

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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HUMAN SERVICES COUNCIL OF NEW YORK	:
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Plaintiff,	:
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21-cv-11149-PGG	:
	:
versus	:
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	:
The CITY OF NEW YORK,	:
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	:
Defendant.	:
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**DECLARATION OF MICHELLE JACKSON**

MICHELLE JACKSON, declares under penalty of perjury pursuant to 28 U.S.C. § 1746, as follows:

1. I am the Executive Director of the Human Services Council of New York (“HSC”). I am also an attorney admitted to practice law in the State of New York, and I submit this affidavit in connection with HSC’s motion to preliminarily enjoin the enforcement of Local Law 87.

2. I have worked for the HSC for roughly 14 years, and was appointed its Executive Director in May 2020. I joined HSC as a Policy Analyst in February 2008. In July 2010, I was promoted to General Counsel and Deputy Director. I served in that capacity until I became the organization’s executive director. As a result of my years of service, I have a thorough understanding of the City of New York’s government procurement system, and the processes

that human services organizations must follow in order to obtain contracts and payments from the City's agencies.

**A. Human Services Council**

3. HSC is a non-profit business association headquartered in New York City. HSC's members consist of approximately 170 non-profit organizations who employ over 200,000 employees in the New York City area. HSC members provide human services throughout New York City, in areas like providing access to housing, childcare, elder care, homeless shelters, food pantries, mental health counseling, and disaster response. These providers deliver services to an estimated 2.5 million New Yorkers annually. HSC members train their employees and help keep workers in good jobs. The members provide early childhood education and after-school programs, run food pantries, respond to emergencies and natural disasters, provide mental health counseling, shelter homeless people, and care for the elderly, among many other community services. HSC members have contracts with New York City, and generally also have contracts with the State of New York and/or the federal government. While the City contracts provide funding for some of the HSC members' work, HSC members must also raise private funds to support their activities. Indeed, many HSC members, which contract with the City, provide services to the public that are completely privately funded, or at least funded by non-City funding. HSC members contract for a significant part of the approximately \$6 billion that the City awards through human services contracts. HSC members range in size from small community-based organizations to large Citywide organizations that employ hundreds and serve tens of thousands of New Yorkers each day.

4. Since 1991, HSC has helped bring together a diverse network of human services organizations to discuss ideas and take collective action on issues and concerns that impact the entire human services sector. Through advocacy and collaboration, we support member organizations and their leaders in addressing their concerns regarding public policy, economic trends, the regulatory environment, and technology. As the voice of the human services community, HSC highlights the struggles of those we serve and amplifies the need for a strong, well-invested sector. The City has a long history of recognizing HSC as the representative of the human services sector, and often includes HSC in discussions about policy matters affecting human service procurement and contracting. Most recently, HSC was included in the task force assembled by the Mayor and Comptroller concerning what steps the City should take to timely contract with human services providers.

5. Among the areas that HSC focuses on with its members is assisting member employers in their labor relations through informational meetings, community and public relations, political action, and advocacy. Another core mission of HSC is to advocate for increased government funding for human service provider employees, which HSC has a long history of doing through advocacy campaigns, lobbying, and political action. HSC and its members also partner with labor unions on common issues and advocacy campaigns, including increased funding for human services workers. HSC also exists to protect its member employers and the New York City-area business community against legislative and administrative actions that violate their rights under federal labor laws and the United States Constitution.

6. HSC has a long history of advocating for increased pay for human services workers. In October 2021, HSC launched its “Just Pay” campaign, which seeks to persuade the City and

State to implement the following three reforms to improve pay among human services workers:

(i) “[e]stablish, fund, and enforce an automatic annual cost-of-living adjustment (COLA) on all human services contracts,” (ii) “[s]et a living wage floor of no less than \$21 an hour for all City and State funded human services workers,” and (iii) “[c]reate, fund, and incorporate a comprehensive wage and benefit schedule for government contracted human services workers comparable to the salaries made by City and State employees in the same field.” *See*

<https://www.justpayny.org>. In mid-2021, HSC issued a report regarding the effect of the Coronavirus pandemic on human services workers, and concluded “[g]overnment must commit to paying equitable wages to contracted human services workers,” by “enact[ing] a

comprehensive plan to raise the wages of the sector to be commensurate with wages of government employees.” *See* HSC website, at <https://humanservicescouncil.ftlbcn.net/wp-content/uploads/2021/06/HSC-Taskforce-Report-Essential-or-Expendable-How-Human-Services-Support-Communities-Through-COVID-19.pdf>.

In March 2017, HSC issued a report which noted that “[m]ost State human services contracts have not been adjusted for rising costs in many years,” and that the human services “workforce has borne the brunt of the State’s funding failure.” The report concluded that “[l]abor compensation in human services contracts should begin to reflect the education, experience, skills and commitment of this predominantly female workforce.” *See* HSC website, at <https://humanservicescouncil.ftlbcn.net/wp-content/uploads/Initiatives/RestoreOpportunityNow/ROnreport.pdf>.

In December 2015, HSC issued a report which advocated for a “government funded \$15 per hour minimum wage for human services workers throughout New York State.” *See* HSC website, at <https://humanservicescouncil.ftlbcn.net/wp-content/uploads/Reports/15andFunding-Report.pdf>.

*See* HSC website, at <https://humanservicescouncil.ftlbcn.net/wp-content/uploads/Reports/15andFunding-Report.pdf>.

**B. Human Services Contracting in New York City**

7. New York City spends approximately \$6 billion a year through human services contracts, and many of the human services organizations that the City contracts with have operating budgets that are funded predominately through government contracts. Through its contracts, the City plays an out-sized role in setting the wages and benefits for City-contracted human services workers. Salaries or rates of service are often set in Requests For Proposals (“RFPs”) issued by the City, and those salary levels limit the independence of organizations that are heavily City-funded to set salaries at different rates. In fact, in the past, HSC members have had budgets rejected by the City if the budgets set *higher* salaries than those contemplated by the City, even where such higher salaries were within the limits of the provider’s budget or funded with private dollars.

8. The City’s contracts rarely cover the full costs of human services programs, and certainly do not do so upfront because of constant delays in contracting and payment. In addition, with increased expenses in providing additional services during the Coronavirus pandemic, human services nonprofits face cash flow problems as well as chronic underfunding. This has been a significant, nagging issue because most human services contract reimbursement rates have not been adjusted to reflect rising costs in New York, leaving budget holes that private philanthropy cannot fill. Even after the City asks not-for-profit organizations to begin serving clients, delays in contracting and payments force providers to take out loans or lines of credit to make payroll and rent payments, and continue to deliver services. These loans or lines of credit often amass interest that is not reimbursed by government contracts. A survey of HSC’s members showed that nearly 46 percent were forced to take out loans or draw on lines of credit

due to withheld or delayed government payments, at an average annual cost of \$223,000 per organization. This puts providers at risk of insolvency as they struggle to borrow to make rent and pay salaries, and it saps the resources they need for programming, strategic planning, and workforce compensation.

9. The City's contracting practices have undermined the human service providers' efforts to pay competitive wages to their workers. The City either directly sets reimbursable salary rates for human services workers working on City contracts or sets those salary rates indirectly by limiting the reimbursement rate for a unit of service while simultaneously dictating, in City contracts, the required staffing. The City's contracting practices have led to extreme pay disparities where human services workers make on average 71% of what City employees make, and 82% of what private sector workers receive.

10. HSC estimates that about half of its members have some unionized workers. Nonprofits' workers are unionized through a variety of organizations, including District Council 37 and 1199 SEIU. HSC is not anti-union, and its members routinely partner with unions on common issues and advocacy campaigns. However, since the City's budgetary position has an enormous impact on the salaries of human service employees engaged on City contracts, unionization does not improve their working conditions. Unionized employees working on City human services contracts generally do not have higher salaries than their non-unionized counterparts, and when union dues are accounted for, their net incomes may be lower.

**C. Local Law 87**

**(i) Origin of Local Law 87**

11. On or about March 9, 2021, New York City Council Speaker Corey Johnson (“Johnson”) announced his candidacy for Comptroller of the City of New York. *See* Reuven Fenton & Nolan Hicks, *Corey Johnson, Who Dropped Mayoral Bid Over Health Concern, Runs for NYC Controller*, N.Y. Post (Mar. 9, 2021), at <https://nypost.com/2021/03/09/corey-johnson-who-dropped-mayoral-bid-runs-for-nyc-comptroller>. Johnson sought the endorsement of District Council 37, New York City’s largest public employee union, and obtained that endorsement on or about March 24, 2021. *See* District Council 37 Press Release, dated March 24, 2021, at [https://www.dc37.net/news/newsreleases/2021/nr3\\_24](https://www.dc37.net/news/newsreleases/2021/nr3_24).

12. On April 22, 2021, Johnson introduced bill “Int 2252-2021,” which ultimately became Local Law 87. *See* New York City Council website, at <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=4920283&GUID=DD5FF113-9B0E-4479-A483-531D9BA94BDA>. The labor union District Council 37 was “deeply involved in drafting” the bill. *See* District Council 37 Press Release, dated August 18, 2021, at [https://www.dc37.net/news/newsreleases/2021/nr8\\_18](https://www.dc37.net/news/newsreleases/2021/nr8_18).

13. Bill Int 2252-2021 was passed into law on August 18, 2021, and was designated as New York City Local Law 2021/087. Local Law 87 amends the administrative code of New York City by adding a new section 6-145, which is captioned “Labor peace agreements for human services contracts.” *See* N.Y.C. Admin. Code § 6-145 (2022). The Statute became effective on November 16, 2021.

14. Johnson, the main sponsor of Local Law 87, did not identify any historic work stoppages that the Law was required to avoid in the future, and did not suggest that the law would somehow promote continuity of services for New York City's communities. Instead, he said that the law would "give over 200,000 of our City's essential human service workers the right to organize for the pay and benefits they deserve." *See* District Council 37 Press Release, dated August 18, 2021, at [https://www.dc37.net/news/newsreleases/2021/nr8\\_18](https://www.dc37.net/news/newsreleases/2021/nr8_18). Similarly, former Mayor de Blasio, who signed Local Law 87, said that it would ensure that New York City is "a union town." *Id.*

**(ii) Local Law 87's Definition of Terms**

15. Definitions of terms used in the Statue include that a "City service contract" is an agreement between a City agency and any person when "the principal purpose of such agreement is to provide human services." A "[c]overed employer" is "a city service contractor or city service subcontractor." A "[c]overed employee" is "an employee of a covered employer who directly renders human services in performance of a city service contract[.]" The Statute defines "Human Services" as "social services contracted for by a [City] agency on behalf of third party clients including but not limited to day care, foster care, home care, health or medical services, housing and shelter assistance, preventive services, youth services, the operation of senior centers, employment training and assistance, vocational and educational programs, legal services and recreation programs." *See* Local Law 87/ N.Y.C. Admin. Code § 6-145(a).

**(iii) Local Law 87's Certification Requirement**

16. Local Law 87 requires New York City human services contractors and subcontractors to submit signed certifications to the City in connection with every City contract

and subcontract. The certification states that the contractor will comply with Local Law 87, including its requirement that the contractor enter into a labor peace agreement with a union.

17. The certification also requires the contractor to identify whether it has been found guilty of any violations of labor relations laws – including federal labor relations laws such as the National Labor Relations Act (“NLRA”) – within the past five years.

**(iv) Local Law 87’s Attestation Requirement**

18. Local Law 87 also requires New York City human services contractors and subcontractors to submit attestations—signed by a union leader—to the City in connection with every City contract and subcontract.

19. Under Local Law 87, if a labor organization has “sought to represent” a City contractor’s “covered employees,” the contractor, or a subcontractor, must file an “attestation” with the City “signed by one or more labor organizations, as applicable.” The requirement for providing “attestations” signed by labor leaders applies throughout the contract term.

20. First, the labor leader signature must be obtained within three months of the contract award or renewal, or subcontract approval:

No later than 90 days after the award or renewal of a city service contract or approval of a city service subcontractor, such covered employer, shall either: (a) *submit an attestation* to the applicable contracting agency, *signed by one or more labor organizations*, as applicable, *stating that the covered employer has entered into one or more labor peace agreements with such labor organizations*, and identify: (i) the classes of covered employees covered by the labor peace agreements, (ii) the classes of covered employees not currently represented by a labor organization and that no labor organization has sought to represent, and (iii) the classes of covered employees for which labor peace agreement negotiations have not yet concluded; *or (b) submit an attestation* to the applicable contracting agency stating that the covered employer’s covered employees are not currently represented by a labor organization and *that no labor*

*organization has sought to represent such covered employees.*

Local Law 87/N.Y.C. Admin. Code § 6-145(b)(1) (emphases added).

21. Second, a labor leader signature must also be obtained, after the first three months, if the labor organization seeks to represent the covered employees thereafter:

*Where a labor organization seeks to represent the covered employees of a covered employer after the expiration of the 90-day period following the award date of the city service contract or the approval of a city service subcontractor, and the labor organization has provided notice to the contracting agency and the covered employer regarding such interest, the covered employer shall then submit an attestation signed by the labor organization to the applicable contracting agency no later than 90 days the date of notice stating that it has entered into a labor peace agreement with such labor organization or that labor peace agreement negotiations have not yet concluded.*

Local Law 87/ N.Y.C. Admin. Code § 6-145(b)(2) (emphases added).

22. These requirements that City contractors obtain union leaders' signatures on attestations that are now a condition of doing business with the City give union leaders effective veto power over City contracts. A union leader can unilaterally decide to withhold the union's signature on an attestation without having to give any reason and without any consequence to the union.

23. A union leader can misuse this power in any number of ways to control, or even stop, work on a City contract. For example, a union leader could:

- withhold the union's signature on an attestation if the union leader simply does not like the contractor that was awarded a City service contract;
- withhold signature on an attestation sought by one City contractor in order to induce the City to shift work to another contractor that the union leader favors;
- threaten to withhold signature on an attestation regarding covered employees to force an employer to allow the union to begin unionizing parts of a human

services provider's workforce that do not work on City contracts; and

- deploy the signature power to block human services providers from performing a type of work that the union leader believes should not be contracted to City contractors but should instead be handled by City employees.

24. In addition to misusing the Statute's "union signature" requirement, a union leader may trigger, or threaten to instigate, a City investigation of a contractor or subcontractor, by invoking the Statute's enforcement provisions, under which any "interested party" may submit a verified complaint about a City contractor, which requires the City comptroller to conduct an investigation. Local Law 87/ N.Y.C. Admin. Code § 6-145(e)(2) & (f)(1).

25. The Statute's requirement that an employer obtain a union-signed attestation may also place a City contractor in an impossible situation. For example:

- A union leader may never respond to a contractor's request for the union to enter into a "labor peace agreement," making it impossible for the City contractor to comply with the attestation requirement.
- A City contractor's covered employees may vote against joining the union, again making it impossible for the contractor to comply with the attestation requirement—with the result that the contractor may lose its City funding, and be forced to lay off the employees that the Statute purportedly protects.
- A union leader may approach covered employees directly about unionization, without the City contractor's knowledge, and the employees may not inform their employer, causing a contractor unwittingly to violate the attestation requirement.
- Even if a City contractor's covered employees are represented by a union, they may be approached by another, competing union. Unless the employees vote to join the new union, it will be impossible for the contractor to attest that negotiations "have not yet concluded," since negotiations will never begin with that second competing union.

26. If a City contractor providing human services under a contract or subcontract with the City fails to submit an attestation signed by a union leader, it is in "material breach" of the

contract, and the not-for-profit can lose its City funding and contract. Local Law 87/ N.Y.C. Admin. Code § 6-145(e)(2).

**(v) Lack of Regulations Regarding Local Law 87**

27. Local Law 87 became effective on November 16, 2021. It provides that the Mayor or his designee “*shall* promulgate implementing rules and regulations, as appropriate and consistent with this section[.]” Local Law 87/ N.Y.C. Admin. Code § 6-145(d)(2) (emphasis added). The Mayor has not, however, promulgated rules and regulations through the City Administrative Procedure Act, or CAPA, as required. Instead, the City has demanded that covered contractors enter into covered contracts without knowing if or when any rules or regulations may be promulgated, or what they may provide, including rules and regulation that may apply to union agreements for covered employees. Local Law 87/ N.Y.C. Admin. Code § 6-145(a) (defining “labor peace agreement”).

**(vi) Spill-Over Effects of Local Law 87**

28. Local Law 87 will have spill-over effects on non-City contracts. HSC members include employers that provide human services through City contracts, as well as services funded by the federal government, the state government, and/or private organizations. These not-for-profit organizations employ workers who work on both City projects and on non-City projects. In some cases, these workers provide human services that are only partially funded by the City, i.e., services that are funded, in part, by the federal government, the state government, and/or private donors. Thus, through Local Law 87, the City is leveraging its partial funding of human services projects to force unionization of *all* these employees.

29. Many HSC members include employers who, in addition to providing human

services under City contracts, provide privately-funded services to the public. Since the definition of “covered employee” reaches such employees, its regulatory impacts spill over into the non-City work performed by such employees. Indeed, even if such an employer were to segregate the part of its workforce that works on City contracts from that part of its workforce performing services outside of a City contract, Local Law 87 would still have spill-over effects, since it gives a union leader the power to withhold its signature on an attestation as leverage to force an employer to allow the union to begin organizing those parts of the employer’s workforce that are not working on City projects.

**D. Effect of Local Law 87 on HSC and Its Members**

30. Local Law 87 will have immediate and irreparable impacts on HSC. Litigation is not part of HSC’s core mission, and HSC has never before filed a lawsuit. This current lawsuit against the City of New York is the first lawsuit ever filed by HSC. Since Local Law 87 was enacted, HSC has spent a disproportionate amount of its time addressing the burdens and problems that Local Law 87 creates for HSC members, including the certification and attestation problems created by the law, rather than focusing on HSC’s core mission. Local Law 87 will interfere with HSC’s ability to pursue its core mission, which is particularly troubling at this moment, since the changes in leadership in New York City government warrant HSC’s immediate attention on HSC’s agenda. Since that agenda includes, among other things, pressing for higher wages for human services workers, the distractions created by Local Law 87 are contrary to the public interest.

31. Local Law 87 will also have immediate irreparable impact on HSC’s members. Local Law 87’s requirements have been incorporated by reference into the City’s most recent

contract offers to HSC members. Attached are a form rider, certification, and attestation (*see* Exhibits A-C) that the City has been asking HSC members to sign in connection with Local Law 87. The attestation states on its face that it must be signed by a labor union representative. (Exhibit C.) The certification appears to focus primarily on whether the contractor has been found guilty of any violations of labor relations laws – including federal labor relations laws such as the NLRA – within the past five years. (Exhibit B.)

32. There is great confusion about Local Law 87's effective date. The City has asked HSC members who have been awarded new City contracts to sign the documents referenced above. HSC members with existing City contracts that pre-date Local Law 87 but that are being renewed have also been asked by the City to sign such documents. In some cases, HSC members with existing City contracts that pre-date Local Law 87 but that the City is seeking to amend, have been asked to sign such documents. While the City has, since the filing of this lawsuit, issued a statement that it will not apply Local Law 87 to contract work that pre-dates Local Law 87, there is great confusion about this at City agencies, which will delay contract actions and payments.

33. HSC members are especially concerned that the City has not provided any guidance as to what terms must be included in the so-called "labor peace" agreements required under this law. HSC members are also concerned because the City has not placed any limitations on the concessions that a union leader can extract as a condition of securing a union leader's signature.

34. HSC members are concerned about the certifications and attestations that the City is asking HSC members to sign in connection with City contracts. Some HSC members are concerned that the certifications and especially the attestations that must be signed by a union

leaders that do not represent workers, will allow such labor leaders to dictate the terms of the labor relations at those workplaces. HSC and its members are also concerned that if HSC members do not submit such certifications and attestations, then the City will stop providing City funding for those HSC members' social services.

35. While the City recently represented that it will waive any claim that Local Law 87 applies to services performed by HSC members before Local Law 87's effective date, HSC members face imminent irreparable harm. Most of the City's human services contracts start on the first day of the City's fiscal year (July 1), and the contracts must be negotiated months before that date for the procurement process to be timely completed. As such, HSC members are fast approaching the moment when they must sign a contract in order to secure the City's partial funding for their services. Even now, HSC's members are being pressed by the City to sign certifications or attestations while this lawsuit is pending. While many of them are responding by expressly reserving their right to challenge Local Law 87, preliminary relief is needed to protect the HSC members' rights.

**E. Effect of Local Law 87 on the Public**

36. Local Law 87 will also harm the public at large. While the City Council characterized Local Law 87 as legislation promoting "labor peace," it will do nothing of the sort. Local Law 87 adds a third party to an already overburdened and slow contracting process, and hands power to that third party to determine if that provider can continue providing vital services to the community. The City relies on providers to continue operating with unregistered contracts to ensure continuity of services, but this law disrupts that arrangement as providers cannot rely on being in and staying in compliance with this law, as the law invites any union leader to enter

at any time and refuse to negotiate an agreement. This law and the process it creates also significantly increases administrative costs on already under resourced organizations, with no funding included in the law to cover these costs. This makes it likely that the public will see a diminishment of human services if Local Law 87 is not enjoined. In short, Local Law 87 places New York City's neediest communities at risk by, among other things, allowing union leaders to decide which human service providers will receive the government funds they need to help those in crisis, and gives these union leaders the power to cut off critical services.

I declare under penalty of perjury that the statements above are true and correct.

Dated: New York, New York  
February 18, 2022



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MICHELLE JACKSON

Exhibit A  
to Michelle Jackson  
Declaration

## RIDER TO CITY SERVICE CONTRACTS PURSUANT TO NYC ADMIN. CODE § 6-145 LABOR PEACE AGREEMENTS FOR HUMAN SERVICES CONTRACTS

### Sec. 1 DEFINITIONS.

- A. **Building service employee.** The term “building service employee” means any person, the majority of whose employment consists of performing work in connection with the care or maintenance of a building or property, including but not limited to a watchperson, guard, doorman, building cleaner, porter, handyperson, janitor, gardener, groundskeeper, stationary fireman, elevator operator and starter, or window cleaner.
- B. **City service subcontractor.** The term “city service subcontractor” means any person, including, but not limited to, a temporary services, staffing or employment agency or other similar entity, that pursuant to an agreement with the contractor, performs any of the services to be rendered pursuant to this contract, except that the term “city service subcontractor” shall not include any person who enters into a contract with the contractor the principal purpose of which is to provide supplies, or administrative services, technical support services, or any other similar services to the contractor that do not directly relate to the performance of the human services to be rendered pursuant to this contract. A person shall be deemed a city service subcontractor for the duration of the period during which such person performs such services under this contract.
- C. **Covered employee.** The term “covered employee” means an employee of a covered employer who directly renders human services in performance of this contract, except that the term “covered employee” shall not include any building service employee.
- D. **Covered employer.** The term “covered employer” means the contractor or a city service subcontractor, as applicable.
- E. **Human services.** The term “human services” means social services contracted for by an agency on behalf of third party clients including but not limited to day care, foster care, home care, health or medical services, housing and shelter assistance, preventive services, youth services, the operation of senior centers, employment training and assistance, vocational and educational programs, legal services and recreation programs.
- F. **Labor organization.** The term “labor organization” has the same meaning as set forth in subdivision (5) of section 152 of title 29 of the United States Code.
- G. **Labor peace agreement.** The term “labor peace agreement” means an agreement between a covered employer and a labor organization that seeks to represent employees who perform one or more classes of work to be performed pursuant to this contract, where such agreement: (1) requires that the covered employer and the labor organization and its members agree to the uninterrupted delivery of services to be rendered pursuant to this contract and to refrain from actions intended to or having the effect of interrupting such services; and (2) includes any other terms agreed to by the parties, which may relate to, but need not be limited to: (i) alternate procedures related to recognizing the labor organization for bargaining purposes, (ii) public statements, (iii) workplace access, and (iv) the provision of employee contact information.. For the purposes of this rider, the term “labor peace agreement” may include a collective bargaining agreement that is in effect.

### Sec. 2 RESPONSIBILITIES OF THE CONTRACTOR

- A. The contractor shall comply with all applicable requirements under Admin. Code § 6-145 and any rules promulgated pursuant thereto. Such requirements constitute a material term of this contract. The contractor’s failure to comply with the requirements of Admin. Code § 6-145 may constitute a material

breach by the contractor of the terms of this contract, and such failure shall be determined by the contracting agency.

- B. The contractor shall submit the Labor Peace Agreement Certification pursuant to Admin. Code § 6-145(c), as well as the Labor Peace Agreement Attestation pursuant to NYC Admin. Code § 6-145(b), attached hereto.
- C. If the contractor and/or city service subcontractor receives written notice of such a breach and fails to cure such breach within 30 days of such notice, the City shall have the right to pursue any rights or remedies available under the terms of this contract or under applicable law, including termination of the contract.
- D. If the contractor fails to perform in accordance with any of the requirements of this section and there is a continued need for the service, the contracting agency may (i) obtain from another source the required service as specified in this contract, or any part thereof; (ii) may charge the non-performing contractor for any difference in price resulting from the alternative arrangements; (iii) may assess any administrative charge established by the contracting agency; and (iv) may, as appropriate, invoke such other remedies as are available under the contract and applicable law.

### **Sec. 3 LABOR PEACE AGREEMENT CERTIFICATION**

- A. Prior to the award or renewal of this contract, the bidder or proposer seeking award or the contractor seeking renewal shall have provided the awarding contracting agency a certification, in the form attached to this rider, containing the following information:
  - (1) The name, address and telephone number of the chief executive officer of the bidder or proposer seeking award, or the contractor seeking renewal, as applicable;
  - (2) A statement that, if the contract is awarded or renewed, the bidder or proposer seeking award, or the contractor seeking renewal, as applicable, agrees to comply with the requirements of Admin. Code § 6-145, and with all applicable federal, state and local laws; and
  - (3) A record of any instances during the preceding five years in which the bidder or proposer seeking award, or the contractor seeking renewal, as applicable, has been found by a court or government agency to have violated federal, state or local laws regulating labor relations, in which any government body initiated a judicial action, administrative proceeding or investigation of the bidder, proposer, or contractor in regard to such laws.
- B. The certification shall be signed under penalty of perjury by an officer of the bidder, proposer, or contractor and shall be annexed to and form a part of the contract.
- C. The contractor shall each year throughout the term of the contract submit to the contracting agency an updated version of the certification required under Admin. Code § 6-145(c), and identify any changes from the previous certification. During the term of this contract, the contractor shall make such certification during the 30-day period following each anniversary of the effective date of this contract.

### **Sec. 4 LABOR PEACE AGREEMENTS ATTESTATION**

- A. No later than 90 days after the award or renewal of this contract the contractor shall either:
  - (1) submit an attestation to the contracting agency, in the form attached to this rider, signed by one or more labor organizations, as applicable, stating that the contractor has entered into or is in the process of negotiating one or more labor peace agreements with such labor organizations as have provided notice pursuant to section (4)(C)(1) of this rider, and identify: (i) the classes of covered employees covered by the labor peace agreements, (ii) the classes of covered employees not currently represented by a labor organization and that no labor organization has sought to represent,

and (iii) the classes of covered employees for which labor peace agreement negotiations have not yet concluded; or

- (2) submit an attestation to the contracting agency stating that the contractor's covered employees are not currently represented by a labor organization and that no labor organization has sought to represent such covered employees by providing notice pursuant to section (4)(C)(1) of this rider.

B. Where a labor organization seeks to represent the covered employees of the contractor after the expiration of the 90-day period following the award or renewal date of this contract, and the labor organization has provided notice to the contracting agency and the contractor pursuant to section (4)(C) of this rider regarding such interest, the contractor shall then submit an attestation signed by the labor organization to the contracting agency no later than 90 days after the date of notice stating that it has entered into a labor peace agreement with such labor organization or that labor peace agreement negotiations have not yet concluded.

C. For the purposes of this section:

- (1) notice to the contractor by a labor organization shall be made in writing by a duly authorized representative of the labor organization to either (i) the chief executive officer of the contractor; or (ii) the business address or e-mail address provided for in section 14.04 of Appendix A of this contract; and
- (2) notice to the contracting agency shall be made in writing by a duly authorized representative of the labor organization to the contracting agency at the physical address or e-mail address provided for in section 14.04 of Appendix A of this contract.

D. In evaluating any violation of this section or any other provision of this rider or Admin. Code § 6-145, the city shall consider any relevant conduct of a labor organization, the size of the contractor's business, the contractor's good faith efforts to comply with the terms of this rider and Admin. Code § 6-145, the gravity of the violation, the history of previous violations, and the failure to comply with recordkeeping, reporting or other requirements. In considering whether the contractor has exercised good faith efforts in attempting to comply with obligations related to the submission of attestations in compliance with this section, the city shall consider the contractor's documented efforts to negotiate with labor organizations.

E. Notwithstanding any other provision of this rider, where a class of a contractor's covered employees are covered by a collective bargaining agreement with a labor organization, such contractor is neither required to include any statements in an attestation in regards to labor peace agreements or negotiations relating thereto with any other labor organization with respect to such class of covered employees, nor required to seek such other labor organization's signature on any attestation with respect to such class of covered employees.

## **Sec. 5 SUBCONTRACTORS**

A. The contractor shall cause its city service subcontractors to comply with Admin. Code § 6-145, as applicable, and include the following provisions and the attached Labor Peace Agreement Attestation in each of its subcontracts with such city service subcontractors, and shall be responsible for collecting subcontractor attestations and providing them to the contracting agency:

### **Labor Peace Agreements**

- A. No later than 90 days after the approval by the contracting agency of a city service subcontractor, such city service subcontractor, shall either:

- (1) submit an attestation to the contracting agency, through the city service contractor, signed by one or more labor organizations, as applicable, stating that the city service subcontractor has entered into or is in the process of negotiating one or more labor peace agreements with such labor organizations as have provided notice pursuant to subsection (C)(1), and identify: (i) the classes of covered employees covered by the labor peace agreements, (ii) the classes of covered employees not currently represented by a labor organization and that no labor organization has sought to represent, and (iii) the classes of covered employees for which labor peace agreement negotiations have not yet concluded; or
  - (2) submit an attestation to the contracting agency, through the city service contractor, stating that the city service subcontractor's covered employees are not currently represented by a labor organization and that no labor organization has sought to represent such covered employees by providing notice pursuant to subsection (C)(1).
- B. Where a labor organization seeks to represent the covered employees of the city service subcontractor after the 90-day period following the approval of the city service subcontractor, and a labor organization has provided notice to the contracting agency and city service subcontractor pursuant to subsection (C) regarding such interest, the city service subcontractor shall then submit an attestation signed by the labor organization to the contracting agency no later than 90 days after the date of notice stating that it has entered into a labor peace agreement with such labor organization or that labor peace agreement negotiations have not yet concluded.
- C. For the purposes of this section:
- (1) notice to the city service subcontractor by a labor organization shall be made in writing by a duly authorized representative of the labor organization to either (i) the chief executive officer of such city service subcontractor; or (ii) the business address or e-mail address set forth pursuant to the notice provisions of this city service subcontract; and
  - (2) notice to the contracting agency shall be made in writing by a duly authorized representative of the labor organization to the contracting agency at the address or e-mail address provided for in section 14.04 of Appendix A of the agreement between the city service contractor and the contracting agency under which this city service subcontract is being performed.
- D. In evaluating any violation of this section, the city service contractor shall consider any relevant conduct of a labor organization, the size of the city service subcontractor's business, the city service subcontractor's good faith efforts to comply with the terms of this section and Admin. Code § 6-145, the gravity of the violation, the history of previous violations, and the failure to comply with recordkeeping, reporting or other requirements. In considering whether the city service subcontractor has exercised good faith efforts in attempting to comply with obligations related to the submission of attestations in compliance with this section, the city service contractor shall consider the city service subcontractor's documented efforts to negotiate with labor organizations.
- E. Notwithstanding any other provision of this section, where a class of a city service subcontractor's covered employees are covered by a collective bargaining agreement with a labor organization, such city service subcontractor is neither required to include any statements in an attestation in regards to labor peace agreements or negotiations relating thereto with any other labor organization with respect to such class of covered employees, nor required to seek such other labor organization's signature on any attestation with respect to such class of covered employees.
- F. The definitions in section 1 to the "Rider to City Service Contracts pursuant to Admin. Code § 6-145 Labor Peace Agreements for Human Services Contracts" to the agreement between the city service contractor and the contracting agency under which this city services subcontract is being performed shall apply to this terms used in section, unless another meaning is clear from context.

**Sec. 6 AWARD DATE**

A. For the purposes of this rider, the date of an award shall be deemed to be the date upon which a contract is signed by both the contractor and the contracting agency.

B. For the purposes of this rider, the date of a renewal shall be deemed to be the date upon which a contract renewal is signed by both the contractor and the contracting agency.

Exhibit B  
to Michelle Jackson  
Declaration



# Labor Peace Agreement Certification

Certification Prior to Contract Award or Renewal

Pursuant to NYC Admin. Code § 6-145(c)

Contract Name: \_\_\_\_\_ E-PIN#: \_\_\_\_\_

This certification is (select one):  The first such certification under for contract award/renewal.  
 a subsequent (yearly) certification. If so, provide date of first certification: \_\_\_\_\_

I, \_\_\_\_\_ (print), the undersigned,  
am a duly authorized officer of \_\_\_\_\_ (vendor name)

Chief Executive Officer (CEO) of the city service contractor, bidder or proposer seeking award or the city service contractor seeking renewal of a city service contract, as applicable:

Check if updated from a previous certification

CEO Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

If the city service contract is awarded or renewed (as applicable), I, the undersigned, agree to comply with the requirements of NYC Admin. Code § 6-145, and with all applicable federal, state and local laws.

**Labor Relations findings:** Instances during the preceding five years in which the bidder or proposer seeking award, or the city service contractor seeking renewal, as applicable, has been found by a court or government agency to have violated federal, state or local laws regulating labor relations, in which any government body initiated a judicial action, administrative proceeding or investigation of the bidder, proposer, or city service contractor in regard to such labor relations laws: **Add pages as necessary. If not applicable write "N/A".**

Violation: \_\_\_\_\_ Date of Action: \_\_\_\_\_ Charging Agency: \_\_\_\_\_

Summary: \_\_\_\_\_

Check if updated from a previous certification

Violation: \_\_\_\_\_ Date of Action: \_\_\_\_\_ Charging Agency: \_\_\_\_\_

Summary: \_\_\_\_\_

Check if updated from a previous certification

Violation: \_\_\_\_\_ Date of Action: \_\_\_\_\_ Charging Agency: \_\_\_\_\_

Summary: \_\_\_\_\_

Check if updated from a previous certification

I \_\_\_\_\_ (print) swear or affirm,  
under penalty of perjury, that the above information is accurate as of the date noted below.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

State: \_\_\_\_\_ County: \_\_\_\_\_ S.S.

Sworn or affirmed before me on: \_\_\_\_\_

[Stamp]

Notary Public: \_\_\_\_\_

Exhibit C  
to Michelle Jackson  
Declaration



# Labor Peace Agreement Attestation

Pursuant to NYC Admin. Code § 6-145(b)

Contract Name: \_\_\_\_\_ E-PIN#: \_\_\_\_\_

1. I, \_\_\_\_\_ (print), the undersigned, a duly authorized officer of the  city service contractor or  city service subcontractor (choose one) of \_\_\_\_\_ (business name) ("covered employer"), do hereby certify: As of this date, the following is true with regard to Labor Peace Agreements ("LPA" or "LPAs"): (Choose one of the following)

Labor Peace Agreement(s) have been entered into or are under negotiation. (Complete section 2 and 3)

or...

Covered employees<sup>2</sup> are not currently represented by a labor organization and no labor organization has sought to represent such covered employees. (Complete section 3 ONLY)

If a city service contractor or city service subcontractor has entered into a collective bargaining agreement (CBA) with a labor organization that remains in effect, such CBA may be listed as an LPA for the purposes of this form.

2. The above-named covered employer has entered into or is in negotiations for the following Labor Peace Agreements with the following labor organizations: (complete the below as applicable and add additional sheets as necessary)

.....  
LPA entered into with \_\_\_\_\_ (labor organization) on \_\_\_\_\_ (date)

Class(es) of covered employees<sup>2</sup> covered by this LPA: \_\_\_\_\_

Labor Organization Signature: \_\_\_\_\_ (authorized labor organization representative print and sign) (date)

.....  
Negotiations have been initiated with the following Labor Organization but have not yet concluded.  
\_\_\_\_\_ (labor organization)

Class(es) of covered employees<sup>2</sup> to be covered by this LPA: \_\_\_\_\_

Labor Organization Signature: \_\_\_\_\_ (authorized labor organization representative print and sign) (date)

.....  
The following classes of covered employees are NOT currently represented by a labor organization and no labor organization has sought to represent them: \_\_\_\_\_

3. If, after the expiration of the 90-day period following the award or renewal date of the city service contract or the approval of a city service subcontractor, a labor organization seeks to represent the covered employees of a covered employer and the labor organization has provided notice to the contracting agency and the covered employer regarding such interest in accordance with the terms of the rider, as applicable, then the covered employer shall submit an attestation (signed by the labor organization) to the contracting agency (or, if the covered employer is a subcontractor, submit to the city service contractor for submission to the contracting agency) no later than 90 days after the date of notice stating that it has entered into a labor peace agreement with such labor organization or that labor peace agreement negotiations have not yet concluded.

Sign: \_\_\_\_\_ Date: \_\_\_\_\_  
By signing, I am certifying the information contained in this attestation is true.

<sup>1</sup> "covered employer": a city service contractor or a city service subcontractor, having entered into a service contract with an agency of the City.

<sup>2</sup> "covered employee": an employee of a covered employer who directly renders human services in performance of a city service contract, except that the term "covered employee" shall not include any building service employee.