

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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

**DECLARATION OF
CLAUDE M. MILLMAN**

CLAUDE M. MILLMAN, declares under penalty of perjury pursuant to 28 U.S.C. § 1746, as follows:

1. I am a member of the firm of Kostelanetz & Fink, LLP, counsel to Plaintiff Human Services Council of New York (“HSC”) in the above-captioned proceeding. I am duly admitted to practice before this Court.

2. I am fully familiar with the facts set forth in this declaration and make each statement contained in this declaration based on my own personal knowledge, upon a review of the files in my possession, or upon my knowledge of and experience with the laws and practices concerning New York City procurement.

3. After clerking for the Honorable William C. Conner in the Southern District of New York, and serving as an Assistant U.S. Attorney in the Southern District of New York, I was appointed New York City’s Chief Procurement Officer (1998-2000) (also known as the Director, Mayor’s Office of Contracts Services). I then served as an Executive Director (1999) and Commissioner (2000) of New York City’s Charter Revision Commission, which, among other

things, considered procurement reforms. I have since spent over twenty years in private practice, first as a partner at Proskauer Rose LLP, and for the past ten years as a partner at Kostelanetz & Fink, LLP. Among other things, I advise organizations doing business with government agencies in New York. Accordingly, I am familiar with legal requirements and practices pertinent to New York government procurement.

4. Exhibit 1 to this declaration is the Complaint filed in this action.

5. Exhibit 2 to this declaration is Defendant's Answer filed in this action.

6. Exhibit 3 to this declaration is a document prepared by the City of New York (the "City") that purports to answer "commonly posed questions" about the New York City Local Law 87 of 2021 ("Local Law 87") (the "City's FAQ Answers"), effective date February 4, 2022.

7. Exhibit 4 to this declaration is a true and correct copy of a press release from the Office of New York City Comptroller Brad Lander, dated February 14, 2022, announcing a task force report with "five actionable steps" to improve the nonprofit contracting and procurement process.

8. Exhibit 5 to this declaration is a true and correct copy of a press release from the Office of the Mayor, dated February 16, 2022, announcing Mayor Eric Adams' preliminary budget for Fiscal Year (FY) 2023.

9. I respectfully submit that HSC is entitled to the preliminary injunction sought, an order barring the City from implementing or enforcing Local Law 87 while this action is pending.

10. For the reasons stated in the Complaint, the Memorandum of Law in support of HSC's motion for a preliminary injunction, and the declaration of Michelle Jackson, HSC's Executive Director: HSC is likely to succeed on the merits of its Complaint; HSC will be

irreparably harmed if preliminary relief is not granted; and a preliminary injunction will further the public interest.

11. Preliminary relief is urgently needed. While Local Law 87 became effective on November 16, 2021, most City contracts in the human services field take effect on the first day of the City's Fiscal Year, July 1. As per the City's FAQ Answers, the City is waiving any claim that Local Law 87 applies to services provided by human services providers before the effective date of the statute, November 16, 2021. The City and the human services providers, however, are now starting to prepare contracts that will take effect on July 1, 2022. Since HSC and its members face irreparable harm if the statute is not enjoined, preliminary relief should be granted.

12. HSC has neither sought nor received the relief requested herein before this or any other court.

13. HSC has unsuccessfully asked the City to consent to the relief sought herein. While HSC has asked the City to voluntarily stay its implementation of Local Law 87, the City has refused to do so. I accordingly informed Rachel Kane, counsel to the City, that HSC would be filing a motion for a preliminary injunction.

I state under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
February 18, 2022



Claude M. Millman

Exhibit 1
to Claude Millman
Declaration

3. Local Law 87 places New York’s communities at great risk. It allows union leaders to decide which social service organizations will receive the government funds they need to help those in crisis, and it places the power to cut off critical services into the hands of union officials, beyond the control of the City officials elected to make those decisions.

4. HSC is pro-worker; it is not anti-union. HSC has a long history of advocating for fair pay for the human services workers who serve at the front lines around the City. Most recently, HSC launched its “Just Pay” campaign which seeks to persuade the City to implement a \$21 floor for human services workers, with fully-funded and enforced cost of living increases. For years, HSC has pressed for fully-funded, living wages for the workers employed by its members; it is the City that has failed to provide the funds to ensure that those workers can be compensated. HSC’s opposition to Local Law 87 is in furtherance of its advocacy for human services workers: Local Law 87 places human service workers, and their clients, at risk, and it does nothing to promote their working conditions.

5. Local Law 87 became effective on November 16, 2021, and only applies to City contracts involving human services. It regulates organizations such as HSC’s members, *i.e.*, not-for-profit organizations that provide residents of New York City (“New Yorkers”) with access to childcare, elder care, housing and shelter assistance, food pantries, mental health counseling, and disaster relief.

6. While the Defendant, the City of New York, may claim that the Statute was designed to ensure the uninterrupted flow of human services by human services contractors with the City, the language of Local Law 87 belies that. The words of Local Law 87, and its history, make clear that service continuity is not its goal, and will not be its end. Local Law 87 gives unions unwonted and almost complete power over whether City contracts for human services

have been breached.

7. It is clear that Local Law 87 was designed to shift power to union leaders. Indeed, the labor union, District Council, 37 has said that it was “deeply involved” in “drafting” the Statute. *See* District Council 37 Press Release, dated August 18, 2021, at <
https://www.dc37.net/news/newsreleases/2021/nr8_18>.

8. City officials at the center of the enactment of Local Law 87 confirmed this. De Blasio said that he signed Local Law to make New York City “a union town.” *Id.*

9. Most importantly, the words of Local Law 87 itself demonstrate that it was designed to shift powers to union leaders relative to the City (and employers). The Statute grants de facto veto power to union leaders over City contracts, by requiring human services contractors with City agencies (sometimes “the City” or “government”) to obtain signatures from unions on attestations that the Statute now requires as a condition of doing business with the City. Local Law 87 also has spillover effects on labor that may arise out of a contractors’ *non-City* contracts. It is unlawful and should be enjoined.

10. Most egregiously, Local Law 87 also interferes with workers’ rights, guaranteed in Article 7 of the NLRA, to engage in “concerted activities for the purpose of collective bargaining or other mutual aid or protection,” which includes the right to strike. Local Law 87 punishes contractors and subcontractors that do not secure labor agreements that require workers “to refrain from actions intended to or having the effect of interrupting” services. Local Law 87/NYC Administrative Code 6-145(a) (subpart 1. of definition of “Labor Peace Agreement”). Local Law 87’s directive thus implicates, and interferes with, the workers’ NLRA-protected right to engage in “concerted activities.” Under the Statute, workers do not need to be consulted before a union leader can negotiate away their rights in a labor peace

agreement.

THE PARTIES

11. Plaintiff HSC is a non-profit business association organized and existing under the laws of the State of New York and having its principal place of business at 130 East 59th Street, New York, New York. HSC includes 170 employer members who employ hundreds of thousands of employees in the New York City area. HSC exists to assist its member employers in their labor relations (along with other issues) through informational meetings, community and public relations, political action, and advocacy. 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. This assistance and protection is directly germane to the purpose of HSC.

12. HSC's member employers include contractors who provide care or treatment services under contracts with New York City. HSC members constitute a diverse network of human services organizations. HSC members' workforce includes more than 200,000 employees 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. They train their employees and help keep workers in good jobs. They 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 contract for a significant part of the approximately \$6 billion in City human services contracts, and 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.

13. 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](#)>.

14. Defendant City of New York is a municipality with offices in New York, New York 10007. The City is a citizen of New York within the meaning of 28 U.S.C. § 1332.

JURISDICTION AND VENUE

15. This action for declaratory and injunctive relief arises under the Declaratory Judgment Act, 28 U.S.C. Sections 2201 et seq., the National Labor Relations Act (“NLRA”), 29 U.S.C. § 151 et seq., and the First and Fourteenth Amendments of the United States Constitution. This Court has original jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343 because HSC’s First and Second Claims for Relief allege violations of 42 U.S.C. § 1983. More specifically, HSC’s First Claim for Relief alleges that Local Law 87 violates the First and Fourteenth Amendments of the United States Constitution. HSC’s Second Claim for Relief alleges that Local Law 87 violates Article VI, Paragraph 2 of the United States Constitution (the “Supremacy Clause”) because the Statute is preempted by the NLRA.

16. This Court also has supplemental jurisdiction over state law claims under 28 U.S.C. § 1346.

17. This Court is a proper venue for this action because, among other things, the Defendant resides in the State in which this district is located, and thus venue is proper under 28 U.S.C. § 1391(a)(2).

BACKGROUND

A. The City Contracts with Not-for-Profit Organizations for Human Services

18. Nonprofit human services providers (sometimes “nonprofits”) have long been a backbone of both the economic and social fabric of New York City, combining government resources with private giving and philanthropy to deliver services to over 2.5 million New Yorkers each year. These providers are both essential partners to City government—

contracted to provide mandated services like homeless shelter, in addition to key programs like childcare, afterschool programs, food pantries, and mental health services—and also independent organizations that can and do react quickly to changing needs in their communities and engage in rapid response to ensure children and families have their needs met.

19. New York City contracts with human services organizations for approximately \$6 billion in services each year, and many of the organizations they contract with have operating budgets that are funded predominately through government contracts. Because of this, the City plays a comprehensive 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 they set *higher* salaries, even if this is within the limits of the provider’s budget or funded with private dollars.

20. 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.

21. 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.

22. 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 1199SEIU. 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 a larger 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.

B. Union Leaders Drafted Local Law 87 to Control the Human Services Contracts

23. On or about March 9, 2021, New York City Council Speaker Corey Johnson announced his candidacy for Comptroller of the City of New York. Johnson sought the

endorsement of District Council 37, New York City’s largest public employee union, in connection with his candidacy, and he obtained that endorsement on or about March 25, 2021.

24. On April 22, 2021, Johnson introduced bill “Int 2252-2021,” which ultimately became Local Law 87. District Council 37 was “deeply involved in drafting” the legislation. *See* District Council 37 Press Release, dated August 18, 2021, at <https://www.dc37.net/news/newsreleases/2021/nr8_18> (“District Council 37 Press Release”).

25. 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.” The Statute became effective on November 16, 2021.

26. Johnson, the main sponsor of Local Law 87, did not identify any historic work stoppages that needed to be avoided in the future, and did not suggest that the law would somehow promote a continuity of services for New York’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.” Similarly, de Blasio, who signed Local Law 87, said that it would ensure that New York City is “a union town.” *Id.*

C. Local Law 87’s Union Leader Signature Requirements

27. Local Law 87 inserts union leaders into the City government contracting procurement process by requiring 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.

28. The Statute contains a set of definitions of some of the terms used in its operative provisions. As relevant here, Local 87 defines a “City service contract” as 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 renders human services in the performance of a city service contract[.]” It 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, homes 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.” Local Law 87/NYC Administrative Code 6-145(a).

29. Under Local 87, if a labor organization has “sought to represent” its “covered employees,” the City contractor or 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.

30. 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/NYC Administrative Code 6-145(b)(1) (emphases added).

31. The 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 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.

Local Law 87/NYC Administrative Code 6-145(b)(2) (emphases added).

32. Under Local Law 87, if a not-for-profit organization 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/NYC Administrative Code 6-145(e)(2)(a).

33. The Statute provides that the Mayor or his designee “shall promulgate implementing rules and regulations, as appropriate and consistent with the section[.]” Local Law 87/NYC Administrative Code 6-145(d)(2). No rules or regulations have been promulgated.

D. Local Law 87 Cedes City Power Over its Social Services to Union Leaders

34. While Johnson and de Blasio characterized Local Law 87 as promoting neutrality and labor peace, it actually puts New Yorkers at risk, subjecting them to disruption in the social services that they depend upon. In part, this is due to the Statute’s requirement that not-for-profit human service providers secure union leaders’ signatures on attestations in order to maintain their contracts with the City.

35. Under Section (b)(1) of the Statute, within 90 days after the award or renewal

of a contract with the City relating to human services, the contractor or subcontractor must submit to the City an attestation *signed by a labor union*, stating that the contractor or subcontractor has entered into a so-called “labor peace agreement” with that union or that negotiations have not concluded. The Statute says that, if the contractor does not submit the attestation with the union leader’s signature, the contractor is in material breach of the employer’s contract with the City, which can lead to termination of the contract. Local Law 87/NYC Administrative Code 6-145(e)(2)(a). The only circumstance under which a contractor or subcontractor can proceed without a union leader’s signature is if the contractor can attest that no union has sought to represent its employees.

36. Under Section (b)(2) of the Statute, after a City contract has been in force for at least 90 days, at any point thereafter during the life of the contract, any union can approach a contractor or subcontractor and state that it wishes to represent covered employees of that contractor or subcontractor. The contractor or subcontractor must then submit to the City agency an attestation *signed by the labor union* regarding that it has entered into an agreement with that union or that negotiations have not yet concluded, i.e. that negotiations are underway. If the contractor or subcontractor fails to submit the attestation within 90 days of being approached by a union, then the contractor is in material breach of their contract with the City. Local Law 87/NYC Administrative Code 6-145(e)(2)(a).

37. The Statute’s requirement that contractors obtain signatures from union leaders on attestations that are now a condition of doing business with the City gives union leaders effective veto power over City contracts. Under the Statute, a union leader can unilaterally decide to withhold its signature on an attestation without having to give any reason and without any consequence to the union. 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 its signature on an attestation if the union leader simply does not like the contractor that was given the City contract;
- Relatedly, a union leader could withhold its signature on an attestation sought by one contractor in order to induce the City to shift work to another contractor that the union leader favors;
- A union leader could also threaten to withhold its signature on an attestation regarding covered employees as a way to force an employer to allow the union to begin unionizing those parts of the employer's workforce that do not work on City contracts; and
- A union leader could deploy its signature power to block providers from performing a type of human services work that the union leader maintains should not be privatized, but should instead be handled by City employees.

38. In addition to misusing the Statute's "union signature" requirement, the union leader could instigate, or threaten to trigger a City investigation of a contractor or subcontractor, by invoking the Statute's enforcement provisions.

39. The Statute's requirement that an employer obtain a union-signed attestation can also place a not-for-profit organization in impossible situations. For example:

- A union leader may never respond to a contractor's request for the union to enter into a so-called "labor peace agreement," making it impossible for the contractor to comply with the attestation requirement.
- A contractor's covered employees may vote against joining the union, again making it impossible for the contractor to comply with the attestation

requirement, and 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 contractor's knowledge, and the employees may not inform their employer about a contact from the union, causing a contractor to unwittingly be in violation of the attestation requirement.
- A contractor's covered employees, while represented by one union, may be approached by another, competing union. Unless the employees vote to join the new union, it would be impossible for the contractor to attest that negotiations "have not yet concluded," since negotiations will never begin with that second competing union.

Under the Statute, the employer's failure to obtain a union-signed attestation in each of these circumstances is considered a material breach of their contract with the City. Local Law 87/NYC Administrative Code 6-145(e)(2)(a).

40. As the above examples illustrate, Labor Law 87's union-signature requirement gives union leaders the power to unilaterally place contractors in breach of their contracts with the City. No business or governmental entity, interested in continuity of services being purchased in the market, would provide union leaders with that kind of power, *i.e.*, the power to disrupt City-contracted services.

E. Local Law 87 Undermines Workers' Rights to Strike

41. Local Law 87 also interferes with workers' rights, guaranteed in Article 7 of the NLRA, to engage in "concerted activities for the purpose of collective bargaining or other mutual aid or protection," which includes the right to strike. Local Law 87 punishes contractors

and subcontractors that do not secure labor agreements that require workers “to refrain from actions intended to or having the effect of interrupting” services. Local Law 87/NYC Administrative Code 6-145(a) (subpart 1. of definition of “Labor Peace Agreement”). Local Law 87’s directive thus implicates, and interferes with, the workers’ NLRA-protected right to engage in “concerted activities.”

F. Local Law 87’s Regulatory Impact Spills Over Into Non-City Work

42. 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.

43. 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.

G. Local Law 87 Impairs Existing Contract Rights

44. While it would be bad enough if Local Law 87 were purely prospective, it also has retroactive effects. First, since the City rarely processes its human services contracts on time, virtually all of those contracts, when finalized by the City, are retroactive, meaning that they are registered by the City Comptroller after the contract start date. City contracts are sometimes registered months, or even years, after their start dates. As a result, a purportedly-prospective Local Law 87 will be retroactive, in effect. Second, since Local Law 87, by its terms, reaches “renewals” of pre-existing contracts, it is retroactive. Generally, the renewal of a City contract is one-sided; the City can renew a contract, and a provider must accept the renewal. Local Law 87 unlawfully inserts new terms into contracts through their renewal. Finally, the City has claimed that Local Law 87 will affect contractors identified in the City budget as a recipient of “discretionary funding.” The City has said that, if, due to the City’s delays in registering such a contract, it is not registered until after Local Law 87’s effective date, then the discretionary funding, earmarked for a contractor before Local Law 87 was even introduced, would be subject to Local Law 87.

H. Recent Implementation of Local Law 87

45. The requirements of Local Law 87 became effective on November 16, 2021. While the statute provides for the Mayor to promulgate rules through the City Administrative Procedure Act, or CAPA, the Mayor has not issued such rules. Instead, the Mayor has demanded that covered contractors enter into covered contracts without knowing if or when any rules may be promulgated, including rules that may apply to any union agreement for covered employees. Local Law 87/NYC Administrative Code 6-145(a) (defining “labor peace agreement”).

46. Local Law 87’s requirements have been incorporated by reference into the

City's most recent contract offers. Many of HSC's members and other covered contractors have refused to sign the City's contract offers requiring their compliance with the Statute on the grounds that the Statute is unconstitutional and preempted by federal law. Contractors continue to insist that any union organizing take place in accordance with the NLRA, under the exclusive jurisdiction of the National Labor Relations Board ("NLRB").

CLAIMS FOR RELIEF

FIRST CLAIM

47. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 to 46.

48. Local Law 87 violates the freedom of speech and freedom of association guarantees bestowed by the First Amendment to the United States Constitution, as applied to the states (and their subdivisions) through the Fourteenth Amendment, in ways that include, but are not limited to: (1) imposing a prior restraint and content-based restrictions on speech; (2) chilling and restricting otherwise protected speech regarding unions and unionization; (3) compelling speech, association with speech, or promotion of speech; (4) requiring City contractors to relinquish their free speech and association rights as a condition of entering into City service contracts; (5) exacting a penalty for the exercise of constitutional rights; and (6) placing economic and administrative burdens on those who exercise constitutional rights.

49. Local Law 87 violates the Due Process Clause guarantees of the Fourteenth Amendment to the United States Constitution by depriving certain City contractors of their private property rights without due process. Among other things, the Statute is void for vagueness, was enacted without a lawful public hearing process, and is being implemented without the promulgation of rules contemplated in the Statute.

50. Local Law 87 violates the Equal Protection Clause guarantees of the

Fourteenth Amendment to the United States Constitution in ways that include, but are not limited to: (1) imposing content-based restrictions on speech; (2) creating two different standards of speech, in order to promote speech favoring unions, and in order to limit speech in opposition to unions or unionization; (3) favoring contractors who are willing to give up their rights under the NLRA over those who are not; and (4) requiring City contractors that provide human services to give up statutory and constitutional rights as a condition of entering into City service contracts, while allowing other City contractors to retain and exercise those rights.

51. By virtue of the foregoing, HSC is entitled to the relief requested herein.

SECOND CLAIM

52. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 to 51.

53. The Supremacy Clause of Article VI of the United States Constitution gives Congress the authority to enact federal legislation preempting state and local laws. In passing the NLRA, Congress has struck a delicate balance between the rights of private employers, employees, and unions involved in efforts to organize employees. Congress also established a comprehensive regulatory scheme to ensure that this balance is maintained and enforced under the exclusive jurisdiction of an expert agency— the NLRB.

54. Local Law 87 impermissibly conflicts with, regulates, and readjusts the delicate balance of rights Congress struck in the NLRA. It strips employers of rights they have under the NLRA, and deprives the NLRB of its exclusive jurisdiction to determine whether, when, and how union organizing will take place. Local Law 87 also gives certain powers to unions that they do not possess under the NLRA. Local Law 87 also conflicts with the NLRA because it requires contracting employers to agree to with unions and union members that they *all* will not engage in “concerted activities for the purpose of collective bargaining or other

mutual aid or protection” that are protected under the NLRA, thereby essentially requiring employers to interfere with labor actions and thereby violate the NLRA. Local Law 87 is, therefore, preempted by the NLRA by virtue of the Supremacy Clause of the United States Constitution.

55. By virtue of the foregoing, HSC is entitled to the relief requested herein.

THIRD CLAIM

56. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 to 55.

57. The Contracts Clause of Article I, § 10 of the United States Constitution prohibits any State, city or municipality from passing any law impairing the obligation of contracts. The Contracts Clause applies to Defendant City and prohibits it from enacting laws that substantially impair Plaintiff’s members’ existing, lawful contracts. Contracts Clause violations are actionable under 42 U.S.C. § 1983.

58. Local Law 87 substantially impairs the contracts of HSC members to provide human services to the City. The law permits a non-party to the contract, a union, to render a contractor in material breach of the contract if the union withholds a signed attestation that is now required under this law. The attestation requirement can render a contractor in material breach of the contract, and jeopardize its ability to obtain payment for services it has provided, notwithstanding the contractor’s actual performance under the contract. The City cannot show that Local Law 87 is both reasonable and necessary to the City’s purported goal of ensuring the uninterrupted flow of services by contractors providing human services to the City.

59. In applying Local law 87 to Plaintiff’s members, the City has acted under color of statute, ordinance, regulation and policy of the municipality. The City’s conduct has deprived Plaintiff’s members of the rights, privileges, and immunities secured by the United

States Constitution and laws of the United States to which Plaintiff's members are legitimately entitled.

60. By virtue of the foregoing, HSC is entitled to the relief requested herein.

FOURTH CLAIM

61. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 to 60.

62. The Takings Clause of the Fifth Amendment to the United States Constitution prohibits the taking of private property for public use, without just compensation. The Takings Clause is applicable to States, cities and municipalities through the Fourteenth Amendment to the United States Constitution. The Takings Clause applies to services rendered for compensation. Takings Clause violations are actionable under 42 U.S.C. § 1983.

63. Local Law 87 violates the Takings Clause by creating a mechanism for the City to retain services provided by HSC members to the City without paying for those services. Local Law 87 permits a non-party to the contract, a union, to render a contractor in material breach of the contract if the union withholds a signed attestation that is now required under this law. The attestation requirement can render a contractor in material breach of the contract notwithstanding the contractor's actual performance under the contract, and can be used by the City as justification for not paying the contractor for services it has provided.

64. In applying Local law 87 to Plaintiff's members, the City has acted under color of statute, ordinance, regulation and policy of the municipality. The City's conduct has deprived Plaintiff's members of the rights, privileges, and immunities secured by the United States Constitution and laws of the United States to which Plaintiff's members are legitimately entitled.

65. By virtue of the foregoing, HSC is entitled to the relief requested herein.

FIFTH CLAIM

66. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 to 65.

67. While the Statute is void under federal law, Plaintiff also invokes New York State and City law with respect to the infirmities, described above, which also render Local Law 87 unlawful.

WHEREFORE, HSC requests that the Court: (1) declare that Local Law 87 is preempted by the NLRA, unconstitutional under the Contracts Clause of Article I, § 10 of the United States Constitution and the First, Fifth and Fourteenth Amendments thereof, and unlawful under New York State and City law; (2) preliminarily enjoin Defendant, all of its subdivisions, and all other persons and entities from enforcing Local Law 87; (3) permanently enjoin Defendant, all of its subdivisions, and all other persons and entities from enforcing Local Law 87; (4) award HSC its attorney fees pursuant to 42 U.S.C. § 1988; and (5) grant such further relief as may be just and proper under the circumstances.

Dated: New York, New York
December 29, 2021

KOSTELANETZ & FINK, LLP



By: _____

Claude M. Millman
Caroline Rule
Usman Mohammad
Michelle E. Lee (admission pending)

Seven World Trade Center, 34 Floor
New York, NY 10007
212-808-8100
cmillman@kflaw.com
Attorneys for Plaintiff

Exhibit 2
to Claude Millman
Declaration

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X		:
		:
HUMAN SERVICES COUNCIL OF NEW YORK,		:
		:
	Plaintiff,	:
		:
-against-		:
		:
The CITY OF NEW YORK,		:
		:
	Defendant.	:
		:
		:
-----X		:

ANSWER
No. 21-CV-11149 (PGG)

Defendant, the City of New York (the “City”) by its undersigned attorney, GEORGIA M. PESTANA, Corporation Counsel of the City of New York, answers the Complaint of Plaintiff Human Services Council of New York (“HSC” or “Plaintiff”), dated December 29, 2021 (the “Complaint”), as follows:

1. Denies the allegations set forth in Paragraph “1” of the Complaint, except admits that this lawsuit challenges New York City Local Law 87 of 2021 (the “Local Law”), and states that the Local Law was signed into law by then-Mayor Bill de Blasio on or about August 18, 2021 after being passed by the New York City Council on July 29, 2021.
2. Denies the allegations set forth in Paragraph “2” of the Complaint, except respectfully refers the Court to the Complaint for a description of the relief sought therein.
3. Denies the allegations set forth in Paragraph “3” of the Complaint.
4. Denies the allegations set forth in Paragraph “4” of the Complaint, except denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning Plaintiff HSC’s views, advocacy and campaigns, and its reasons for opposing the Local Law.

5. Denies the allegations set forth in Paragraph “5” of the Complaint, except admits that Local Law 87 became effective on November 16, 2021, and that it only applies to City contracts involving human services.

6. Denies the allegations set forth in Paragraph “6” of the Complaint.

7. Denies the allegations set forth in Paragraph “7” of the Complaint, except respectfully refers the Court to the press release referenced for its complete contents.

8. Denies the allegations set forth in Paragraph “8” of the Complaint, except respectfully refers the Court to the press release referenced for its complete contents.

9. Denies the allegations set forth in Paragraph “9” of the Complaint.

10. Denies the allegations set forth in Paragraph “10” of the Complaint.

11. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “11” of the Complaint.

12. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “12” of the Complaint.

13. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “13” of the Complaint, except respectfully refers the Court to the documents referenced for their complete contents.

14. Admits the allegations set forth in Paragraph “14” of the Complaint.

15. Denies the allegations set forth in Paragraph “15” of the Complaint, except respectfully refers the Court to the referenced statutes for their complete contents.

16. Denies the allegations set forth in Paragraph “16” of the Complaint, except respectfully refers the Court to 28 U.S.C. § 1346 for its complete contents.

17. Denies the allegations set forth in Paragraph “17” of the Complaint, except respectfully refers the Court to 28 U.S.C. § 1391(a)(2) for its complete contents.

18. Admits, upon information and belief, the allegations set forth in Paragraph “18” of the Complaint, except denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning the number of individuals served by nonprofit human services providers each year and the ability of such providers to react quickly to changing needs in their communities and engage in rapid response to ensure children and families have their needs met.

19. Denies the allegations set forth in Paragraph “19” of the Complaint, except admits that the City contracts with human services providers for approximately \$6 billion in services each year, that City procurements sometimes prescribe service rates and/or salaries and that with respect to some procurements, contractors’ budgets are subject to City approval, and denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning non-City funding sources for City contractors.

20. Denies the allegations set forth in Paragraph “20” of the Complaint, except denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning financial and cash flow status of the referenced non-profits or the referenced survey of HSC’s members.

21. Denies the allegations set forth in Paragraph “21” of the Complaint.

22. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “22” of the Complaint.

23. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “23” of the Complaint.

24. Denies the allegations set forth in Paragraph “24” of the Complaint, except admits that a version of Int. 2252-2021, which (after amendment) became Local Law 87 of 2021, was introduced by then-Speaker of the City Council Corey Johnson on April 22, 2021, and respectfully refers the Court to the press release referenced for its complete contents.

25. Admits the allegations set forth in Paragraph “25” of the Complaint.

26. Denies the allegations set forth in Paragraph “26” of the Complaint, except respectfully refers the Court to the quoted press release for its complete contents.

27. Denies the allegations set forth in Paragraph “27” of the Complaint.

28. Denies the allegations set forth in Paragraph “28” of the Complaint, except admits that the Local Law contains definitions and respectfully refers the Court to the Local Law for its complete contents.

29. Denies the allegations set forth in Paragraph “29” of the Complaint, except respectfully refers the Court to the Local Law for its complete contents.

30. Denies the allegations set forth in Paragraph “30” of the Complaint, except respectfully refers the Court to the Local Law for its complete contents.

31. Denies the allegations set forth in Paragraph “31” of the Complaint, except respectfully refers the Court to the Local Law for its complete contents.

32. Denies the allegations set forth in Paragraph “32” of the Complaint, except respectfully refers the Court to the Local Law for its complete contents.

33. Denies the allegations set forth in Paragraph “33” of the Complaint, except admits that the City has not promulgated rules of regulations concerning Local Law 87, and respectfully refers the Court to the Local Law for its complete contents.

34. Denies the allegations set forth in Paragraph “34” of the Complaint.

35. Denies the allegations set forth in Paragraph “35” of the Complaint, except respectfully refers the Court to the Local Law for its complete contents.

36. Denies the allegations set forth in Paragraph “36” of the Complaint, except respectfully refers the Court to the Local Law for its complete contents.

37. Denies the allegations set forth in Paragraph “37” of the Complaint.

38. Denies the allegations set forth in Paragraph “38” of the Complaint.

39. Denies the allegations set forth in Paragraph “39” of the Complaint.

40. Denies the allegations set forth in Paragraph “40” of the Complaint.

41. Denies the allegations set forth in Paragraph “41” of the Complaint.

42. Denies the allegations set forth in Paragraph “42” of the Complaint, except denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning the composition of HSC’s membership and the work conducted by the employees of HSC member organizations.

43. Denies the allegations set forth in Paragraph “43” of the Complaint, except denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning the composition of HSC’s membership or the services performed by its member organizations.

44. Denies the allegations set forth in Paragraph “44” of the Complaint, except admits that human services contracts are sometimes registered with the City Comptroller after the contract start date.

45. Denies the allegations set forth in Paragraph “45” of the Complaint, except admits that the City has not promulgated rules concerning Local Law 87.

46. Denies the allegations set forth in Paragraph “46” of the Complaint; except admits that the City has included a Rider entitled “Rider To City Service Contracts Pursuant To NYC

Admin. Code § 6-145 Labor Peace Agreements For Human Services Contracts,” in covered human services procurements issued after the Law took effect and respectfully refers the Court to the Rider for its contents; and denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning some contractors’ refusal to sign contracts that incorporate the Rider, the grounds for any such refusal, and whether any contractors refusing to sign such contracts are members of HSC.

47. In response to the allegations set forth in Paragraph “47” of the Complaint, repeats and realleges its responses to the allegations set forth in Paragraphs “1” through “46” with the same force and effect as if fully set forth herein.

48. Denies the allegations set forth in Paragraph “48” of the Complaint.

49. Denies the allegations set forth in Paragraph “49” of the Complaint.

50. Denies the allegations set forth in Paragraph “50” of the Complaint.

51. Denies the allegations set forth in Paragraph “51” of the Complaint.

52. In response to the allegations set forth in Paragraph “52” of the Complaint, repeats and realleges its responses to the allegations set forth in Paragraphs “1” through “51” with the same force and effect as if fully set forth herein.

53. Denies the allegations set forth in Paragraph “53” of the Complaint, except respectfully refers the Court to the United States Constitution and the National Labor Relations Act for their complete contents.

54. Denies the allegations set forth in Paragraph “54” of the Complaint.

55. Denies the allegations set forth in Paragraph “55” of the Complaint.

56. In response to the allegations set forth in Paragraph “56” of the Complaint, repeats and realleges its responses to the allegations set forth in Paragraphs “1” through “55” with the same force and effect as if fully set forth herein.

57. Denies the allegations set forth in Paragraph “57” of the Complaint, except respectfully refers the Court to the United States Constitution and 42 U.S.C. § 1983 for their complete contents.

58. Denies the allegations set forth in Paragraph “58” of the Complaint.

59. Denies the allegations set forth in Paragraph “59” of the Complaint.

60. Denies the allegations set forth in Paragraph “60” of the Complaint.

61. In response to the allegations set forth in Paragraph “61” of the Complaint, repeats and realleges its responses to the allegations set forth in Paragraphs “1” through “60” with the same force and effect as if fully set forth herein.

62. Denies the allegations set forth in Paragraph “62” of the Complaint, except respectfully refers the Court to the United States Constitution and 42 U.S.C. § 1983 for their complete contents.

63. Denies the allegations set forth in Paragraph “63” of the Complaint.

64. Denies the allegations set forth in Paragraph “64” of the Complaint.

65. Denies the allegations set forth in Paragraph “65” of the Complaint.

66. In response to the allegations set forth in Paragraph “66” of the Complaint, repeats and realleges its responses to the allegations set forth in Paragraphs “1” through “65” with the same force and effect as if fully set forth herein.

67. Denies the allegations set forth in Paragraph “67” of the Complaint.

AS AND FOR A FIRST DEFENSE

68. The Complaint fails to state a cause of action upon which relief may be granted.

AS AND FOR A SECOND DEFENSE

69. This Court lacks subject-matter jurisdiction on the ground that the causes of action asserted are not ripe for review by the Court.

AS AND FOR A THIRD DEFENSE

70. The Court lacks subject-matter jurisdiction on the ground that Plaintiff lacks standing to maintain this action against Defendant.

AS AND FOR A FOURTH DEFENSE

71. The City has not violated any rights, privileges or immunities secured to Plaintiff by the Constitution and laws of the United States.

AS AND FOR A FIFTH DEFENSE

72. The City has not violated any rights, privileges or immunities secured to Plaintiff by the Constitution and laws of the State of New York or the City Charter and laws of the City of New York.

AS AND FOR A SIXTH DEFENSE

73. The Local Law (a) was enacted pursuant to the City of New York's police power to protect the public welfare, and (b) is constitutional, valid, and enforceable in all respects.

AS AND FOR A SEVENTH DEFENSE

74. At all times relevant to the acts alleged in the Complaint, the City's conduct was reasonable, proper, lawful, constitutional, and made in good faith, without malice, and/or without willful intent to violate any applicable law, rule, or regulation.

AS AND FOR AN EIGHTH DEFENSE

75. This Court should decline supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. 1367(c).

WHEREFORE, Defendant City of New York demands judgment against Plaintiff dismissing the Complaint, and awarding such other and further relief as this Court deems just and proper.

Dated: February 11, 2022
New York, New York

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York
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/s Rachel B. Kane
Rachel B. Kane
Michael S. Adler
Assistant Corporation Counsel

Exhibit 3
to Claude Millman
Declaration



THE CITY OF NEW YORK

Local Law 87 of 2021 FAQs Regarding Effective Date February 4, 2022

The City of New York issues this document to provide answers to frequently asked questions (FAQs) related to the effective date of Local Law 87 of 2021 and what contracts and renewals are subject to Local Law 87. The City will also be issuing at a later date a separate document containing FAQs regarding the City's contract terms implementing the local law. These contract terms are contained in the "LPA Rider."

1. What prime contracts do the requirements of Local Law 87 apply to?

The requirements of Local Law 87 apply to "City Service Contracts," which are non-emergency human services contracts (including discretionary awards) or renewals over \$100,000 that are signed by both parties on or after November 16, 2021; for which the contractor was not notified in writing of their selection for the award of such contract or renewal prior to November 16, 2021; and for which services did not begin (under either the award or renewal, as described in question three) prior to November 16, 2021. Contract amendments do not trigger the applicability of Local Law 87. Local Law 87 applies only to prime contract awards and renewals that meet the criteria above; however, with respect to contracts and renewals that are subject to the criteria above, any such services performed pursuant to contract amendment to such a contract will be subject to Local Law 87.

2. Does Local Law 87 apply to contracts for which the contractor was formally notified in writing prior to November 16, 2021 that they would receive a contract award?

No. Local Law 87 does not apply to a contract for which a contractor has been notified in writing prior to November 16, 2021 that such contractor will be receiving a contract. For example, contractors identified prior to November 16, 2021 in Schedule C to the New York City Annual Expense Budget to receive discretionary fund contracts are not subject to Local Law 87.

3. Does Local Law 87 apply to contracts for which services began prior to November 16, 2021, the effective date of Local Law 87?

No. Local Law 87 does not apply to contracts for which performance of the services under the contract began prior to November 16, 2021 or, in the case of a contract renewal, performance of the services covered by the renewal term began prior to November 16, 2021.

4. If my base contract was signed prior to November 16, 2021, the effective date of Local Law 87, and a renewal term scheduled to begin on or after November 16, 2021 is authorized under such contract, will my contract be renewed if I do not agree to include the terms of the LPA Rider in the renewal contract?

No. Even though the LPA Rider was not included in the base contract, the City may not proceed with the renewal unless the LPA Rider is included in the contract renewal.

5. If a contractor has signed a contract or contract renewal that contains an LPA Rider but Local Law 87 does not apply to the contract or contract renewal for one of the reasons discussed in the above FAQs (1-3), does the LPA Rider apply to the contract or contract renewal?

No. Under those circumstances, the City waives the terms set forth in the LPA Rider and such terms are deemed to be not a term or condition of the contract or contract renewal. Under such circumstances, the contractor is not required to take any further action pursuant to the terms of the LPA Rider. If the contractor believes that the LPA Rider has been included in its contract or renewal and that such contract or renewal should not be subject to the LPA Rider pursuant to the terms of these FAQs, and the contractor has not received notification from the City indicating that such terms have been waived, the contractor should request confirmation from the Agency whether the LPA Rider applies or has been waived.

Exhibit 4
to Claude Millman
Declaration



(/)



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NYC Mayor Eric Adams and Comptroller Brad Lander Release Five Key Actions for A Better Contract For New York

February 14, 2022



Photo by: Office of New York City Comptroller

The Joint Mayoral and Comptroller task force presented recommendations to improve contracting and get nonprofit service providers paid on time

NEW YORK, NY – New York City Comptroller Brad Lander and senior members of the New York City Mayor’s Office stood together to release the findings of “[A Better Contract for New York: A Joint Task Force to Get Nonprofits Paid On Time.](#)”

(<https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fcomptroller.nyc.gov%2Freports%2Fa-better-contract-for-new-york&data=04%7C01%7Cjsuarez%40comptroller.nyc.gov%7C6ee414de838b412bd43b08d9efc43433%7C5dab1e21cf464df29dc0f1510adf88d9%7C0%7C0%7C637804448235729315%7CUnknown%7CTWFpbGZsb3d8eyJWljoIMC4wLjAwMDAiLCJQIjoiV2luMzliLjBTiil6lk1haWwiiLCJXVCi6Mn0%3D%7C3000&sdata=0jKAXnSHclIWhOuGIYKI%2FugyvtvuDx13ALu1OZTr%2Fjg%3D&reserved=0>)

Both offices announced five actionable steps to better manage and streamline the nonprofit contracting and procurement process while increasing accountability and transparency. The recommendations were the result of a joint task force first convened during the transition period to jump start



resolving long-standing issues in city government that impact the

delivery of services to New Yorkers.

“For too long, the City has relied on nonprofits to deliver essential services without holding up its end of the bargain,” said **Mayor Eric Adams**. “The failure to pay our nonprofits in a timely manner has not only hurt our nonprofit sector, which is predominantly made up of Black and Brown workers, but also the New Yorkers who rely on their services. The findings from this task force will guide needed reforms to our contracting and procurement rules, improving transparency and accountability throughout all stages of the process. I thank Comptroller Lander for his partnership, the members of this task force, and the human services providers who perform life-saving work for New Yorkers who need it most every day.”

“Our City’s nonprofit human service providers are lifelines for New Yorkers, providing essential services from feeding the elderly to mental health care, yet our City’s cumbersome contracting process has hindered many nonprofits’ abilities to deliver these critical services,” said **Comptroller Brad Lander**. “With input from dozens of organizations and agency stakeholders, Mayor Adams and I put our heads together to substantially improve the process for the organizations New Yorkers rely on. Our mission was to ensure timely payments to responsible contractors so that organizations can continue to serve New Yorkers, while maintaining appropriate oversight to prevent abuses. I look forward to working with Mayor Adams, his future appointment to the newly created Mayor’s Office of Nonprofits, and our city’s essential non-profit organizations to implement these overdue reforms.”

New York City contracts out many of its programs to nonprofits— from health and housing assistance, shelter operations to after school activities. Last year, the City procured \$12 billion in human services, totalling 40% of procured goods and services. The nonprofit sector is a substantial part of the City’s economy, employing over 500,000 people, an overwhelming majority of whom are women and people of color.

Unfortunately, many of these partners wait months, and up to more than a year, to get paid for services they provide to New Yorkers. In FY22, over three-quarters of the City’s contracts with nonprofit organizations arrived at the Comptroller’s office for registration after the start date. Delays and flaws in the process of registering and paying contractors have left many nonprofits in a lurch, taking out loans to continue their essential operations while they wait for reimbursement from the City.

“The overwhelming majority of human services nonprofit organizations serve in the best interest of the New Yorkers who rely on them, yet face too many challenges when doing business with the City. These organizations demonstrated endless commitment at the height of the pandemic when their workers showed up to make sure that residents were fed, housed, and had their most fundamental needs met when we were in crisis. Now we need to be there for them. These substantial reforms are grounded in shared accountability, greater transparency, and renewed leadership and management structures — which will ultimately get nonprofits paid on time for the services that build the City a stronger future,” said **Annie Levers, Assistant Comptroller for Policy**.

“Nonprofits provide numerous valuable services to the City of New York and its residents. Ensuring that they are paid on time and fairly is essential to getting resources in place that our city needs. As a



with partners across sectors to make actionable change and initiatives that benefit New Yorkers in need. It is important for us to advocate on behalf of our nonprofit partners so that we can continue to support them in their timely and effective delivery of services that our city and residents depend on," said **Amy Sananman, Senior Vice President and Chief Impact + Strategy Officer at United Way of New York City.**

"Our City's human services partners show up every day to deliver critical services to our communities, including our most vulnerable residents. Their unwavering commitment is essential to the vitality and health of our City taking on greater significance during the pandemic," said **Lisa Flores, Director of Mayor's Office of Contract Services.** "MOCS is proud to be leading procurement reforms established by the Task Force that recognize our important partnership and make it easier for nonprofit partners to do business with the City. A procurement system that is transparent, accountable and accessible is the cornerstone for realizing greater equity in New York City."

"Our city's non-profits provide essential human services to thousands of New Yorkers—from afterschool programs, violence interrupters, to housing the homeless, and their contracts should be paid on time through a transparent process. The Bureau of Contracts Administration welcomes these recommendations and we look forward to working with our agency partners to streamline the registration process for nonprofits while ensuring accountability and oversight. These recommendations will go a long way towards a system that not only greatly benefit the non-profits, but also all those who rely on their services day-in and day-out," said **Charlette Hamamgian, Deputy Comptroller for Contracts and Procurement.**

"Human services Nonprofits fill local needs and gaps with targeted services that the City is unable to carry out. It's unacceptable that these trusted community partners have seen their finances collapse as a result of delays and inefficiencies in the City's contracting process," said **Council Member and Contracts Committee Chair Julie Won.** "As Chair of the Contracts Committee, I look forward to partnering with the Mayor, Comptroller, and the Nonprofits to reform our city's slow and broken contracting process, starting by holding a hearing on the much-maligned PASSPort system this week. Until my last day in office, I will work to streamline outdated processes and inefficiencies across our city's procurement and contracting process."

"The city's procurement process is inequity hidden in plain sight. I've heard from nonprofits who are owed millions for essential services they have already rendered to the neediest New Yorkers. We need to make sure we can pay our contracted service providers on time not just because it's the right thing to do, but because people in New York City need us to. It's great and long overdue that we have a mayor, comptroller, partners in the council, and a community of respected nonprofit leaders all committed to getting this right. In this case, the cliché of government efficiency really means something: unless we live up to it and make sure nonprofits have their funds when they need them, working class New Yorkers are the ones last left on the hook," said **Council Member and Chair of the Finance Committee Justin Brannan.**

The primary recommendations for reforms included:



both hold city stakeholders accountable for timely procurement and contracting and increase transparency to nonprofit providers and the public, including creating Contract-stat- a public data dashboard similar to Compstat.

2. **Streamline and Modernize:** Reduce inefficiencies and delays in the procurement and contracting process with improved and expanded adoption of the PASSPort digital procurement system across agencies.
3. **Fairness and Equality:** Lower the burden incurred by smaller, primarily BIPOC-led nonprofits when contracting with the City, including increasing the Returnable Grant Fund and rewriting the standard human services contract to acknowledge cost escalations, like cost of living adjustments, that would increase the original cost of these vital services contracts without the need for amendments.
4. **Leadership and Management Practices:** Establish leadership and management practices at the highest levels of city government, including the new Mayor's Office of Nonprofits, with input from nonprofit organizations.
5. **Capacity Building:** Strengthen the capacity of nonprofit organization's administrative and contracting capabilities through training and technical assistance to support nonprofits

The Mayor and Comptroller are jointly responsible for procurement and contract administration, each playing a defined role to protect public funds and award contracts fairly. Both offices have committed to ensure nonprofit contractors are paid on time, in full, on a predictable schedule, while preserving appropriate oversight to prevent abuses – and requires continued coordination between Mayoral agencies and the Comptroller's Bureau of Contract Administration.

"It was an honor to serve with fellow nonprofit leaders as Mayor Eric Adams and Comptroller Brad Lander stood together to release the findings of 'A Better Contract for New York: A Joint Task Force to Get Nonprofits Paid On Time.' We were tasked with giving open and honest feedback on our experience with city procurement. What we came up with is what we have all been waiting for- needed change to make our contracting job easier to serve the very communities city funding is aimed to serve," said **Dr. Debbie Almontaser, CEO and Founder, Bridging Cultures Group Inc.**

"We at Community Capacity Development, salute Mayor Adams and Comptroller Lander for their leadership in reforming the city's procurement process on behalf of not-for-profit organizations delivering essential services to the city. Our organization's contract was just registered six months late, and we have yet to be paid despite providing life-saving programs for neighborhoods facing gun violence. As a frontline organization working with grassroots community groups to stem the tide of violence and promote human justice, this timely contracting reform will make the difference between life and death. With our collective-input and sustained effort, these recommendations are a harbinger of future progressive community-oriented policies targeting not-for-profit organizations serving marginalized communities in New York," said **K. Bain, Founder and CEO of Community Capacity Development and Co Founder of the NYC Crisis Management System.**

"It is my honor to represent the performing arts nonprofit community on this important task force. Our shared commitment to strengthening the nonprofit sector and elevating all of our collective work is an important priority. This action plan provides clear guidelines for movement forward as we begin to address essential



changes that must be made," said **Alejandra Quijute Quiñones, Executive Director, Dance/NYC.**

"We are proud to be part of this joint task force, which includes the Mayor's office and the Comptroller's office and introduces a new spirit of collaboration. This partnership builds on and enhances the work of the City Department for the Aging and its network of providers, which ultimately benefits all New Yorkers. Even in the darkest days of the pandemic, our network of providers never stopped serving older New Yorkers and delivering critical services. Providing our partners with a more efficient approach to contract registration and expedited reimbursement of invoices will help them better fulfill their mission and the goals of the City's Community Care Plan for older adults," said **Commissioner Lorraine Cortés-Vázquez, Department for the Aging.**

"The mission of the NYC Department of Youth and Community Development (DYCD) is to invest in a network of community-based organizations to operate a continuum of afterschool, community center, youth workforce, runaway and homeless youth, and anti-poverty programs that provide opportunities for New Yorkers and communities to flourish. Critical partners in achieving that mission are DYCD's network of nonprofit providers—they are essential community institutions and one of New York City's greatest assets. During the pandemic, we witnessed again the strength and commitment of the City's community-based organizations in serving New Yorkers. DYCD is dedicated to improving the contracting process, and we look forward to working with our Administration colleagues, Comptroller's Office, City Council, and the provider community in advancing the recommendations of the Action Memo," said **Anthony Ng, DYCD Acting Chief of Staff and Task Force member.**

"For too long, local government has disrespected and undervalued the efforts of New York City's nonprofits and their employees, the majority of whom are women and People of Color. This commitment by Mayor Adams and Comptroller Lander reflects an overdue and substantive shift in the way the City treats our essential work. It also gives us many reasons to be optimistic about the relationship between the non-profit and public sectors in New York City in the years ahead," said **Alan van Capelle, CEO and President, Educational Alliance.**

"Settlement houses, along with a constellation of nonprofits across the city, work tirelessly to deliver vital programs that children and families need to survive and thrive; food, shelter, education, employment, healthcare, and the arts – essential services that serve as a lifeline to countless New Yorkers and are the fabric of the safety net that is needed to help the city recover from COVID. As a provider with an extensive range of government contracts and partnerships, Henry Street Settlement understands how critically important it is that the procurement and payment process function efficiently and effectively in order for providers to be able to execute and deliver on their mission. We commend Mayor Adams, Comptroller Lander, and the task force for taking on such fundamentally important issues and for the commitment to implement policy and practice that will improve the human service sector's ability to benefit those we serve," said **David Garza, President and CEO, Henry Street Settlement.**

"Over 90% of Department of Homeless Services contracts are not registered until after their start date yet, the nonprofits upon which the City relies to uphold the right to shelter remain open, providing shelter, meals, and rehousing support to tens of thousands of New



workers every day. The scale of the problem is enormous, and the costs of these delays have pushed responsible nonprofits to the brink compromising the City's ability to identify enough good partners who can afford to do this vital work. Homeless Services United is grateful to Mayor Adams and Comptroller Lander for taking on this challenge and collaborating with the sector to solve this long standing problem. Their demonstrated commitment to timely contracting and payment gives us hope that we can finally get the sector on secure financial footing so we can focus on delivering the quality services our clients deserve," said **Catherine Trapani, Executive Director, Homeless Services United.**

"Nonprofit human services providers have long been a backbone of both the economic and social fabric of New York, but are often treated as an afterthought by government partners. Nowhere is this more clear than in the extreme delays in paying providers for critical, lifesaving services. Mayor Adams and Comptroller Lander took a huge step in acknowledging the invaluable role of the sector by making procurement a key transition issue with this task force. We applaud them for hitting the ground running with a series of important recommendations, and for including the sector in this process. This will ensure that New Yorkers get the support they need to not only survive, but thrive. The Human Services Council and our members look forward to continuing our partnership, and seeing these recommendations to completion so that our communities can continue to depend on human services nonprofits for essential programs," said **Michelle Jackson, Executive Director, Human Services Council of New York.**

"I applaud Mayor Adams and Comptroller Lander for convening the Task Force and releasing these critically important recommendations. The speedy implementation of these recommendations will reduce wasted non-profit staff time and wasteful interest expense, improving the quality of non-profit services that millions of New Yorkers rely on every day," said **Ben Thomases, Executive Director of Queens Community House.**

"It is heartening to see Mayor Adams and Comptroller Lander jointly acknowledge New York City's procurement problems, seek reforms to a system that unfairly burdens the nonprofit sector, and to also take responsibility to address contract registration and payment delays in a timely manner. For too long, the City has taken advantage of the heart, soul, and budgets of the nonprofit sector. Settlement houses, in partnership with the City, remain committed to their neighbors and to strengthening their communities with early childhood education, after school, senior services, mental health counseling and adult literacy programs. We look forward to 'A Better Contract for New York'," said **Susan Stamler, Executive Director at United Neighborhood Houses.**

"In New York City, human service nonprofits sustain and support vulnerable New Yorkers. Government supports this work through the procurement system. UJA-Federation of New York stands with Mayor Adams and Comptroller Lander in recognizing that New York City's procurement system is in high need of restructuring and improvement. This important report, created with a broad group of stakeholders, and issued less than 45 days into Mayor and Comptroller's administrations, speaks to the commitment of the Mayor and Comptroller to reform procurement and their priority on the partnership, both between their offices and with New York's nonprofit community," said **Louisa Chafee, Senior Vice President, Public Policy & External Relations, UJA-Federation of New York.**



VOA Greater New York City provides housing, health and wealth-building services that help to end homelessness in NYC. We believe that a vibrant nonprofit sector, unencumbered by systemic financial risk, can be a powerful force for transformative change in NYC. We are grateful to Mayor Eric Adams and Comptroller Brad Lander for convening this task force. The recommendations in this report serve as a roadmap to ensuring that the City's procurement and contracting process enhances the quality of services we provide to our neighbors in need, and I look forward to working with them both on implementing these reforms," said **Myung Lee, CEO of VOA-Greater New York.**

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Exhibit 5
to Claude Millman
Declaration

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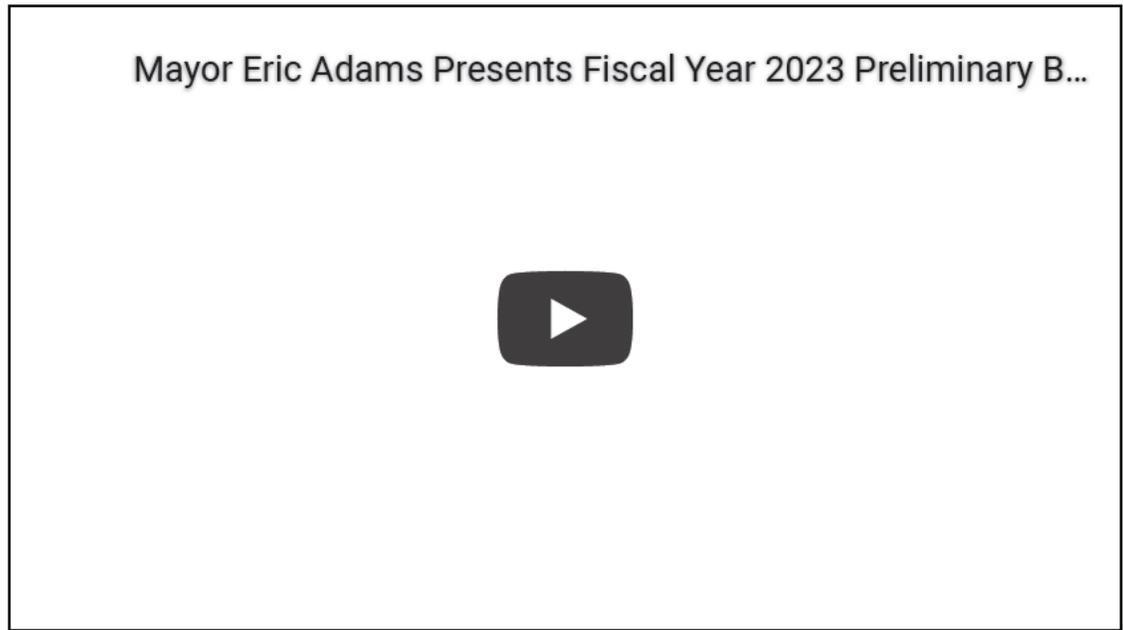
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Mayor Eric Adams Releases Preliminary Budget for Fiscal Year 2023

February 16, 2022

Video available at: <https://youtu.be/6e61r8LaboU>



\$98.5 Billion Preliminary Budget Reduces Spending by More Than \$2 Billion, Increases Budget Reserves to Over \$6 Billion

Preliminary Budget Prioritizes Childcare, Cash in Pockets of Working People, Public Safety, Fiscal Management

NEW YORK – New York City Mayor Eric Adams today presented New York City’s \$98.5 billion Preliminary Budget for Fiscal Year (FY) 2023. Mayor Adams’ first budget reduces the FY23 budget by

\$2.3 billion and — by prioritizing public safety, implementing a successful Program to Eliminate the Gap (PEG), exercising caution in response to mixed economic signals, and reducing budgeted city headcount — serves as the foundation for his commitment to “Get Stuff Done” for New Yorkers. This budget also makes historic investments to support public safety, young New Yorkers, childcare, and working families.

“After two years of struggle, we are on the brink of a recovery that offers us a once-in-a-generation opportunity to make real change on a grand scale,” said **Mayor Adams**. “I made a commitment to New Yorkers to spend taxpayer dollars more wisely, while making the upstream investments necessary to ensure a robust recovery — and this administration’s first Preliminary Budget achieves exactly that. We are cutting spending, making government run more efficiently, investing in public safety, and providing much-needed help to working families across our city. The steps we are taking together will make New York a safer, more just, and more prosperous city for all.”

New spending of \$536 million in FY22 and \$926 million in FY23 in this budget is wholly offset by nearly \$2 billion achieved within the PEG. FY22 tax revenues reflect a \$1.6 billion increase over the November Plan, driven by better-than-expected personal and business income taxes, sales taxes, and transaction taxes. Tax revenue growth of \$726 million in FY23 over the November Plan is due to higher-than-expected property tax values.

SIMULTANEOUSLY INCREASING PUBLIC SAFETY AND JUSTICE:

This budget advances Mayor Adams’ Blueprint to End Gun Violence to reduce crime across the five boroughs. Until increasing levels of gun violence ends, New York will not be the best city in the world to raise a family, open a business, or visit. This will delay the city’s recovery and, therefore, New Yorkers’ prosperity.

The Adams administration is using the New York Police Department’s existing resources more efficiently to redeploy officers to subway platforms and onto trains and create Neighborhood Safety Teams, anti-gun squads focused on reducing gun violence around the city.

To support the Blueprint to End Gun Violence and give young New Yorkers a platform for success, the administration has added 30,000 Summer Youth Employment Program (SYEP) slots — increasing summer job opportunities to 100,000. This increase not only marks the first time the program will be funded annually, but also represents the largest number of jobs made available by SYEP in the program’s 60-year history.

The Adams administration has also baselined funding for Fair Futures, which provides young New Yorkers who are aging out of foster care with mentoring, tutoring, and more.

CLOSING THE FY23 \$2.9 BILLION BUDGET GAP:

By exercising caution and fiscal discipline, the Adams administration closed a nearly \$3 billion budget gap in the face of a city economy slowed by COVID-19’s Omicron variant, as well as threats to the recovery posed by record office vacancy rates and job recovery, and return-to-office growth rate that lags the pace set by the state and the nation.

In light of the budget gap and economic headwinds, Mayor Adams implemented a PEG in the Preliminary Budget that achieved a nearly \$2 billion cut in spending, and which exceeds the target of three percent set for city-funded agency budgets — with limited exceptions — over FY22 and FY23. These funds were instrumental in closing the FY23 budget gap.

As part of the PEG, the Adams administration reduced the budgeted city headcount by 3,200 in FY22 and 7,000 in FY23 by eliminating vacancies and without laying off a single employee.

Going forward, achieving savings and efficiency will be a hallmark of Adams administration budgets.

In support of fiscal discipline and planning for the future, Mayor Adams also increased budget reserves to a total of \$6.1 billion — more than \$1 billion more than the FY22 level, and the highest level achieved in city history. There is now \$1 billion in the General Reserve, \$1 billion in the Rainy Day Fund, \$3.8 billion in the Retiree Health Benefits Trust, and \$250 million in the Capital Stabilization Fund. And to accurately reflect the city's budget condition, the administration has removed \$500 million in unidentified labor savings from the FY23 budget and future plan years.

INVESTING IN THE FUTURE FOR NEW YORKERS:

In the FY23 preliminary budget, the Adams administration has focused its new investments on lifting the lives of working families and giving young New Yorkers a platform for success. As such, the FY23 budget:

- Puts more money in families' pockets by expanding the New York City Earned Income Tax credit (to \$250 million in FY23),
- Baselineing the funding for 100,000 summer jobs for city youth, including 90,000 in the SYEP (\$79 million in FY23 for a total baseline investment of \$236 million),
- Helping low-income New Yorkers afford Metro Cards by guaranteeing annual funding for the Fair Fares program (\$75 million in FY23),
- Conducting comprehensive health screenings, regular home visits, and referral services for first-time moms in the 33 neighborhoods hit hardest by COVID-19 with the New Family Home Visits program (\$30 million in FY23),
- Creating more childcare space with a property tax abatement for property owners who retrofit property (\$25 million in FY23),
- Helping parents get back to work with tax credits for businesses that provide free or subsidized childcare (\$25 million in FY23),
- Preparing youth for aging out of foster care with mentoring, tutoring, and other important services with Fair Futures (\$13.5 million in FY23), and
- Reducing maternal deaths and childbirth complications and provide care coordination to high-risk patients with Maternal Medical Home and Obstetric Simulation Training (\$3 million in FY23), among other things.

Remarks, as prepared, are below:

Good afternoon, New York.

This is a transformative time for our city.

Thanks to the heroic efforts of our frontline workers, our scientists, and our citizens, we have survived a global pandemic and an economic crisis that has threatened decades of progress.

Now, after two years of struggle, we are on the brink of a recovery that offers us a once-in-a-generation opportunity to make real change on a grand scale.

This is an opportunity to rethink our priorities. An opportunity to address longstanding problems and implement new solutions. An opportunity to change the way we work and the way we live, the way we

educate our children and take care of our people.

Everywhere I go in this city, I feel that energy. Change is here, and New Yorkers are ready for it.

New York has always been a city of the future, and today, we are here to plan for that future.

It means building a city where safety and justice go hand in hand.

A city where our children can play, breathe, and thrive. Where education embraces the whole child and supports our families.

A city where we embrace the progress being made in new forms of energy, transit, and commerce.

A city of abundance, with jobs, housing, and health care for all.

This is the city New Yorkers want and deserve. And it is all possible if we are good managers of taxpayer dollars and properly oversee the city's budget.

So, before I unveil the first budget of this administration, I want to make a commitment to New Yorkers about how we will handle the people's finances and Get Stuff Done.

New Yorkers are realists. We want the truth, and we can handle it.

Rest assured, my administration will give the people straight talk about the decisions we've made, including the how and the why.

We're also committed to accountability. I use this word often. As they say, the buck stops here. Because without accountability, nothing will change.

My administration is laser-focused on fiscal discipline.

We are not spending our money. We are spending your money.

And we will make decisions that invest in our city and benefit all New Yorkers. Fiscal discipline will be a hallmark of my administration.

As I have said before, we will be radically practical. Our approach to problem solving will involve common sense and real-world solutions that achieve tangible results for the people of New York City.

Success will be measured by how much we accomplish, not how much we spend.

First, the good news: Despite the massive shocks to our system in the past two years, our city enters Fiscal Year 2023 with the largest budget reserve in history: \$6.1 billion.

This is the result of effective planning and judicious management, and New Yorkers can be confident that we have the resources for recovery, as well as for any uncertainties that may lie ahead of us.

My administration will continue the work of safeguarding the public trust and the public purse.

We have already implemented a successful savings of almost \$2 billion through our PEG, or Program to Eliminate the Gap.

This will result in a budget under \$100 billion for Fiscal Year 2023, a significant savings from previous years.

The Fiscal Year 2023 Preliminary Budget is \$98.5 billion. It is balanced with manageable out-year gaps of \$2.7 billion in Fiscal Year 2024, \$2.2 billion in Fiscal Year 2025, and \$3 billion in Fiscal Year 2026.

This successful management of our resources will allow us to invest in our most valuable resource: our people.

We will invest in all New Yorkers — prioritizing equity, safety, and justice. Most importantly, we will devote resources to upstream solutions, not only downstream demands.

Our city will see and feel these changes immediately.

Before we outline our plan for this coming year, I want to talk about the major challenges we're facing at this moment.

There are three significant issues that will affect the budget and our financial stability.

First, public safety: Every New Yorker is rightly concerned about rising crime and other threats to our quality of life.

Second, we face real economic uncertainty, because the city's recovery has been uneven, and the economy is sending mixed signals.

Third, decades of inefficiency and wasteful spending have prevented New Yorkers, especially the most at-risk, from getting the critical services they need, expect, and have paid for.

We have crafted the Preliminary Budget with these challenges in mind.

As I have said, reducing crime is a prerequisite to prosperity and recovery.

Our city's economy is picking up steam, but that recovery will be delayed if New Yorkers do not feel safe in our city.

That is why every single action we are taking places public safety and justice at the center of the decision-making process.

New Yorkers are rightfully concerned about rising crime in our city. My administration is already taking action, with more street patrols, greater enforcement, and expanded community involvement.

As always, we will have public safety and justice, and invest in preventative programs and effective policing.

But the initial focus must remain on reducing crime and confronting gun violence.

A few weeks ago, my administration released "The Blueprint to End Gun Violence," a multidisciplinary approach to addressing the epidemic of gun violence.

The NYPD is our first line of defense against gun violence. We will make new efforts to strengthen and reinforce it, while continuing our mission to involve the community.

We have already started, putting more officers on patrol and enhancing our existing Public Safety Units with new Neighborhood Safety Teams, which will focus on gun violence.

And we will invest in longer-term preventions as well: fixing our broken schools, supporting unhoused New Yorkers, improving access to mental health services, and improving our laws.

We are going to involve every community, every precinct, and our state and federal partners.

This is foundational to our success and the number one priority of my administration.

We are also focused on how financial conditions across the country and in the five boroughs impact our financial strength and stability.

Our national and local economies have suffered greatly over the past two years, but recovery is in sight.

Life-saving vaccines have significantly reduced the impact of the virus and the length and depth of variant surges. There are positive signs that the national economy is rebounding, but the recovery is not distributed evenly.

Corporate profits are up, and 84 percent of the jobs lost across the country during the pandemic have been recovered.

That said, inflation is rising, which may trigger Federal Reserve actions.

New Yorkers, however, continue to see mixed signals.

Some sectors of the city's economy have flourished over the past two years.

Wall Street profits hit record levels in 2020 and 2021, though they are forecast to drop to more typical levels through 2026.

Likewise, Wall Street bonuses hit almost \$37 billion, their highest level ever, in 2020 and are forecast to be nearly \$6 billion more in 2021.

Wall Street's strong performance, along with the Federal Reserve stimulus payments, drove New Yorkers' income to just over \$700 billion last year.

While residential real estate sales faltered during the pandemic, they began to rebound strongly in 2021. Notice that the chart shows just over 37,000 sales in 2020 and 45,000 in the first three quarters of 2021 alone.

These positive indicators are encouraging, but we must bear in mind that the recovery has not reached all New Yorkers.

New York City's job recovery was slowed substantially by the subsequent waves of the pandemic and continues to trail gains made by the state and country.

We have recovered just 55 percent of the 933,000 jobs lost at the height of the pandemic. This lags behind the state, which has recovered 63 percent, with the U.S. at 84 percent.

This contributes to an unemployment rate of 8.8 percent, down from 20 percent at the peak of the first wave but still much higher than the state and country overall.

Unfortunately, we do not expect to regain our pre-pandemic level of jobs until 2025.

Most of our job loss was in the service sector. These hard-working New Yorkers suffered disproportionately during the pandemic and are still feeling the effects of the long-term economic challenge.

On top of slowing our jobs recovery, the Omicron surge put the brakes on the return to office progress.

By mid-November of last year, we were seeing real progress in the fight against COVID. Vaccination rates were increasing, while infection rates, hospitalizations, and deaths were in sharp decline.

Optimism took hold, and employers began planning to phase out remote work and return their workforce to their offices.

At the same time, retail businesses were reopening, restaurants were beginning to rebound, and it seemed that we might be easing into a post-COVID environment.

The Omicron surge quickly dashed those hopes, as shown in this chart.

Return-to-office progress peaked at over 35 percent in early December, crashed dramatically to just over 10 percent by January, and still has not recovered.

And take a look at the white line on the chart: It shows that workers in other cities are returning to their offices at a faster rate.

When employees don't return to work, they don't eat lunch at a nearby restaurant, shop at a local store, or take their clothes to the dry cleaners. Our business districts suffer, and it slows the recovery.

Because of continued remote work, office vacancy rates are at 20 percent, a 40-year high.

This represents more than 83 million square feet of space. Imagine nearly every office building in downtown Manhattan — empty.

The question now is: What conclusions do we draw from these indicators, and how do they impact the budget and our planning?

Let's look at the positives first.

We're all rooting for the nation to succeed. A healthy economy, strong corporate profits, and overall jobs recovery can only benefit New York City.

We are encouraged that residential real estate sales are bouncing back and will add to our bottom line.

Better than expected Wall Street activity and growth in residential real estate helped fuel a \$1.6 billion increase in Fiscal Year 2022 tax revenue projections over November. These revenues helped close the Fiscal Year 2023 budget gap.

They also fund critical ongoing needs related to public safety, healthcare, and education, and help strengthen the social safety net that many New Yorkers rely on to meet their basic daily needs.

I'll turn now to the negatives.

The Omicron surge slowed our recovery. High office vacancy rates hamper property tax growth, our single largest revenue source.

In addition, job recovery is lagging. The unemployment rate remains high, despite dropping by half since the peak of the pandemic. This hurts everyday New Yorkers, leaving them in danger of falling farther behind.

Though the signals are mixed, our pathway is clear. We must proceed with caution and act as good managers of the city's resources.

Facing economic headwinds, we have taken swift action.

Ten days into my administration, I implemented a PEG, Program to Eliminate the Gap.

With limited exceptions, agencies were instructed to cut three percent of both their Fiscal Year 2022 and 2023 city-funded budgets.

In less than six weeks, agencies found new ways to reduce spending and adjust funding to meet realistic program costs.

The program was a success. We achieved almost \$2 billion over Fiscal Years 2022 and 2023. This includes \$1.1 billion in 2023 that was applied to closing that fiscal year's nearly \$3 billion budget gap.

And this is not the end — we will keep pushing agencies to tighten their belts and make the most of the city's resources.

Cautious fiscal planning includes setting aside funds that serve as a hedge against the unexpected.

We have increased reserve levels by \$1.1 billion compared with Fiscal Year 2022. At \$6.1 billion, Fiscal Year 2023's reserve levels are the highest in city history.

As you can see, that includes \$1 billion in the General Reserve, \$1 billion in the Rainy Day Fund, \$3.8 billion in the Retiree Health Benefits Fund, and \$250 million in the Capital Stabilization Fund.

As I mentioned earlier, fiscal discipline will be key to my administration's success.

We must push back against government waste and inefficiency. As we build back from two years of uncertainty and trauma, we must ensure our finances promote growth and resilience for the long term.

This administration has been focused on efficiency since day one.

This effort is being led by Chief Efficiency Officer Melanie LaRocca, who will oversee cost-cutting and restructuring measures citywide.

We are striving for efficiencies everywhere, which allow us to make better choices. For example, it will allow the NYPD to shift resources towards critical initiatives like the Neighborhood Safety Teams, which will be focused on getting guns off the street.

I also signed an executive order to consolidate all city technology agencies under a single authority. This will streamline their operations and foster interagency cooperation. Chief Technology Officer Matthew C. Fraser will lead the newly created Office of Technology and Innovation.

We have also consolidated multiple city agencies into the new Mayor's Office of Climate and Environmental Justice, led by Executive Director Kizzy Charles-Guzman. This new office will provide an integrated approach to sustainability, as our city faces increasing risks from the effects of climate change.

There is much more to come. By implementing the PEG, we have created efficiencies via the budget process.

Agencies took a hard look at processes and procedures and came up with innovative ways of getting stuff done with fewer resources.

In connection with the PEG, we also asked agencies to right-size their budgeted headcount by removing vacant positions from their books. This was also a success.

In the Preliminary Budget, we reduced budgeted headcount through the PEG by 3,200 in Fiscal Year 2022 and 7,000 in Fiscal Year 2023.

I want to emphasize that we did this without laying off a single city employee.

This wise management of our resources is allowing us to make historic investments in equity, in justice, and in safety. We're putting money in the pockets of working people.

As I mentioned in my testimony to Albany, working families have fallen farther behind over the last two years and need our support.

We must raise the Earned Income Tax Credit, which has remained at the same rate for two decades. This will help low- to moderate-income families put food on the table and keep a roof over their heads. But we need help from our partners in Albany to get this done.

We need to make it easier to raise a family in this city.

I know personally how difficult it is to balance caring for children with holding down a job. To help New Yorkers get back to work — and stay at work — we will offer property owners a tax abatement to build childcare facilities. This will also address the problem of childcare deserts across the city.

My administration will also give tax credits to those in the business community who provide free or subsidized childcare.

Though Albany must approve of these actions in this year's state budget, we have already taken action. These investments are fully funded in our budget and financial plan.

The path to an equitable recovery runs through our public transit system. Getting to work, the doctor, or school shouldn't depend on your income. So today we are providing annual baselined funding for Fair Fares to help low-income New Yorkers afford Metro Cards.

In addition to supporting our families and children, we must expand opportunities for young people who are preparing for their futures.

That means jobs, teaching, and training.

Young New Yorkers must have meaningful opportunities and be given a platform for success.

This is especially true of our at-risk youth. Young people who age out of the foster care program are more likely to be arrested, drop out of school, or experience homelessness.

To give them a chance to succeed, we are increasing funding for mentoring and tutoring our foster children, as well as providing other critical services now and in the future.

With the 30,000 slots we are adding to the Summer Youth Employment Program, 100,000 youth will have meaningful work and something positive to put on their resume or college application.

This is not a one-year expansion. We are baselining this program to protect SYEP as a summer institution, creating 30,000 additional youth jobs this year and carrying this forward into the future.

We must also support our mothers and young families right from the start.

That is why we're now providing annual funding to important programs that support moms, future moms, and infants. These include programs that coordinate maternity care for patients who need specialized medical care during pregnancy and extra support during those first few months of a baby's life.

We will strengthen the neighborhoods hardest hit by the pandemic. Now there is annual funding for New Family Home Visits. First-time moms will be connected with services and get regular caretaker visits that include household child safety checks.

We will continue to make investments in our mothers, young families, youth, and all other New Yorkers who need help.

Before I conclude, I'd like to turn to our \$100 billion Preliminary Capital Plan.

This city is known for our ambitious infrastructure projects. We have built and maintained world-class bridges, acres of beautiful parkland, and miles of roadway.

We have also funded water and sewer systems that have been critical to the city's growth.

Like the expense budget, the capital plan must be efficient. In this Preliminary Capital Plan, we moved nearly \$4 billion to out-years of the plan to make it more realistic.

In the face of economic headwinds, we must be cautious. Our future is only certain if we take the right steps now, like building reserves and preserving resources.

New York City's future will be built on a strong foundation of fiscal discipline and wise investment.

With this Preliminary Budget, we have taken the very first steps to turn our city around. The best city in the world will be even better if we focus on the basics.

New Yorkers and visitors must be safe on our streets, in our subways and schools, and in their homes.

Government must work for the people and use taxpayer funds efficiently.

Above all, New Yorkers must feel confident and optimistic that their city is working for them and looking out for their future.

Every step my administration takes will bring us closer to this goal.

As I stated earlier, our city is facing a transformative moment.

We must do more than get back to normal. We must build a better city in the process.

The steps we take together will make New York a safer, more just, and more prosperous city.

Together, we will do more than Get Stuff Done.

And as New York City goes, so does our nation.

The American Dream has always started in New York City, and this moment is no exception.

Together, we will embark on an urban renaissance unlike anything we have seen in our lifetimes.

A renaissance that will light the way and lead the nation.

Together, we will rise as one city, the greatest in the world: New York City.

Thank you.

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