

MEMORANDUM OF AGREEMENT
For Successor Agreement
to the
2009 - 2017 EOC CLERICAL AND CUSTODIAL EMPLOYEE AGREEMENT
by and between
LOCAL 384, DISTRICT COUNCIL 37, AFSCME, AFL-CIO
and
THE CITY UNIVERSITY OF NEW YORK
acting on behalf of
THE EDUCATIONAL OPPORTUNITY CENTERS OF BROOKLYN,
QUEENS, MANHATTAN, AND THE BRONX

MEMORANDUM OF AGREEMENT made this 24th day of April 2019 (hereinafter "MOA") by and between the undersigned parties, to wit, District Council 37, AFSCME, AFL-CIO, Local 384 ("Union"), and The City University of New York ("CUNY"), acting on behalf of the Educational Opportunity Centers of Brooklyn, Queens, Manhattan and The Bronx ("EOC Centers"):

WHEREAS, the undersigned parties desire to enter into a collective bargaining agreement, modifying the 2009-2017 collective bargaining agreement between District Council 37, Local 384, and CUNY acting on behalf of the Educational Opportunity Centers, terminating January 31, 2017 (predecessor "EOC Agreement), to cover the employees represented by the Union ("Employees"); and

WHEREAS, the undersigned parties to this agreement intend by this MOA to cover all economic and non-economic matters and to incorporate the following terms of this MOA into the EOC Clerical and Custodial Employee Successor Agreement, as set forth below;

NOW THEREFORE, it is mutually agreed to by and between the parties as follows:

1. Term of Agreement:

The term of the successor unit agreement shall be fifty-two (52) months from the date of termination of the applicable existing separate unit agreement, namely, from February 1, 2017, through May 31, 2021.

2. Continuation of Terms:

The terms of the predecessor EOC Clerical and Custodial Employee Agreement ("EOC Agreement) shall be continued except as modified by this MOA.

3. Prohibition of Further Economic Demands:

No party to this agreement shall make additional economic demands during the term of this agreement. Any disputes hereunder shall be promptly submitted and resolved.

4. General Wage Increase:

a. The general wage increases, effective as indicated, shall be as follows:

Effective Dates

- | | |
|---|---------|
| i) 2% percent
(1 st day of the agreement) | 02/1/17 |
| ii) 2% percent
(1 st day of the 13 th month – compounded) | 02/1/18 |
| iii) 2% percent
(1 st day of the 25 th month - compounded) | 02/1/19 |
| iv) 2% percent
(1 st day of the 37 th month - compounded) | 02/1/20 |
- v) Part-time per annum, per session, hourly, per diem (including seasonal) employees and employees whose normal work year is less than a full calendar year shall receive the increases provided in subsection 4. a. (i) through 4. a. (iv) on the basis of the computations heretofore utilized by the parties for all such employees.

b. The increases provided in Section 4. a. (i) through 4. a. (vi) shall be calculated as follows:

- i) The general increases 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 EOC 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 (12th) month of the applicable successor EOC Agreement.
- iii) The general increase in Section 4. a. (iii) 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 twenty-fourth (24th) month of the applicable successor EOC Agreement.
- iv) The general increase in Section 4. a. (iv) 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 thirty-six (36th) month of the applicable successor EOC Agreement.

c. Other increases as follows:

- i) The general increases provided in Section 4. a. above, 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.

5. **Additions to Gross:**

“Additions to gross” shall be defined to include uniform allowances, equipment allowances, assignment differentials, service increments, longevity differentials, advancement increases, assignment (level) increases, and evening or night shift differentials, as may be applicable.

Effective February 1, 2020 – first (1st) day of the thirty-seventh month (37th), the combined value of the general increases provided in Sections 4. a. (iii) and (iv) or 4.04%, shall be applied to “additions to gross.”

6. **Additional Compensation Fund:**

Effective February 1, 2019 – first day of the twenty-fifth (25th) month, DC 37, Local 384 shall have available Additional Compensation Funds (“ACF”) not to exceed 0.20% to purchase recurring benefits, mutually agreed to by the parties, other than to enhance the general wage increases set forth in Section 4 or the hiring rate for new employees. The funds available shall be based on the December 31, 2016 payroll, including spinoffs and pensions.

7. **Equity Fund:**

Effective February 1, 2019 – first day of the twenty-fifth (25th) month, DC 37, Local 384 shall have available Equity Funds not to exceed 0.20% to purchase recurring benefits, mutually agreed to by the parties, other than to enhance the general wage increases set forth in Section 4 or the hiring rate for new employees. The funds available shall be based on the December 31, 2016 payroll, including spinoffs and pensions.

8. **Paid Family Leave:**

The parties agree to work together to “opt-in” to the New York State Paid Family Leave (“PFL”) program no later than the fourth quarter of calendar year 2019. CUNY, acting on behalf of the EOCs Brooklyn, Queens, Manhattan and The Bronx, will follow the implementation procedures undertaken by the City of New York to implement this PFL program. For those CUNY EOC employees covered by the PFL benefit, it will be paid by employees through payroll deductions.

9. **Conditions of Payment:**

The general increases provided in Section 4. a. (i) through (iv) shall be payable as soon as practicable upon execution of this EOC MOA.

10. **Education Fund:**

Effective on February 1, 2019, the first (1st) day of the twenty-fifth (25th) month of the applicable successor EOC unit agreement for DC37, Local 384, the CUNY EOCs shall make a \$100.00 Education Fund contribution paid on behalf of each full-time time EOC employee and a pro-rata amount of \$57.14 for each part-time/hourly employees meeting the welfare fund eligibility criteria of 17.5 work hours per week for EOC hourly employees in a clerical capacity or at least 20 hours per week for EOC hourly employees in a custodial or driving capacity.

11. Welfare Fund:

<u>Increase</u>	<u>Effective Date</u>
\$50	05/1/20

- a. Effective on May 1, 2020, the first (1st) day of the fortieth (40th) month of the applicable successor EOC unit agreement for DC37, Local 384, the Welfare Fund contribution paid on behalf of each full-time active and retired EOC employee shall be increased by fifty dollars (\$50.00) per annum.
- b. The per annum contribution rates, as set forth in Section 11 above, to be paid for eligible EOC part-time per annum, hourly, per session and per diem (including seasonal employees), and employees whose normal work year is less than a full calendar year, shall be adjusted in the same proportion heretofore utilized by the parties for all such employees as the per annum contribution rates are adjusted in Section 11 for full-time employees.
- c. DC37 Local 384 agrees to provide welfare fund benefits to domestic partners of covered EOC employees in the same manner as those benefits are provided to spouses of married covered EOC employees.

12. Health Savings and Welfare Fund:

Moreover, the May 5, 2014 and June 28, 2018 Letter Agreements regarding the Health Savings and Welfare Fund contributions between the City of New York and the Municipal Labor Committee will be attached hereto as an Appendix and are deemed to be part of this Student Center EOC MOA.

13. Conditions of Terms:

The terms of the predecessor EOC agreement shall continue except as modified pursuant to this MOA.

14. Union Rights:

The parties agree to revise Article II of the EOC Agreement to include pertinent language addressing the impact of the new civil service law legislation relating to union membership and the obligations of public employers, to wit, CUNY, to provide new employee information to the unions in accordance with the legal mandates established by said law. In furtherance of the above, attached hereto as an Appendix is the revised Article II (Union Rights) and Article XXI (Disciplinary Procedure, section 2 paragraph 2) of the EOC Agreement, which are deemed to be part of this MOA.

15. Resolution of Disputes:

a. Subject to the subsequent provisions of Section 15 (b) below, any dispute, controversy, or claim concerning or arising out of the execution, application, interpretation or performance of this MOA shall be submitted to arbitration upon written notice therefor by any of the parties to this MOA to the party with whom such dispute or controversy exists. The matter submitted for arbitration shall be in accordance with the terms of the dispute resolution provision of this EOC Agreement. 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 Agreement into the successor EOC Agreement, any dispute, controversy or claim referred to in Section 15 (a) which arises between the parties to such separate agreement, shall be submitted in accordance with the dispute resolution provisions of the successor EOC Agreement.

c. The terms of this Section 15 shall be from the date of execution of this MOA to the date of execution of the successor agreement to this MOA.

16. Retroactivity:

In the event that any payment is not paid on the date due under this MOA, such payment when made shall be paid retroactive to such due date.

17. Approval and Ratification:

The terms of this MOA are subject to funding and approval by the State University of New York (SUNY); approval by the Board of Trustees of The City University of New York (CUNY); and ratification by the CUNY employed membership of DC37, Local 384 employed at the Brooklyn, Queens, Manhattan and Bronx Educational Opportunity Centers. The EOC employed rank and file membership of DC37, Local 384, ratified the agreement on March 5, 2019, and the Board of Trustees of The City University of New York approved the agreement at its board meeting held on March 18, 2019.

It is agreed by and between the parties that any provision of this agreement requiring legislative action to permit its implementation by amendment of law, or by providing the additional funds therefor, shall not become effective until the appropriate legislative body has given approval.

18. Prohibition of Further Economic Demands:

Except as provided for in Section 6 and Section 7 of this MOA, no party to this agreement shall make additional economic demands during the term of this MOA.

19. Labor Management Committee:

The parties agree to establish a high-level Labor Management Committee to discuss the resolution of various EOC related matters.

20. **Savings Clause:**

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

ARTICLE II – UNION RIGHTS AND UNION SECURITY¹

Section 1

- (a) The Union shall have the exclusive right to the checkoff and transmittal of dues on behalf of each employee who elects to join the Union and is in a title that is associated with that Union.
- (b) Any employee, except one excluded pursuant to Article I, Section 4, may consent in writing to the authorization of the deduction of dues from the employee's wages and to the designation of the Union as the recipient thereof. Such consent, if given, shall be in a proper form acceptable to the University, and shall bear the signature of the employee, which may be written or electronic.

Section 2

The Union shall maintain custody of its dues check-off authorization cards.

- (a) The employer shall commence deduction of dues as soon as practicable, but in no case fewer than (30) days, after receiving proof from the Union of a signed dues check-off authorization card.
- (b) The right to membership dues shall remain in effect until: (1) the employee is no longer employed at CUNY in a title represented by the Union; or (2) the employee revokes such dues check off authorization pursuant to and in accordance with the terms of the dues check off authorization card.

Section 3

When an employee is promoted or reclassified to another title represented by the Union, the dues check-off shall continue uninterrupted.

Section 4

When an employee returns from an approved leave of absence without pay, or is reappointed or temporarily appointed within one year to the same Center and in the same title or in another title represented by the Union, any dues check-off authorization in effect prior to the approved leave or separation shall be reactivated.

¹ These provisions pertain as of April 12, 2018, the effective date of amendments to New York State Civil Service Law Section 208 and 209-a. For prior provisions see Article II of the 2009-2017 CUNY EOC Agreement; Section 2 thereof was, however, invalidated as of June 27, 2018, pursuant to the U.S. Supreme Court decision in Janus v. AFSCME, et al.

Section 5

(a) Where orientation kits are supplied to new employees, the Union representing such employees shall be permitted to have union literature included in the kits, provided that such literature is first approved for such purpose by the University Office of Human Resources Management.

(b) Each Center shall distribute to all newly hired employees information regarding their union administered health and security benefits, including the name and address of the "fund" that administers such benefits, provided that such "fund" supplies the Center with the requisite information printed in sufficient quantities.

Section 6

(a) Within (30) thirty days of a Center employee first being employed, reemployed or transferred to another Center in a title represented by the Union, the employer shall notify the Union and shall provide the employee's name, address, job title, employing Center, employee ID number, department or other operating unit work email and work location.

(b) Within thirty (30) days of providing such notice under section 6(a) the employer shall allow a duly appointed representative of the Union to meet with such employee for a reasonable amount of time during his or her work time without charge to leave credits, provided that such meeting be scheduled in consultation with a designated representative of the employer. Where practicable, this requirement may be satisfied by allowing the Union a reasonable amount of time during a formal employee orientation program to provide membership information to employees.

Section 7

Each Center shall furnish to the Union upon request, once a year between March 15 and July 1, or such other 3 ½ month period as the Center shall designate, a listing of employees by job title, home address when available, and social security number, as of December 31st of the preceding year, or such date as shall in like manner correspond to the 3 ½ month designated period.

Section 8

The Union may post notices on bulletin boards in places and locations where notices usually are posted by the Center for the employees to read. All notices shall be on Union stationery, and shall be used only to notify employees of matters pertaining to Union affairs. Upon request to the appropriate Center administrator, the Union may use Center premises for meetings during employees' lunch hours, subject to availability of appropriate space and provided such meetings do not interfere with Center business.

ARTICLE XXI – DISCIPLINARY PROCEDURE

Section 1. General

(a) No permanent employee in the bargaining unit who has completed the probationary period (*i.e.*, permanent employee) and no provisional or non-competitive employee who has earned disciplinary rights in his or her provisional or non-competitive position shall be disciplined except for incompetency or misconduct.¹

(b) The forms of discipline shall include, but not be limited to, a written reprimand, a fine not to exceed \$200, demotion, suspension not to exceed 60 days without pay, or termination.

(c) For EOC competitive class titles represented by District Council 37, Local 384, provisional full-time employees who have served at the same EOC Center continuously for two (2) years in the same or similar competitive class titles listed in Article I, Section 1 of this Agreement, or in titles which are in a related occupational group, shall be subject to the disciplinary procedures of this Article. In determining if a provisional employee has completed two (2) years of continuous service, the following additional terms shall apply:

Any period off payroll of more than 31 days shall break continuous service. No periods off payroll shall count towards the two-year eligibility. Time on an official leave without pay or time off payroll for fewer than 31 days shall not count towards the two year requirement, but will not break continuous service. Provisional rights acquired in another civil service jurisdiction shall not apply to an employee hired by an EOC Center. Disciplinary rights can only be obtained in a subsequent permanent appointment after serving the established probationary period.

¹ Effective with the December 31, 2008 transition of all EOC employees placed onto the New York State and New York City payroll systems, all full-time competitive and non-competitive class employees under this bargaining agreement who have been appointed at the EOC in a classified staff title and have previously served six (6) months or longer, will be deemed to have a permanent appointment in such title. All full-time competitive class EOC employees who have been appointed at the EOC in a classified staff title and have previously served fewer than six (6) months, will be deemed to have been appointed with probable-permanent status (*i.e.*, probationary status), and will attain permanent status upon the satisfactory completion of one (1) year of service. All full-time non-competitive class EOC employees who have been appointed at the EOC in a classified staff title and have previously served fewer than six (6) months, will attain permanent status upon the satisfactory completion of one (1) year of service. These special provisions discussed above are applicable only to those EOC employees who were part of the payroll transition.

(d) All full-time non-competitive class EOC employees who have served one (1) year of satisfactory service, will be deemed to have earned disciplinary rights under this agreement.

(e) Extension of disciplinary rights to certain provisional or non-competitive employees shall not diminish the right of a Center, a College, or the University to reassign employees or terminate the employment of a provisional or non-competitive employee for reasons other than incompetency or misconduct.

(f) The procedures in this Article shall be the exclusive procedures for disciplinary action and resolving disputes relating to such disciplinary action.

(g) These procedures supersede any preexisting procedures and forums.

Section 2. Initiating a Disciplinary Action

Other than in exceptional situations requiring immediate action, such as, but not necessary limited to, those involving potential injury to persons or property or unreasonable disruption of Center, College or University operations, if a Center Director has caused to believe an incident has occurred or circumstances may exist warranting disciplinary action, the Center Director or his or her designee shall investigate such incident or circumstances prior to taking disciplinary action. As part of the investigation, the Center Director or his or her designee shall make reasonable efforts to interview any employee(s) who may be subjected to disciplinary action. In those exceptional situations requiring immediate action, as described above, an employee may be immediately suspended. Such a suspension without pay pending a decision of the hearing officer may not exceed 30 days except where the charges relate to the alleged commission of a criminal offense relating to employment, in which case the suspension may continue until completion of the Criminal Court proceedings, and in which case the suspension will be reviewed periodically at the request of the employee and/or the Union.

An employee who is being interviewed concerning an incident or activity which may subject him or her to disciplinary action shall be notified of his or her right to have a Union representative, or a lawyer, present upon request. However, covered unions shall not be required to provide representation to employees who are not members of the Union at the time of the incident(s) prompting the interview/hearing and/or are not members at the time of the interview/hearing. This provision shall be applicable to interviews before, during, or after the filing of a disciplinary charge against an employee. The provisions of this Section shall not be interpreted to prevent a supervisor from questioning an employee in relation to his or her employment nor to preclude the questioning of an employee during or immediately following an incident.

In cases involving attempted or actual acts of violence or threats of violence in the workplace, the First Step of the disciplinary procedure shall be bypassed and the disciplinary procedure shall proceed directly to the Third Step.

Section 3. Disciplinary Charges

Following an investigation, if it is necessary in the judgment of the Center to charge an individual employee with incompetency or misconduct, the Center Director or his or her designee shall furnish the employee with a written statement of the charges, specifications, and possible penalties. An informational copy of the statement of charges shall be sent to the Union. The statement of charges shall be hand-delivered or sent by certified mail, return receipt requested, and by regular mail to the employee's last address on file at the Center. The statement of charges shall indicate the date, time, and place, within ten (10) days, for a first step hearing at the Center, and the employee's right to representation at such hearing.

A. First Step

The Center Director, or such person as the Director may designate as the hearing officer, shall conduct a hearing on the charges and shall issue a written decision with regard to the charges within ten (10) working days of the hearing, and shall state the disciplinary penalty, if any. The Center may implement a penalty other than termination immediately.

The decision shall inform the employee that he or she may appeal a decision with any of the following penalties to the President of the College which administers the Center for a Step II hearing within ten (10) days of the receipt of the Step I decision. Unreturned mail shall be presumed to have been received on the date following transmittal.

In the event an appeal is not filed within the time limit prescribed, the Step I decision shall be deemed to have been accepted, and no issue stemming from or relating to the disciplinary action shall be subject to any further appeal.

A Step I decision to terminate employment shall be effective upon failure to appeal to Step II.

The penalties which may be appealed to Step II are:

- fine in excess of one hundred dollars (\$100)
- suspension without pay for more than two (2) days, or
- termination of employment.

B. Second Step

A Step II hearing shall be scheduled within fifteen (15) working days of receipt of a request for a hearing by the President or the President's designee. A written decision shall be delivered to the Union and the employee within fifteen (15) working days from

the conclusion of the Step II hearing. The Step II decision shall inform the employee that he or she may appeal the decision with either of the following penalties to the Chancellor's Designee for a Step III hearing, within ten (10) days of the receipt of the Step II decision. Unreturned mail shall be presumed to have been received on the date following transmittal.

In the event an appeal is not filed within the time limit, the Step II decision shall be deemed to have been accepted, and no issue stemming from or relating to the disciplinary action shall be subject to any further appeal. A Step II decision to terminate employment shall be effective upon failure to appeal to Step III.

The penalties which may be appealed to Step III are:

- suspension without pay for more than ten (10) days, or
- termination of employment

C. Third Step

A Step III hearing shall be scheduled within fifteen (15) working days of receipt of a request for a hearing by the Chancellor's designee. A written decision shall be delivered to the Union and the employee within fifteen (15) working days from the conclusion of the Step III hearing. The Step III decision, including a decision to terminate employment, shall be effective upon issuance of the Step III decision by the Chancellor's Designee. The Step III decision shall be final.

Section 4. Disciplinary Procedure for Job Abandonment

In accordance with an agreement reached between the University and District Council 37, the EOC Centers are allowed to implement the penalty of termination at the EOC Center level in cases where (i) an employee has been absent without authorization and has failed to notify or communicate such absence in the manner prescribed by the EOC Office of Human Resources for a period of fifteen (15) or more consecutive work days; and (ii) has failed to respond to follow-up correspondence sent to the employee by the EOC's Office of Human Resources via regular and overnight mail, advising the subject employee of his/her job abandonment status, within five (5) work days of its receipt.

In the event that an employee responds after the effective date of his/her termination, an appeal may be filed by the union within twenty (20) work days of the date that the subject employee was terminated by the Center. The appeal will be heard at Step II in accordance with the procedures contained in Section 3 of the disciplinary procedure. An appeal not filed within the time frame set forth herein will be deemed waived and not subject to any further appeal.



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,



Robert W. Linn
Commissioner

Agreed and Accepted on behalf of the Municipal Labor Committee

BY: 

Harry Nespoli, Chair



OFFICE OF LABOR RELATIONS

40 Rector Street, New York, N.Y. 10006-1705
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ROBERT W. LINN
Commissioner
RENEE CAMPION
First Deputy Commissioner
CLAIRE LEVITT
Deputy Commissioner
Health Care Cost Management

MAYRA E. BELL
General Counsel
GEORGETTE GESTELY
Director, Employee Benefits Program

June 28, 2018

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

Dear Mr. Nespoli:

1. This is to confirm the parties' mutual understanding concerning the health care agreement for Fiscal Years 2019 – 2021:
 - a. The MLC agrees to generate cumulative healthcare savings of \$1.1 billion over the course of New York City Fiscal Years 2019 through 2021. Said savings shall be generated as follows:
 - i. \$200 million in Fiscal Year 2019;
 - ii. \$300 million in Fiscal Year 2020;
 - iii. \$600 million in Fiscal Year 2021, and
 - iv. For every fiscal year thereafter, the \$600 million per year savings on a citywide basis in healthcare costs shall continue on a recurring basis.
 - b. Savings will be measured against the projected FY 2019-FY 2022 City Financial Plan (adopted on June 15, 2018) which incorporates projected City health care cost increases of 7% in Fiscal Year ("FY") 2019, 6.5% in FY 2020 and 6% in FY 2021. Non-recurring savings may be transferrable within the years FY 2019 through FY 2021 pursuant only to 1(a)(i), 1(a)(ii), 1(a)(iii) above. For example:
 - i. \$205 million in FY 2019 and \$295 million in FY 2020 will qualify for those years' savings targets under 1(a)(i) and 1(a)(ii).
 - ii. \$210 million in FY 2019, \$310 million in FY 2020, and \$580 million in FY 2021 will qualify for those years' savings targets under 1(a)(i), 1(a)(ii), 1(a)(iii).
 - iii. In any event, the \$600 million pursuant to 1(a)(iv) must be recurring and agreed to by the parties within FY 2021, and may not be borrowed from other years.

- c. Savings attributable to CBP programs will continue to be transferred to the City by offsetting the savings amounts documented by Empire Blue Cross and GHI against the equalization payments from the City to the Stabilization Fund for FY 19, FY 20 and FY 21, unless otherwise agreed to by the City and the MLC. In order for this offset to expire, any savings achieved in this manner must be replaced in order to meet the recurring obligation under 1(a)(iv) above.
 - d. The parties agree that any savings within the period of FY 2015 - 2018 over \$3.4 billion arising from the 2014 City/MLC Health Agreement will be counted towards the FY 2019 goal. This is currently estimated at approximately \$131 million but will not be finalized until the full year of FY 2018 data is transmitted and analyzed by the City's and the MLC's actuaries.
 - e. The parties agree that recurring savings over \$1.3 billion for FY 2018 arising under the 2014 City/MLC Health Agreement will be counted toward the goal for Fiscal Years 2019, 2020, 2021 and for purposes of the recurring obligation under 1(a)(iv) above. This is currently estimated at approximately \$40 million but will not be finalized until the full year of FY 2018 data is transmitted and analyzed by the City's and the MLC's actuaries. Once the amount is finalized, that amount shall be applied to Fiscal Years 2019, 2020, 2021 and to the obligation under 1(a)(iv).
2. After the conclusion of Fiscal Year 2021, the parties shall calculate the savings realized during the 3 year period. In the event that the MLC has generated more than \$600 million in recurring healthcare savings, as agreed upon by the City's and the MLC's actuaries, such additional savings shall be utilized as follows:
 - a. The first \$68 million will be used by the City to make a \$100 per member per year increase to welfare funds (actives and retirees) effective July 1, 2021. If a savings amount over \$600 million but less than \$668 million is achieved, the \$100 per member per year (actives and retirees) increase will be prorated.
 - b. Any savings thereafter shall be split equally between the City and the MLC and applied in a manner agreed to by the parties.
3. Beginning January 1, 2019, and continuing unless and until the parties agree otherwise, the parties shall authorize the quarterly provision of the following data to the City's and MLC's actuaries on an ongoing quarterly basis: (1) detailed claim-level health data from Emblem Health and Empire Blue Cross including detailed claim-level data for City employees covered under the GHI-CBP programs (including Senior Care and Behavioral Health information); and (2) utilization data under the HIP-HMO plan. Such data shall be provided within 60 days of the end of each quarterly period. The HIP-HMO utilization data will also be provided to the City's and MLC's actuaries within 60 days of the execution of this letter agreement for City Fiscal Year 2018 as baseline information to assess ongoing savings. The HIP-HMO data shall include: (i) utilization by procedure for site of service benefit changes; (ii) utilization by disease state, by procedure (for purposes of assessing Centers of Excellence); and (iii) member engagement data for the Wellness program, including stratifying members by three tranches (level I, II and III). The data shall include baseline data as well as data regarding the assumptions utilized in determining expected savings for comparison. The data described in this paragraph shall be provided pursuant to a data sharing agreement entered into by the City and MLC, akin to prior data agreements, which shall provide for the protection of member privacy and related concerns, shall cover all periods addressed by this Agreement (i.e., through June 30, 2021 and thereafter), and shall be executed within thirty days of the execution of this letter agreement.

4. The parties agree that the Welfare Funds will receive two \$100 per member one-time lump-sum payments (actives and retirees) funded by the Joint Stabilization Fund payable effective July 1, 2018 and July 1, 2019.
5. The parties recognize that despite extraordinary savings to health costs accomplished in the last round of negotiations through their efforts and the innovation of the MLC, and the further savings which shall be implemented as a result of this agreement, that the longer term sustainability of health care for workers and their families, requires further study, savings and efficiencies in the method of health care delivery. To that end, the parties will within 90 days establish a Tripartite Health Insurance Policy Committee of MLC and City members, chaired by one member each appointed by the MLC and the City, and Martin F. Scheinman, Esq. The Committee shall study the issues using appropriate data and recommend for implementation as soon as practicable during the term of this Agreement but no later than June 30, 2020, modifications to the way in which health care is currently provided or funded. Among the topics the Committee shall discuss:
 - a. Self-insurance and/or minimum premium arrangements for the HIP HMO plan.
 - b. Medicare Advantage- adoption of a Medicare Advantage benchmark plan for retirees
 - c. Consolidated Drug Purchasing- welfare funds, PICA and health plan prescription costs pooling their buying power and resources to purchase prescription drugs.
 - d. Comparability- investigation of other unionized settings regarding their methodology for delivering health benefits including the prospect of coordination/cooperation to increase purchasing power and to decrease administrative expenses.
 - e. Audits and Coordination of Benefits- audit insurers for claims and financial accuracy, coordination of benefits, pre-65 disabled Medicare utilization, End Stage Renal Disease, PICA, and Payroll Audit of Part Time Employees.
 - f. Other areas- Centers of Excellence for specific conditions; Hospital and provider tiering; Precertification Fees; Amendment of Medicare Part B reimbursement; Reduction of cost for Pre-Medicare retirees who have access to other coverage; Changes to the Senior Care rate; Changes to the equalization formula.
 - g. Potential RFPs for all medical and hospital benefits.
 - h. Status of the Stabilization Fund.

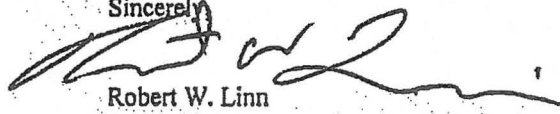
The Committee will make recommendations to be considered by the MLC and the City.

6. The joint committee shall be known as the Tripartite Health Insurance Policy Committee (THIPC) and shall be independent of the existing "Technical Committee." The "Technical Committee" will continue its work and will work in conjunction with the THIPC as designated above to address areas of health benefit changes. The Technical Committee will continue to be supported by separate actuaries for the City and the MLC. The City and the MLC will each be responsible for the costs of its actuary.
7. In the event of any dispute under sections 1-4 of 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 Martin Scheinman for resolution consistent with the dispute resolution terms of the 2014 City/MLC Health Agreement:
 - a. Such dispute shall be resolved within 90 days.

- b. The arbitrator shall have the authority to impose interim relief that is consistent with the parties' intent.
- c. The arbitrator shall have the authority to meet with the parties as such times as is appropriate to enforce the terms of this agreement.
- d. The parties shall share the costs for the arbitrator (including Committee meetings).

If the above conforms to your understanding, please countersign below.

Sincerely,



Robert W. Linn

Agreed and Accepted on behalf of the Municipal Labor Committee

BY: 
Harry Nespoli, Chair