the director of BEST academy, the director of sustainable policy and research, and any other managerial, confidential, supervisory employees, and guards as defined by the National Labor Relations Act, as amended.

The Employer agrees not to negotiate with any other organization other than the Union concerning wages, hours and other terms and conditions of employment for the employees represented by the Union.

ARTICLE II – MEMBERSHIP AND PAYMENT OF DUES

A. Membership

1. The Employer and the Union agree that as a condition of employment, all employees within the scope of the bargaining unit shall become members of the Union within thirty (30) days following the effective date of this Agreement or the date of hire.

2. Within thirty (30) days of receipt of a signed statement from the Union indicating that an employee has failed to comply with the conditions of Article II.A, said employee shall be terminated.

B. Maintenance of Fees and Assessments (Check-Off)

1. Upon an employee's voluntary and written assignment, all fees and assessments for Union membership, as prescribed in the constitution and by-laws of the Union, shall be deducted, in equal amounts, from each payroll check of each member and remitted to the Union. Such membership dues shall be deducted from the employee's earnings in accordance with the Union schedule of rates. Said schedule shall be furnished to the Employer by the Union and may be amended at any time. Notification of such amendment must be made to the Employer no less than thirty (30) days prior to the payroll date nearest to the effective date of the dues change.

2. The permission to retain the fees and assessments shall be granted through the signing of authorization cards on a form approved by the Union as permitted by the provisions of the Labor Management Relations Act of 1947, as amended.

3. Authorization may be withdrawn through either (a) expiration of this Agreement, or (b) the employee's written notification to both the Employer and the Union of his/her desire to withdraw such authorization, which must be provided three (3) days prior to the annual anniversary date of such authorization. In the absence of such withdrawal, the authorization shall remain in effect during the term of this Agreement and any extensions thereto.

C. Indemnification

The Union shall indemnify, save and hold the Employer harmless against any and all claims, demands, suits, charges, complaints grievances or other forms of liability that may arise by reason of or action taken by the Employer in reliance upon the written authorizations provided for in this Article or for the purpose of complying with any provision of this Article.

ARTICLE III – SICK DAYS

1. Employees shall be entitled to eight (8) sick days with pay at the employee's regular rate of pay for each calendar year, except new employees shall be entitled to a pro rata share. Such pro rata share shall be calculated as follows:

$$8 \times (\text{number of days remaining in the calendar year on date of hire}/365)$$

2. An employee may carry over four (4) unused sick days from one calendar year to the next calendar year, but at no time shall an employee have more than twelve (12) accrued sick days.

3. Employer may require the employee to provide a physician's statement verifying the reason for time not worked, including the beginning date, the end date, and the expected return to work date when the employee has been or will be absent for three or more days.

4. Sick days may be used for medical appointments, including medical appointments for family members. In such circumstances, the Employer may require a physician's statement verifying the reason for the use of the sick day.

5. There shall be no partial sick days. Any time off from work pursuant to this Article shall be taken in increments of full work days.

ARTICLE IV – VACATION DAYS

1. (a) Full-time employees shall be entitled to twenty (20) vacation days with pay at the employee's regular rate of pay for each calendar year, except new employees shall be entitled to a pro rata share. Such pro rata share shall be calculated as follows:

$20 \times (\text{number of days remaining in the calendar year on date of hire}/365)$

(b) Vacation days for full-time employees shall be accrued at the rate of 1.67 days per month.

2. (a) Part-time employees, defined as any employee whose regular work week is less than thirty-five (35) hours, shall be entitled to vacation days with pay at the employee's regular rate of pay for each calendar year based on the following formula:

$20 \times (\text{employee's regularly scheduled weekly hours of work}/35)$

(b) New part-time employees shall be entitled to a pro rata share. Such pro rata share shall be calculated as follows:

(the result of the formula in Section 2(a))

x

(number of days remaining in the calendar year on date of hire/365)

(c) Vacation days for part-time employees shall be accrued at the monthly rate of one-twelfth (1/12th) of the result of the formula in Section 2(a).

3. An employee may carry over five (5) unused vacation days from one calendar year to the next calendar year, but at no time shall a full-time employee have more than twenty-five (25) accrued vacation days, and at no time shall a part-time employee have more than fifteen (15) accrued vacation days.

4. Probationary employees shall accrue vacation days in accordance with the terms of this Article but shall not be eligible to use them until the completion of the Probationary Period.

ARTICLE V – BEREAVEMENT LEAVE

1. Employees shall be entitled to four (4) days of paid leave in the event of a death in his/her immediate family. Immediate family shall include only the following; spouse; spouse equivalent; parent; grandparent; child; grandchild; brother; sister; parent-in-law; brother-in-law; sister-in-law.

2. The Employer may, in its sole discretion, grant requests for equivalent bereavement leave for non-immediate family members such as an aunt, uncle, or cousin.

ARTICLE VI – PERSONAL LEAVE DAYS

Employees shall be entitled to one (1) personal leave day per calendar year. An employee shall request use of a personal leave day in writing (e-mail shall be permissible) no less than three (3) business days prior to the date of the requested personal leave day, and the Employer shall not withhold approval of such request unless, in the Employer's sole discretion, the request is not compatible with the Employer's staffing needs. Notwithstanding the foregoing, an employee may request use of a personal leave day on account of extenuating circumstances that unexpectedly cause the employee to be absent from work and the Employer shall not unreasonably withhold approval of such request.

ARTICLE VII – MANAGEMENT RIGHTS

Except as herein clearly and explicitly limited by an express specific provision of this Agreement, Employer shall continue to have the exclusive right to take any action it deems appropriate in the management of its business and the direction of the work force in accordance with its judgment. All inherent and common law management functions and prerogatives which Employer would have had if there were no bargaining representatives and which has not been expressly modified or restricted by a clear and specific provision of this Agreement are retained and vested exclusively in Employer and are not subject to collective bargaining or arbitration under this Agreement.

Employer may from time to time make such rules or regulations as it may deem necessary and proper for the conduct of its Employees, provided that such rules and regulations shall not be inconsistent with the express written provisions of this Agreement.

ARTICLE VIII – NO STRIKE/NO LOCKOUT

During the term of this Agreement or any extension thereof, neither the Union nor its members, agents, representatives, employees, or persons acting in concert with them, shall encourage, direct, authorize, condone, participate in, threaten or sanction any strike, including any sympathy or unfair labor practice strike, stay-in, walk-out, refusal to perform services, and shall not engage in picketing, or handbilling, directed against the Employer.

During the term of this Agreement or any extension thereof, the Employer shall not lock out the employees covered by this Agreement.

ARTICLE IX – PROBATIONARY PERIOD

There shall be a ninety (90) day probationary period for all employees hired during the term of this Agreement or any extension thereof. It is expressly understood that the Employer retains the right to terminate the services of a probationary employee at any time during such period notwithstanding any other provision of this Agreement.

Probationary employees shall receive a performance evaluation on or about the 45th day of employment or as close to the 45th day as is practicable. The Union shall be informed of probationary employees' progress upon request.

ARTICLE X – SENIORITY AND LAY-OFFS

1. Seniority is defined as the length of continuous employment in the bargaining unit including any authorized leave of absence or lay-off.

2. Employer and Union agree that the principle of seniority is explicitly recognized for the following purposes:

(a) Vacation selection: In the event that the Employer determines that two or more employees' vacation selections would result in insufficient staffing, the vacation selection shall be granted on the basis of seniority.

(b) Promotions and transfers (within the bargaining unit only), demotions: Provided the employee meets the qualifications for the position in question as determined by the Employer in its sole discretion, seniority shall be the basis for deciding promotions, transfers, and demotions.

(c) Lay-off and recall: Lay-offs and/or recalls within the same job title shall be decided on the basis of seniority. In the event that the Employer suspends or terminates a program area, the Employer may discharge employees working in that program area without regard to seniority. An employee's right to recall shall extend for one (1) year from the date of his/her termination. An employee's right to recall shall be limited to a vacancy in his or her former position, or to a vacancy in any other bargaining unit position for which the employee possesses the required qualifications, skills, and experience as determined by the Employer in its sole discretion. Seniority shall be the basis for deciding priority of recall only where two or more employees who have been laid off possess the required qualifications, skills, and experience for the vacant position as determined by the Employer in its sole discretion.

(d) **Displacement:** An employee whose position is being eliminated shall have the right to displace a less senior employee in a different position provided that the more senior employee possesses the required qualifications, skills, and experience for the position as determined by the Employer in its sole discretion. The employee seeking to exercise his/her right to displace must notify the Employer in writing of his/her request to do so, and of the position he/she wishes to assume, no later than three (3) business days after receiving notice of termination. Failure to notify the Employer by close of business on the third business day following notice of termination shall constitute forfeiture of the employee's right to displace.

3. The Employer shall notify the Union of any planned lay-off thirty (30) days before the planned last day of employment for the affected employee(s). In the event that it is not reasonably practicable to provide thirty (30) days' notice, the Employer's failure to do so shall not give rise to any liability to the Union or to any employee.

ARTICLE XI – HOURS OF WORK

The regular work week for all employees shall consist of 35 hours divided into seven (7) hours daily, Monday through Friday. Alternative schedules to accommodate special needs shall be discussed upon either party's request.

ARTICLE XII – JURY DUTY

Any employee required to serve on a jury shall receive his/her regular wages for the period of such service, but shall remit any compensation from the courts to the Employer.

ARTICLE XIII – NO DISCRIMINATION

The Employer shall hire and promote employees without regard to age, sex, race, religion, color, national origin, military status, marital status, sexual preference, political activities or beliefs, or disability.

ARTICLE XIV – OVERTIME

1. (a) Employees eligible for overtime compensation shall be compensated at the rate of one and one-half (1½) times the regular hourly rate of pay for work performed on a weekday in excess of the regular seven (7) hour workday, or for work performed in excess of the regular thirty-five (35) hour work week.

(b) The following employees are eligible for overtime compensation:
greenway stewards, BEST Academy administrator.

2. For all other employees besides those listed in Section 1(b) of this Article, the current Comp Time policy set forth in Section 402 of the Employee Handbook (effective 5-26-09), shall remain in effect, except that Comp days shall be taken within a reasonable period of time not to exceed six (6) months.

ARTICLE XV – NOTIFICATION OF VACANCIES

The Employer shall notify the Union of any vacancies (except temporary vacancies of less than six (6) months) as soon as is practicable. The Employer shall provide such notice to the Union prior to posting the vacancy publicly, except that in exigent circumstances the Employer may post the vacancy publicly and notify the Union as soon as is practicable thereafter. For purposes of this Article, notice to any shop steward or other bargaining unit representative, or to a designated representative of CWA 1180, shall constitute sufficient notice to the Union.

ARTICLE XVI – UNION REPRESENTATION

1. **Collective Bargaining:** The Employer shall release two employees, designated by the Union, from their regular duties without loss of pay to participate in any collective bargaining session (including any such session held pursuant to Article XVI, Sections 2 and 3) held during regular working hours.

2. **Grievances:** In addition to the grievant(s), one employee, designated by the Union, shall be permitted to attend grievance meetings during regular working hours without loss of pay.

3. **Other:** For any other labor-management meeting, the Union shall be permitted an equal number of representatives as the Employer, and the Employer shall release such employees as designated by the Union without loss of pay.

4. **Access:** After providing the Employer with reasonable prior notice, a duly authorized representative of the Union shall be permitted reasonable access to the Employer's premises during working hours for the purposes of ascertaining compliance with this Agreement, investigating grievances, or conducting any other Union business that requires his/her presence on the Employer's premises, provided that such access does not interfere with the Employer's operations and/or any scheduled activities.

ARTICLE XVII – MEDICAL, DENTAL, VISION, LIFE, AND LONG TERM DISABILITY INSURANCE

1. **Eligibility:** Employees shall be eligible to participate in the medical, dental, vision, life, and long term disability insurance plans sponsored by the Employer after completing thirty (30) days of employment.
2. **Insurance Plans:** The Employer shall make available to all eligible employees medical, dental, vision, life, and long term disability insurance plan coverage at the employee contribution rates set forth in Appendix A to this Agreement.
3. **Flexible Spending Account:** Effective January 1, 2011, the Employer shall establish a tax-favored flexible spending account in the amount of five hundred dollars (\$500) per employee. Employees may seek reimbursement from this account for unreimbursed hospitalization expenses (including but not limited to emergency room medical expenses) charged against the employee's deductible and for non-generic prescription drugs that are not covered by the employee's medical, dental, or vision plans. The Union agrees that the Employer shall have the right to establish reasonable procedures, consistent with applicable law, to verify employee requests for reimbursement from this account. Each employee's account balance shall return to \$500 on January 1, 2012.

ARTICLE XVIII – 401(K) PLAN

1. The Employer shall continue to make available the Sustainable South Bronx 401(k) Plan for all eligible employees.
2. After one (1) year of employment, the Employer shall match employee contributions to the Sustainable South Bronx 401(k) Plan up to 5% of the employee's base salary.

ARTICLE XIX – WAGES

1. All employees shall receive a general wage increase of 2% effective February 1, 2010. Such wage increase shall be paid only to employees on the payroll on the effective date of this Agreement as defined in Article XX. Such wage increase shall be paid within 30 days of notification by the Union that this Agreement has been ratified.
2. On or after May 1, 2011, the Union may reopen this Agreement for the sole purpose of negotiating a general wage increase for 2011. The Employer agrees that such negotiations may include lump payments, and/or adjustments to base salary levels, in addition to or instead of any percentage wage increases. The Employer shall have no obligation to agree to any compensation adjustment during negotiations held pursuant to this Article.

3. On or after May 1, 2012, the Union may reopen this Agreement for the sole purpose of negotiating a general wage increase for 2012. The Employer agrees that such negotiations may include lump payments, and/or adjustments to base salary levels, in addition to or instead of any percentage wage increases. The Employer shall have no obligation to agree to any compensation adjustment during negotiations held pursuant to this Article.

4. All employees on the payroll on December 1, 2010 shall receive a one-time lump sum payment of \$500 payable on or before December 15, 2010.

ARTICLE XX – DISCIPLINE

An employee who has completed his/her probationary period may only be disciplined or discharged for just cause. Without limiting the Employer's ability to establish just cause in any other circumstance, just cause for discharge shall be presumed to exist in the event of established theft, malicious or disorderly conduct, spoilage of work or destruction of property, insubordination, or otherwise falsifying any records required by the Employer, knowingly violating the organization's policies, and reporting for work or working under the influence of narcotic drugs or alcohol, or having possession of or using narcotic drugs or alcohol in the workplace or during working hours.

The Employer will use progressive discipline for violations of its rules, policies and procedures, and all other disciplinary infractions. In general, the process of progressive discipline shall be as follows:

1st infraction – warning

2nd infraction – warning or suspension (at the Employer's discretion)

3rd infraction – suspension or termination (at the Employer's discretion)

Notwithstanding the foregoing, in administering the progressive disciplinary system and determining the level of disciplinary action to be issued in the case of a particular infraction, the Employer may consider the employee's overall disciplinary record, including his or her history of infractions unrelated to the infraction at issue. In particular, the Employer has the right to terminate an employee at any stage in the disciplinary process as a consequence of the employee's overall disciplinary record and/or the nature, severity or other circumstances surrounding the subject infraction.

In the event the suspension or discharge is determined to have been without just cause, the employee shall be reinstated in good standing and with such restoration of seniority rights and pay for time lost as the equities of each case may demand.

The Employer shall notify the Union of the suspension or discharge of any employee within twenty-four (24) hours of the suspension or discharge. Any such employee shall be given the opportunity, when circumstances reasonably permit, to consult with a Union representative who is a full-time employee of the Employer. Nothing in this Article shall obviate or otherwise interfere with an employee's lawful exercise of his/her *Weingarten* rights.

If the Employer decides to suspend an employee for any reason, it will notify the Union of its intention within 24 hours of its decision. At the Union's request the parties shall meet within five (5) working days of the infraction to discuss and try to reach an agreement.

ARTICLE XXI – GRIEVANCE PROCEDURE

A. Declaration of Purpose

The purpose of this procedure is to establish and maintain a method of ensuring the Employer's smooth and uninterrupted operation under the terms of this Agreement, and to make available a process for handling and disposing of differences equitably and within the shortest amount of time possible.

B. Definitions

1. **Grievance:** A grievance shall be defined as any dispute concerning the interpretation or application of any of the terms of this Agreement or the written policies and procedures of the Employer.

2. **Day:** A day shall mean a working day.

C. The processing of a grievance beyond Step I of this grievance procedure shall be the sole and exclusive right of the Union.

D. General Procedures:

1. The processing of grievances as set forth in this Article shall be conducted during regular working hours.

2. The parties may agree, by mutual oral agreement to be memorialized in writing, to extend any of the time limits set forth in this Article. Neither party shall be obligated to agree to any such extension and a party's refusal to do will not excuse the other party's failure to comply with a time limit provided by this Article.

3. The failure to appeal a decision at any Step of this grievance procedure within the specified time limit shall be deemed a discontinuance of the grievance and no further appeal shall be permitted.

E. Procedure

All grievances will be handled as follows:

Step I

No later than ten (10) days after the occurrence of the action or event giving rise to the grievance, or after the grievant knew or should have known of the action or event giving rise to

the grievance, the grievant shall bring his/her grievance to his/her immediate supervisor, except if the grievant's immediate supervisor is the Executive Director, then the grievant shall bring his/her grievance to the Director of the B.E.S.T. Program, the Development Director, the Director of Operations and Administration, or to any other manager. At the grievant's request, a shop steward shall be present. For this initial grievance meeting, the grievance need not be reduced to writing. Any resolution of the grievance at this Step shall be conveyed within five (5) days of the initial grievance meeting.

Step II

If the grievance is not adjusted satisfactorily in Step I, the grievance must be submitted in writing to the Executive Director's designee no later than five (5) days after the Step I response (or, if there is no such response, the tenth (10th) day after the initial grievance meeting. A written response to the grievance shall be provided no later than ten (10) days after receipt of the Step II written grievance.

Step III

If the grievance is not adjusted satisfactorily in Step II, the Union may appeal the decision to the Executive Director in writing no later than five (5) days after receipt of the Step II decision. The Executive Director shall meet with the Union's designated representative (and the grievant, if the Union so decides) to discuss the grievance within fifteen (15) days of receipt of the written appeal from the Step II decision. The Executive Director shall provide a written response to the grievance no later than ten (10) days after such meeting.

Step IV

If the grievance is not adjusted satisfactorily in Step III, the Union may request arbitration by providing written notice of intent to arbitrate to the Executive Director within fifteen (15) days of receipt of the Step III written decision.

All arbitration fees and expenses shall be divided equally between the Employer and the Union. The Arbitration shall be conducted pursuant to the Labor Arbitration Rules of the American Arbitration Association. In the alternative, the parties agree to designate a panel of three (3) arbitrators who shall hear cases on a rotating basis.

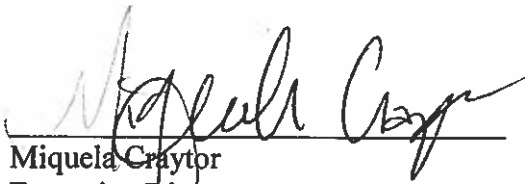
ARTICLE XXII – SAVINGS CLAUSE

If any provision of this Agreement is found to be invalid by a court of law, such invalidity shall not impair the validity and enforceability of the remaining provisions of this Agreement.

ARTICLE XXIII – CONTRACT TERM

This Agreement shall be in full force and effect from October 3, 2010 (the "effective date"), until midnight on December 31, 2012.

For the Employer:


Miquela Craytor
Executive Director

2/4/11
Date

For the Union:


Date

2/15/11



January 4, 2011

Mr. William F. Henning, Jr.
2nd Vice President
CWA Local 1180
6 Harrison Street
New York, New York 10013

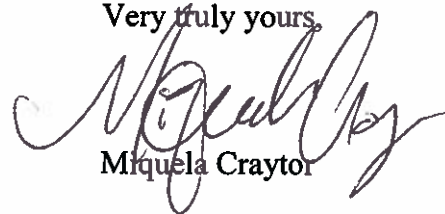
Re: Personal Leave Day

Dear Mr. Henning:

This letter confirms that each employee shall be entitled to one (1) personal leave day for 2010. The use of such personal leave day shall be in accordance with the terms of Article VII of the collective bargaining agreement.

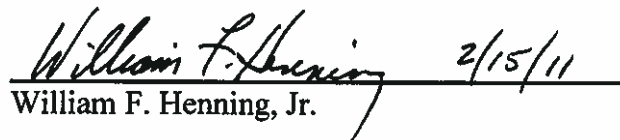
If this conforms to your understanding, please sign below.

Very truly yours,



Miquela Craytor

Agreed and accepted on behalf of CWA Local 1180


William F. Henning, Jr.



January 4, 2011

Mr. William F. Henning, Jr.
2nd Vice President
CWA Local 1180
6 Harrison Street
New York, New York 10013

Re: Personal Leave Day

Dear Mr. Henning:

Notwithstanding anything to the contrary in the parties' Agreement, the payment of retroactive wages pursuant to Article XIX, Section 1, and the one-time lump sum payment provided by Article XIX, Section 4, shall be included with the January 15, 2011 payroll.

If this conforms to your understanding, please sign below.

Very truly yours,

Miquela Craytor

Agreed and accepted on behalf of CWA Local 1180

William F. Henning, Jr.