

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X		:
		:
HUMAN SERVICES COUNCIL OF NEW YORK,	:	
	:	
Plaintiff,	:	No. 21-CV-11149 (PGG)
-against-	:	
	:	
The CITY OF NEW YORK,	:	
	:	
Defendant.	:	
	:	
-----X		:

**DECLARATION OF RACHEL B. KANE IN OPPOSITION TO
PLAINTIFF’S MOTION FOR PRELIMINARY INJUNCTION**

RACHEL B. KANE, an attorney duly admitted to practice law before the United States District Court for the Southern District of New York, declares pursuant to 28 U.S.C. §1746, under penalty of perjury, that to my knowledge the following is true and correct:

1. I am an Assistant Corporation Counsel in the office of Hon. Sylvia O. Hinds-Radix, Corporation Counsel for the City of New York, attorney for defendant City of New York.
2. I submit this declaration in opposition to Plaintiff Human Services Council of New York’s motion for a preliminary injunction.
3. Attached hereto as Exhibit 1 is a true and correct copy of the Rider To City Service Contracts Pursuant To NYC Admin. Code § 6-145 Labor Peace Agreements For Human Services Contracts, which is also available at https://www1.nyc.gov/assets/dycd/downloads/pdf/Combined_LPA_Rider_attachments.pdf.
4. Attached hereto as Exhibit 2 is a true and correct copy of a document titled “Local Law 87 of 2021 FAQs Regarding Effective Date,” issued on February 4, 2022.

5. Attached hereto as Exhibit 3 is a true and correct copy of a document titled “Local Law 87 of 2021 FAQs Regarding Implementation,” issued on March 25, 2022.

6. Attached hereto as Exhibit 4 is a true and correct copy of a Labor Peace Agreement Certification form, updated as of March 25, 2022.

7. Attached hereto as Exhibit 5 are true and correct excerpts of a document titled “Vendor Enrollment: A Beginner’s Guide to PASSPort,” which is also available at https://www1.nyc.gov/assets/mocs/passport-downloads/pdf/resources-for-vendors/UserManual-Vendors_Beginners_Guide_to_PASSPort.pdf.

Dated: March 25, 2022
New York, NY

/s Rachel B. Kane
Rachel B. Kane

Exhibit 1

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

Sec. 1 DEFINITIONS.

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

Sec. 2 RESPONSIBILITIES OF THE CONTRACTOR

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

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

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

Sec. 3 LABOR PEACE AGREEMENT CERTIFICATION

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

Sec. 4 LABOR PEACE AGREEMENTS ATTESTATION

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

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

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

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

C. For the purposes of this section:

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

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

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

Sec. 5 SUBCONTRACTORS

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

Labor Peace Agreements

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

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

Sec. 6 AWARD DATE

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

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

Exhibit 2



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 3



THE CITY OF NEW YORK

**Local Law 87 of 2021 FAQs Regarding Implementation
March 25, 2022**

A. Overview

On February 4, 2022, the City of New York released a document providing answers to frequently asked questions (“FAQs”) related to Local Law 87 of 2021, codified in Administrative Code § 6-145, and the City’s contract terms implementing the local law. The February 4, 2022 FAQ document, which primarily related to the effective date of Local Law 87, remains in effect. This document constitutes a second FAQ that provides additional clarity regarding the mechanics of the Local Law. Throughout this FAQ document, references to what Local Law 87 requires also indicate what the City’s contract terms require. These contract terms are contained in the “LPA Rider.” As explained in greater detail below, the local law has provisions related to required certifications and required attestations:

Local Law 87 requires an applicable contractor working under a New York City human services contract to provide a certification regarding its legal compliance history prior to contract award or renewal, and update such certification annually during the term of the contract. The contractor is also required to certify that it will comply with the terms of the contract related to Local Law 87.

Local Law 87 also requires that an applicable contractor or subcontractor working under such contract provide an attestation regarding the class or classes of employees covered by this law. Such attestation shall, as applicable, state that:

- (1) The contractor/subcontractor has entered into Labor Peace Agreements (“LPAs”) with labor organizations;

- (2) The contractor/subcontractor has not received notice from a labor organization seeking to represent such employees; or
- (3) The contractor/subcontractor is engaging in LPA negotiations with labor organizations that have not yet concluded.

Local Law 87 requires that such attestation be provided 90 days after contract award or renewal, or 90 days after subcontractor approval, as applicable. The attestation process may be initiated again during the term of the contract or subcontract where a labor organization notifies the contractor or subcontractor, as applicable, that such labor organization seeks to represent such employees.

B. Applicability and Definitions

1. What subcontractors does Local Law 87 apply to?

Local Law 87 applies to a subcontractor, including but not limited to, a temporary services staffing or employment agency or other similar entity that, pursuant to an agreement with a City Service Contractor, performs services the principal purpose of which is the provision of human services pursuant to the City Service Contract. Local Law 87 applies only to first-level subcontractors; Local Law 87 does not apply to subcontractors of subcontractors. Local Law 87 does not apply to persons who enter into a contract with a City Service Contractor for which the principal purpose of the subcontract is to provide supplies, or administrative services, technical support services, or any other similar services to the City Service Contractor that do not directly relate to the performance of the human services to be rendered pursuant to such City Service Contract.

2. What is the definition of “administrative services” and “technical support services” mentioned in Question B.1 of this FAQ?

“Administrative services” and “technical support services” are services that support the operations of a City Service Contractor, such as human resources and information technology services, rather than directly addressing the needs of, or delivering services for, clients. As noted in question B.1, above, the requirements of Local Law 87 do not apply where a person enters into a contract with a City Service Contractor the principal purpose of which is to provide supplies, administrative services, technical support services, or any other similar services to the City Service Contractor that do not directly relate to the performance of the human services to be rendered pursuant to such City Service Contract.

3. What is a Labor Peace Agreement (LPA)?

An LPA refers to an agreement between an employer and a labor organization that represents or seeks to represent its employees, where such agreement requires that the employer, the labor organization, and the labor organization’s members agree to the uninterrupted delivery of services

provided for in a City Service Contract and agree to refrain from actions intended to or having the effect of interrupting such services. Collective bargaining agreements (“CBAs”) may also constitute LPAs for the purposes of Local Law 87, as further discussed in Questions C.8 and C.11 of the Certification and Attestation section of this FAQ.

LPAs may also include other terms agreed upon by the parties, such as terms relating to: (i) alternate procedures related to recognizing the labor organization for bargaining purposes, (ii) public statements, (iii) workplace access, (iv) the provision of employee contact information; and (v) a process for the productive resolution of disputes. These topics are illustrative and are not intended to specify or limit the terms that may be included in an LPA in order to achieve the goals of ensuring the uninterrupted delivery of services and avoidance of actions intended to or having the effect of interrupting such services.

4. What classes of employees are covered by Local Law 87?

The classes of employees covered by Local Law 87 are those employees of a City Service Contractor or City Service Subcontractor who directly render human services in performance of a City Service Contract. Therefore, an LPA that applies only to employees directly rendering human services in performance of a City Service Contract would constitute an LPA for the purpose of the attestation procedure.

Supervisory employees, volunteers, and individuals performing work as independent contractors are not covered under Local Law 87. Building service employees are also not covered by Local Law 87. Building service workers are workers who spend a majority of their work time performing work in connection with the care or maintenance of a building or property, and include but are not limited to, a watchperson, guard, doorperson, building cleaner, porter, handyperson, janitor, gardener, groundskeeper, stationary fireman, elevator operator and starter, or window cleaner.

C. Certification and Attestation

1. When do “award” or “renewal” occur for the purposes of determining when certifications and attestations are required under this law?

For the purposes of determining when certifications and attestations are required under Local Law 87, “award” or “renewal” occurs on the date that the contract or renewal has been signed by both the City Service Contractor and the contracting agency. Please note that this standard for determining “award” or “renewal” applies for Local Law 87 compliance purposes, when it has already been determined that Local Law 87 applies to the contract. This standard for determining “award” is not applicable for the purpose of determining which contract awards or renewals are

subject to Local Law 87. The topic of determining which contract awards or renewals are subject to Local Law 87 is discussed in the February 4, 2022 FAQ, mentioned above.

2. When does the certification need to be signed and submitted?

The certification must be signed before the contractor signs the contract or renewal and provided to the contracting agency as part of the contract when the signed contract or renewal is submitted to the contracting agency. The certification must be included in the contract or renewal and updated during the 30-day period following each anniversary of the effective date of the contract or renewal.

3. Do City Service Subcontractors need to sign certifications under Local Law 87?

No. While City Service Subcontractors are obligated to comply with the attestation procedure under Local Law 87, City Service Subcontractors are not required to sign certifications.

4. In the case of a retroactive or delayed contract, where a City Service Contract is signed after performance has begun, is the City Service Contractor responsible for the obligations associated with Local Law 87 compliance for the period prior to signature?

No. A City Service Contractor's or City Service Subcontractor's responsibilities relating to certifications and attestations, as applicable, are triggered by contract signature or subcontractor approval, as applicable.

For City Service Contracts, certification is required prior to award or renewal, and thereafter, on an annual basis during the 30-day period following each anniversary of the effective date of such City Service Contract, such certification must be updated. The certification requirement is not triggered by the beginning of contract performance.

For City Service Contracts and City Service Subcontracts, attestation requirements are triggered by contract award or renewal (i.e., the date of signature) or by subcontractor approval, as applicable. This obligation is not triggered by the beginning of contract performance. For City Service Contracts, attestation is required no later than 90 days after award or renewal, as applicable, and then each time a labor organization notifies the City Service Contractor in writing of an interest in their representation of covered workers. With respect to a City Service Subcontract, attestation is required no later than 90 days after the subcontractor approval date, and then upon a labor organization notifying the contractor in writing of the labor organization's interest in representing covered workers.

5. With respect to the certification, should a City Service Contractor include the business address or personal address of their Chief Executive Officer (“CEO”)?

The Certification requires the business address of the CEO. The personal address of the CEO is not required.

6. What must a City Service Contractor do to comply with Local Law 87’s requirement related to disclosure of violations of federal, state, or local laws regulating labor relations?

Except as otherwise provided in section seven below, a City Service Contractor must include all the information required under Admin. Code § 6-145(c) on each certification that it submits. Such information includes, but is not limited to, a record of any instances during the preceding five years in which (a) such City Service Contractor has been found by a court or government agency to have violated federal, state, or local laws or rules regulating labor relations; and (b) such finding results from a judicial action, administrative proceeding, or investigation of such City Service Contractor in regard to such laws or rules that was initiated by a government body.

For the purposes of Local Law 87 certifications, labor relation laws that trigger disclosure include Local Law 87 itself, laws that establish minimum workplace standards, laws that govern employers’ obligations regarding employee health and safety, labor laws that require the provision of information or notices to employees, the National Labor Relations Act, the Labor Management Relations Act, and any other laws that govern collective bargaining.

7. If a City Service Contractor has filed accurate and up-to-date PASSPort questionnaires, does that City Service Contractor need to submit a certification?

Even if a City Service Contractor has an accurate and up-to-date PASSPort questionnaire on file with the City, such City Service Contractor must still submit a certification pursuant to Admin. Code § 6-145(c). However, in lieu of disclosing its violation history, as required by Admin. Code § 6-145(c)(1)(c), such City Service Contractor may instead check the box on the certification form indicating that the City Service Contractor certifies that the City Service Contractor’s electronic PASSPort questionnaires and all supplemental information submitted pursuant to Admin. Code § 6-116.2 are accurate and up to date as of the date of the Local Law 87 certification, and contain all of the information required under Admin. Code § 6-145(c)(1)(c), as described in question six of this Certification and Attestation section, above.

Use of this PASSPort checkbox option does not relieve a City Service Contractor of the obligation of completing all other aspects of the certification not related to the disclosure of violation history pursuant to Admin. Code § 6-145(c)(1)(c).

8. How will a contractor know when a labor organization “seeks to represent” a group of workers for Local Law 87 purposes?

For the purposes of triggering Local Law 87’s requirements, a labor organization “seeks to represent” covered employees of a City Service Contractor performing one or more classes of labor under a City Service Contract when a duly authorized representative of the labor organization transmits a writing indicating an interest in entering into an LPA.

The writing must be sent to either: (i) the chief executive officer of the contractor; or (ii) the business address or e-mail address provided for in section 14.04 of Appendix A of the City Service Contract.

For City Service Subcontractors, notice must be provided to either (i) the chief executive officer of such City Service Subcontractor; or (ii) the business address or e-mail address set forth pursuant to the notice provisions of the City Service Subcontract.

Where such notice is provided to a City Service Subcontractor, the labor organization must also inform the corresponding City Service Contractor at one of the two addresses listed above.

Each notice must reference Local Law 87 and explicitly state that the labor organization seeks to represent covered employees of the City Service Contract or City Service Subcontractor, as applicable.

Where a labor organization seeks to represent covered employees after the 90-day post award or renewal period, the labor organization must also send a copy of such notice to the contracting agency, as well, at the business address or e-mail address provided for in section 14.04 of Appendix A of the City Service Contract.

For the purpose of Local Law 87’s attestation procedure, as further provided in question 11, below, a CBA may constitute an LPA with respect to the labor organization party to the CBA or the class of employees covered by such CBA. Therefore, a City Service Contractor or City Service Subcontractor with a “qualifying CBA,” as such term is defined in Question C.11, below, should sign the attestation that they have an LPA for that group of workers, treating the labor organization as having sought to represent those workers.

9. What are the timeframes in which a labor organization's efforts to represent the employees of a City Service Contractor or City Service Subcontractor trigger the attestation requirement?

With respect to a City Service Contractor, a labor organization may trigger the attestation procedure at any point after contract signature and before the conclusion of the contract.

With respect to a City Service Subcontractor, a labor organization may trigger the attestation procedure at any point after subcontractor approval and before the conclusion of the subcontract.

10. Does Local Law 87 require a covered employer that has executed an LPA with a labor organization to collectively bargain with that labor organization?

No, Local Law 87 does not affect whether or not a covered employer is legally obligated to bargain collectively with a labor organization. The execution of an LPA, on its own, does not require an employer to bargain collectively with the labor organization with which it has executed the LPA.

11. How is the attestation procedure different for City Service Contractors and Subcontractors that are already unionized?

An effective CBA will constitute an LPA for the purpose of the attestation procedure with respect to the class of employees covered by such CBA, if it contains provisions requiring the uninterrupted delivery of services to be rendered pursuant to the City Service Contract and prohibiting actions intended to or having the effect of interrupting such services ("qualifying CBA"). However, a CBA must still be recorded on an attestation form when a qualifying CBA is in place, pursuant to the procedure set forth in Local Law 87. Where a qualifying CBA is already in place for a class of covered employees, a City Service Contractor or City Service Subcontractor is not required to follow the attestation procedure upon receipt of notice from another labor organization seeking to represent the same class of employees covered by the CBA.

12. Is a City Service Contractor or City Service Subcontractor required to follow attestation procedure with multiple labor organizations seeking to represent the same covered employees?

Yes. A City Service Contractor or City Service Subcontractor is required to follow the attestation procedure with any labor organization seeking to represent covered employees working under the contract or subcontract. There is one notable exception to this requirement: where a qualifying CBA is already in place for a class of covered employees, a City Service Contractor or City

Service Subcontractor is not required to follow the attestation procedure upon receipt of notice from another labor organization seeking to represent a class of employees covered by the CBA.

13. What happens if a City Service Contractor or City Service Subcontractor attempts to comply with the obligations related to the submission of attestations but such efforts are not successful?

An agency will consider a City Service Contractor's or City Service Subcontractor's good faith efforts in evaluating whether a Contractor or Subcontractor has complied with the requirements of Local Law 87. An agency will not find the Contractor or Subcontractor to be in breach of contract or violation of Local Law 87 for a failure to submit a signed attestation if the agency determines that the Contractor or Subcontractor has demonstrated that the Contractor or Subcontractor attempted to present an accurate attestation to a labor organization in a timely manner and otherwise exercised good faith efforts in order to obtain a fully executed attestation, but nonetheless was unsuccessful.

In evaluating whether such City Service Contractor or City Service Subcontractor has exercised good faith efforts, the City shall consider the City Service Contractor's or City Service Subcontractor's efforts to obtain execution of an attestation by labor organizations that seek to represent the City Service Contractor's or City Service Subcontractor's covered employees, and all relevant facts and circumstances. For example, if a labor organization seeking to represent the covered employees of a City Service Contractor or City Service Subcontractor fails to respond to a Contractor or Subcontractor's good faith attempts to initiate negotiations toward an LPA in order to obtain the signature of the labor organization on an attestation, that Contractor or Subcontractor would not breach the attestation requirements of Local Law 87.

14. Are enforcement actions under Local Law 87 subject to the Contract Dispute Resolution Board procedures?

No. Enforcement procedures initiated by a contracting agency pursuant to Admin. Code § 6-145(f) are not subject to the procedures set forth under Procurement Policy Board Rule § 4-09. Any City Service Contractor or City Service Subcontractor affected by such order, determination, or other disposition may seek review of such order, determination or other disposition solely in the form of a challenge, filed within four months of the date of the contracting agency's order, determination, or other disposition, in a court of competent jurisdiction of the state of New York, county of New York, pursuant to article 78 of the civil practice law and rules.

Exhibit 4



Labor Peace Agreement Certification

Certification Prior to Contract Award or Renewal

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

Contract Name: _____ E-PIN#: _____

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

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

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

Check if updated from a previous certification

CEO Name: _____

Address: _____

Telephone: _____ Email: _____

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

Labor Relations findings: Instances during the preceding five years in which the bidder or proposer seeking award, or the city service contractor seeking renewal, as applicable, has been found by a court or government agency to have violated federal, state or local laws regulating labor relations, in which any government body initiated a judicial action, administrative proceeding or investigation of the bidder, proposer, or city service contractor in regard to such labor relations laws.

In lieu of manually entering the labor relation findings in the spaces provided below, a city service contractor, bidder or proposer seeking award or a city service contractor seeking renewal of a city service contract may, by completing the check box below, affirm that such contractor has fully submitted and certified its PASSPort questionnaires pursuant to Subdivision (b) of Section 6-116.2 of the New York City Administrative Code, including the Vendor Questionnaire and Principal Questionnaires, and that such questionnaires and any material uploaded to the PASSPort system associated with such questionnaires contain records of all labor relations findings and are accurate as of the date that this Labor Peace Agreement Certification is executed:

If a city service contractor elects to enter labor relations findings information manually, enter such information below. Add pages as necessary. If not applicable write "N/A."

Violation: _____ Date of Action: _____ Charging Agency: _____

Summary: _____

Check if updated from a previous certification

Violation: _____ Date of Action: _____ Charging Agency: _____

Summary: _____

Check if updated from a previous certification

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

Signed: _____ Date: _____

State: _____ County: _____ S.S.

Sworn or affirmed before me on: _____

[Stamp]

Notary Public: _____

Exhibit 5



Vendor Enrollment: A Beginner's Guide to PASSPort

<p>Roles Involved:</p> <ul style="list-style-type: none">• Vendors	<p>Summary: Step-by-step instructions on how to complete and submit a vendor enrollment package in PASSPort.</p>
---	---

Last Updated: December 1, 2017

Table of Contents

1. Vendor Enrollment Overview	3
2. Submitting a Vendor Enrollment Package.....	4
2.1 Completing Your Basic Company Information.....	5
2.2 Adding Contacts and Additional Users to Your Account	7
2.3 Completing the Vendor Questionnaire.....	10
2.4 Completing Principal Questionnaires.....	31
2.5 Identifying Related Entities.....	49
2.6 Uploading Certificate of Incorporation (COI) Documentation.....	52
2.7 Adding an e-Signature and Submitting the Vendor Enrollment Package	58
3. Glossary	65

Accessing PASSPort

To access PASSPort and log in using your NYC.ID credentials, go to <http://www.nyc.gov/passport>

Note: While navigating PASSPort, you are able to increase the font size and readability. To do this, click the “ctrl” and “+” keys simultaneously on your keyboard. Each time you click these keys, your web browser will zoom in and PASSPort will resize accordingly. To reduce PASSPort’s font size, simultaneously click the “ctrl” and “-” keys.

1. Vendor Enrollment Overview

This user manual provides you with step-by-step instructions for completing and submitting a **vendor enrollment** package in PASSPort.

Vendors who are currently doing (or planning to do) business with the City of New York are encouraged to complete the **Vendor Enrollment** process. To complete the **Vendor Enrollment** process, you must first create a PASSPort account (please refer to the **Account Creation** Manual or Job Aid at <http://www.nyc.gov/passport>). When you have completed the Vendor **Account Creation** process, log in to PASSPort to prepare and submit your organization's enrollment package online by providing the following:

1. **Business Information:** Provide information regarding your business revenue and **contact** information.
2. **Contacts:** Identify and add all of your **principal owners** and/or **officers** to your organization's **contacts** list as well as designating an account **signatory**. Any colleagues that want access to the system must first be added as a contact, then register an NYC ID using the same email address associated with them in PASSPort. **Principal owners** are defined as **individuals**, partnerships, joint ventures, or corporations that hold a 10% or greater ownership interest in an **enrolling vendor**. **Officers** are defined as **individuals** who serve as or perform the functions of chief executive officer, chief financial officer, or chief operating officer, or their equivalents, of the **enrolling vendor**.
3. **Vendor and Principal Questionnaires:** Please refer to sections 2.3 (**vendor questionnaire**) and 2.4 (**principal questionnaire**) for guidance on submitting your organization's questionnaires.
4. **Related Entities:** Identify any **parent**, **controlling entities**, **affiliates**, and **subsidiaries**. A **Parent** is any **individual** or **entity** (including a partnership, joint venture, or corporation) that owns more than 50% of the voting stock of a vendor. **Controlling entities** are any **entities** that hold 10% or greater ownership share of a vendor or have the right to direct daily operations. An **affiliate** is an **entity** in which the **parent** of the **enrolling vendor** either owns more than fifty (50) percent of the voting stock and/or an **entity** in which a group of **principal owners** or **officers** that owns more than fifty (50) percent of the **enrolling vendor** also owns more than fifty (50) percent of that **entity's** voting stock. A **subsidiary** is an **entity** in which the majority of the voting stock is owned by a **parent**.
5. **Certificate of Incorporation (COI) Documentation:** Upload your organization's Certificate of Incorporation or equivalent document.
6. **e-Signature:** Submit an e-Signature for your enrollment package, which is a secure and accurate identification method for account signatories to sign documents with the City.

Once your organization's enrollment package has been submitted, the Mayor's Office of Contract Services (MOCS) will review the package and contact you with any questions or requests for additional information. After an enrollment package has been filed by MOCS, your organization will become fully enrolled in PASSPort and can continue to manage your account online in PASSPort.



Note: You will find key terms in blue text (for example, "**Vendor Enrollment**") throughout the Guide. These terms are defined in the Glossary at the end of the Guide.

2.3 Completing the Vendor Questionnaire

PASSPort Profile Tasks Contracts Performance Support

Vendor Vendor804 - Draft

Save and Refresh Check Progress

ALERTS

- Upload your Certificate of Incorporation (or equivalent) in the Doc...
- Please upload your Division of Labor Services (DLS) documentation
- Identify three principal owners/officers in the Disclosures tab. If...

INSTRUCTIONS

Questionnaire completion status : Not Started
 PASSPort Vendor Status : Draft

On this page, you will finalize your Disclosures by:

- Answering the 8 sections of the Vendor Questionnaire carefully and completely.
- Identifying your Principal(s) and/or Officer(s), and completing any associated Principal Questionnaires.
- Identifying your Parent and/or Controlling entities.
- Providing your E-Signature, and submitting your Disclosures.

VENDOR QUESTIONNAIRE 19

Vendor Questionnaire Sections

Section	Edit	Progress	Status
Section 1: Current Business Information	Edit	○	Not Started
Section 2: Business Relationships / Related Entities	Edit	○	Not Started

Now that you have entered additional company information, identified your **principal owners** and/or **officers**, and designated an account **signatory**, you are ready to start the vendor and **principal questionnaires** on the **Disclosures** tab.

19. Scroll down on the page to view the **Vendor Questionnaire** section.

PASSPort Profile Tasks Contracts Performance Support

Vendor Vendor804 - Draft

Save and Refresh Check Progress

2. Identifying your Principal(s) and/or Officer(s), and completing any associated Principal Questionnaires.
3. Identifying your Parent and/or Controlling entities.
4. Providing your E-Signature, and submitting your Disclosures.

VENDOR QUESTIONNAIRE

Vendor Questionnaire Sections

Section Name	Action	Status	Progress
Section 1: Current Business Information	Edit	Not Started	○
Section 2: Business Relationships / Related Entities	Edit	Not Started	○
Section 3: Vendor Integrity History	Edit	Not Started	○
Section 4: Vendor Financial History	Edit	Not Started	○
Section 5: Investigative History	Edit	Not Started	○
Section 6: Employment of City-Affiliated Individuals	Edit	Not Started	○
Section 7: Site Information	Edit	Not Started	○
Section 8: NYC Contracting History	Edit	Not Started	○

Vendor Questionnaire Attachments

Add an Attachment

0 Result(s)

The Vendor Questionnaire consists of eight sections.

20. Click the “Edit” button to open Section 1: Current Business Information.

Current Business Information

21

22

Save Save and Next

SECTION 1: CURRENT BUSINESS INFORMATION

1 2 3 4 5 6 7 8

Section Status: Not Started
Selecting 'Yes' requires that you add a row.

CURRENT BUSINESS INFORMATION

Resource-Sharing

1. Does the submitting vendor share office spaces, staff, expense or equipment with any other entities?
 ⓘ

Financial & Tax Information

2. Is the submitting vendor exempt from income taxes under the Internal Revenue Code?
 ⓘ

3. Is ten (10) percent or more of the submitting vendor's stock or ownership currently used or pledged as collateral for any loan or obligation?
 ⓘ

4. Are there or have there been any judgments, injunctions, or liens, including, but not limited to, judgments based on taxes owed, fines, or penalties assessed by any government agency, elected official, or the New York City Council, initiated against the submitting vendor and/or any affiliate that remain open, unsatisfied, or in effect today?
 ⓘ

5. Does the submitting vendor, any affiliate, or any of their current or former principal owners or officers or managerial employees have any felony, misdemeanor, and/or administrative charges currently pending?
 ⓘ

Other EIN / DBA

21. Answer the six questions for **Section 1: Current Business Information**.

Note: If you select an affirmative response to a particular question, you will need to provide additional details to answer the question. This process is further detailed in this section of the Guide.

22. After you have answered the questions for this section, click the **“Save and Next”** button.

This section contains questions regarding your organization's biographical information. Use the information below to help you answer the questions in this section. *Definitions for the key terms below can be found in the Glossary at the end of this document.*

Section 1: Current Business Information



- Address and **EIN** of **entities** with which your organization **shares** resources.
- Details regarding any **entity** or **individual** who can use or has been pledged ownership of your organization.
- Details of any open judgments, injunctions, or liens against your organization or its **affiliates**.
- Details of pending criminal and/or **administrative charges** against your organization, any **affiliates**, or current or former **principal owners, officers, or managerial employees**.
- Any **EINs, DBAs, trade names, or abbreviations** previously used by your organization.



- Documents from the Internal Revenue Service that prove your exempt status, if applicable.
- Official documents pertaining to open judgments, injunctions, liens, pending criminal charges, and pending **administrative charges** from courts or investigating **agencies** related to the information requested above.



- **Administrative Charges**
- **Affiliate**
- **DBA**
- **Entity**
- **Managerial Employee**
- **Principal Owner**
- **Officer**
- **Share**
- **Shared Staff**

CURRENT BUSINESS INFORMATION ▾

Resource-Sharing ▾

1. Does the submitting vendor share office spaces, staff, expense or equipment with any other entities?

Yes ▾ ⓘ

+ Add Row

Type	Entity Name	Entity EIN ⓘ	Address Line 1	Address Line 2	City	State	Zip Code
0 Result(s)							

CURRENT BUSINESS INFORMATION ▾

Resource-Sharing ▾

1. Does the submitting vendor share office spaces, staff, expense or equipment with any other entities?

Yes ▾ ⓘ

+ Add Row

Type	Entity Name	Entity EIN ⓘ	Address Line 1	Address Line 2	City	State	Zip Code
x	Space ▾						...
0 Result(s)							

Whenever an affirmative answer is selected as an answer to a particular question, you will need to provide additional details to answer the question.

In the example on the left, first click the **“Add Row”** button to enter the details for the **entity** that **shares** office space, staff, expenses, or equipment with the vendor. Continue to click the **“Add Row”** button to add additional **entities**.

Clicking the **“Add Row”** button and entering additional information is the process that is followed whenever an affirmative response is selected as an answer to a particular question on either questionnaire.

Be sure to click the **“Save”** button at the top of the page after you add a row and enter in additional information.

Business Relationships / Related Entities

Save Save and Previous Save and Next

23

SECTION 2: BUSINESS RELATIONSHIPS / RELATED ENTITIES

1 2 3 4 5 6 7 8

Section Status: Not Started
Selecting 'Yes' requires that you add a row.

BUSINESS RELATIONSHIPS / RELATED ENTITIES

1. Does the submitting vendor control one or more entities?
2. Is the submitting vendor a subsidiary of, and/or controlled by, any other entity?
3. Does the submitting vendor have one or more affiliates?
4. Pursuant to any stock option or any other arrangements, does any individual or entity have the right within the next three (3) years to acquire stock in the submitting vendor, which, when combined with current holdings, would make such individual or entity a principal owner or officer?

Note: PASSPort will provide you with visual cues as you complete the questionnaires. The screenshot shows the first section of the **Vendor Questionnaire** has been completed (indicated by the color green). You are on Section Two (indicated by the color blue), and the remaining six sections have not been started (indicated by the color orange).

23. Complete **Section 2: Business Relationships / Related Entities**.

24. After you have answered the questions for this section, click the **“Save and Next”** button.

This section asks about your organization's relationships with related organizations. Please note that these related organizations will need to disclose additional information. Use the information below to help you answer the questions in this section. *Definitions for the key terms below can be found in the Glossary at the end of this document.*

Section 2: Business Relationships / Related Entities



- Name, **EIN**, and address of **affiliates**, **controlled entities**, and/or **entities** of which you are a **subsidiary**.
- **Individuals** and/or **entities** who would be **principal owners** and/or **officers** if they exercise their stock options.



- **Affiliates**
- **Controlling Entity**
- **Entity**
- **Officer**
- **Principal Owner**
- **Subsidiary**

Vendor Integrity History

Save Save and Previous Save and Next

25 SECTION 3: VENDOR INTEGRITY HISTORY

1 2 3 4 5 6 7 8

Section Status: Not Started
Selecting 'Yes' requires that you add a row.

VENDOR INTEGRITY HISTORY

Revocations & Disqualifications

1. In the past five (5) years, has the submitting vendor, any of its principal owners or officers, or any affiliate had any permit, license, concession, franchise or lease terminated for cause or revoked?
[Dropdown menu]

2. In the past five (5) years, has the submitting vendor, any of its principal owners or officers, or any affiliate been disqualified for cause as a bidder on any permit, license, concession, franchise or lease?
[Dropdown menu]

Sanctions

25. Complete **Section 3: Vendor Integrity History**.

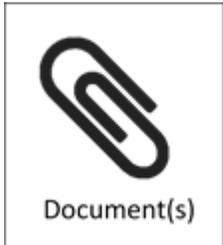
26. After you have answered the questions for this section, click the **“Save and Next”** button.

This section covers questions regarding your organization's history and any of your organization's **principal owners** or **officers**. Information requested will be related to previous revocations of licenses and any **sanctions** and/or actions that resulted in a negative impact (e.g., debarment, non-responsibility) on a **government contract**. Use the information below to help you answer the questions in this section. *Definitions for the key terms below can be found in the Glossary at the end of this document.*

Section 3: Vendor Integrity History



- Negative information concerning any permits, licenses (including professional licenses), franchises, or leases held by your organization, its **principal owners** and/or **officers**, or **affiliates** in the past five years.
- Details regarding negative information on **government contracts** held by your organization and/or its **affiliates** (e.g., debarment, findings of **non-responsibility**, or unsatisfactory performance evaluations).



- Official documents from the relevant **agency** related to the information described above.



- **Affiliate**
- **Contract**
- **Government Contract**
- **Non-Responsible**
- **Officer**
- **Principal Owner**
- **Submitting Vendor**
- **Subsidiary**

Vendor Financial History

Save Save and Previous Save and Next

SECTION 4: VENDOR FINANCIAL HISTORY

1 2 3 4 5 6 7 8

Section Status: Not Started
Selecting "Yes" requires that you add a row.

VENDOR FINANCIAL HISTORY

Bankruptcy

1. Have any bankruptcy proceedings been initiated by or against the submitting vendor or its affiliates within the past seven (7) years (whether or not closed) or is any bankruptcy proceeding pending by or against the submitting vendor or its affiliates, regardless of date of filing?

Adverse Audits

2. (This question applies to Nonprofit vendors, others please answer "no.") In the past three (3) years, have any audits of the submitting vendor revealed material weaknesses in its system of internal controls, its compliance with contractual agreements, and/or its compliance with laws and/or regulations?

Taxes & Fees

3. During the past five (5) years, has the submitting vendor failed to file any applicable federal, state, New York City, or other tax returns?

4. During the past five (5) years, has the submitting vendor failed to pay any applicable federal, state, New York City, or other taxes?

5. During the past five (5) years, has the submitting vendor failed to pay any other assessed New York City charges, including, but not limited to, water and sewer charges?

27. Complete **Section 4: Vendor Financial History**.

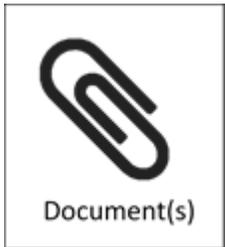
28. After you have answered the questions for this section, click the **“Save and Next”** button.

Questions asked in this section focus on your organization's previous financial activities, including questions regarding previous bankruptcies and tax delinquency. Additionally, this section asks about judgments and/or liens initiated against your organization and/or its **affiliates**. Use the information below to help you answer the questions in this section. *Definitions for the key terms below can be found in the Glossary at the end of this document.*

Section 4: Vendor Financial History



- Details regarding any bankruptcy proceedings involving your organization or **affiliates** in the past seven years.
- For **nonprofits**: Details regarding any audits that reveal **material weaknesses**.
- Details regarding your organization's failure to file or pay taxes and/or pay other City charges in the past five years.
- Details regarding any judgments, injunctions, or liens against your organization and/or its **affiliates** in the past five years.



- Official court or investigating **agency** documents related to the information described above.



- **Affiliates**
- **Material Weakness**
- **Submitting Vendor**

Investigative History

Save Save and Previous Save and Next

29

SECTION 5: INVESTIGATIVE HISTORY

30

1 2 3 4 5 6 7 8

Section Status: Not Started
Selecting 'Yes' requires that you add a row.

INVESTIGATIVE HISTORY

Investigations

1. In the past five (5) years, has the submitting vendor, or any of the submitting vendor's affiliates, or any individual currently or within that period serving as a principal owner, officer, or managerial employee, been investigated by any government agency, including, but not limited to, federal, state, and local regulatory agencies?

Convictions

2. Has the submitting vendor, any affiliate, or any of their current or former principal owners, officers, or managerial employees been convicted of a misdemeanor and/or found in violation of any administrative, statutory, or regulatory provisions in the past five (5) years?

3. Has the submitting vendor, any affiliate, or any of their current or former principal owners, officers, or managerial employees been convicted of a felony, and/or any crime related to truthfulness, and/or any crime related to business conduct in the past ten (10) years?

29. Complete **Section 5: Investigative History**.

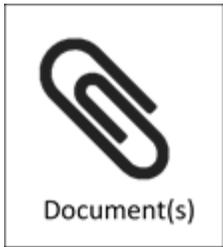
30. After you have answered the questions for this section, click the **“Save and Next”** button.

These questions focus on past events that were investigatory in nature. You will be asked to provide information about current and/or previous investigations from the City and other government **entities**. Further, you will be asked to detail information regarding any convictions your organization, its **affiliates**, **managerial employees**, or **principal owners** and/or **officers** have faced over a specific timeframe. Use the information below to help you answer the questions in this section. *Definitions for the key terms below can be found in the Glossary at the end of this document.*

Section 5: Investigate History



- Details regarding any investigations, criminal convictions, or administrative violations within the past five years involving your organization, its **affiliates**, or any of their **principal owners**, **officers**, or **managerial employees**.
- Details regarding convictions for felonies or other offenses related to truthfulness or business conduct within the past ten years involving your organization, its **affiliates**, or any of their **principal owners**, **officers**, or **managerial employees**.



- Official court or investigating **agency** documents related to the information described above.



- **Affiliate**
- **Agency**
- **Investigated**
- **Managerial Employee**
- **Officer**
- **Principal Owner**
- **Submitting Vendor**

Employment of City-Affiliated Individuals

31

32

Save Save and Previous Save and Next

✓ Saved

SECTION 6. EMPLOYMENT OF CITY-AFFILIATED INDIVIDUALS

1 2 3 4 5 6 7 8

Section Status : Not Started
Selecting 'Yes' requires that you add a row.

EMPLOYMENT OF CITY-AFFILIATED INDIVIDUALS

1. Are there any individuals now serving in a managerial or consulting capacity to the submitting vendor, whether or not as a principal owner or officer, who now serve, or within the past five (5) years have served, as an elected or appointed public official or officer?
 ⓘ

2. Are there any individuals now serving in a managerial or consulting capacity to the submitting vendor, whether or not as a principal owner or officer, who also serve or within the past five (5) years have served as a full or part-time employee in a New York City agency or as a consultant to a New York City agency?
 ⓘ

3. Are there any individuals now serving in a managerial or consulting capacity to the submitting vendor, whether or not as a principal owner or officer, who also serve or have served within the past five (5) years as an officer of any political party organization in New York City, whether paid or unpaid?
 ⓘ

4. Are there any individuals now serving in a managerial or consulting capacity to the submitting vendor, whether or not as a principal owner or officer, who also serve or have served within the past five (5) years as a consultant or advisor to a New York City agency performing services related to the solicitation, negotiation, operation and/or administration of contracts on which the submitting vendor will work during the next three (3) years?
 ⓘ

31. Complete Section 6: Employment of City-Affiliated Individuals.

32. After you have answered the questions for this section, click the "Save and Next" button.

This section requests information about current or former City employees who may now work for your organization. The information that is requested in this section asks where these employees previously worked, and the nature of their current role. You will also be asked about affiliations with political parties/organizations. Use the information below to help you answer the questions in this section. *Definitions for the key terms below can be found in the Glossary at the end of this document.*

Section 6: Employment of City-Affiliated Individuals



- Details regarding **managerial employees** or **consultants** to your organization who, within the past five years, have served as an elected or appointed public official or officer, an employee or **consultant** of a **New York City agency**, or an **officer** of a New York City political party.



- **Consulting Capacity**
- **Managerial Capacity**
- **Officer**
- **Principal Owner**

Site Information

Save Save and Previous Save and Next

33 SECTION 7: SITE INFORMATION

1 2 3 4 5 6 7 8

Section Status : Not Started
Selecting 'Yes' requires that you add a row.

SITE INFORMATION

1. Has the submitting vendor used any other business addresses and/or telephone numbers at any time during the prior five (5) years?
 ⓘ

2. Does the submitting vendor anticipate using or occupying any real property, other than the listed business addresses during the next three (3) years?
 ⓘ

3. Does any principal owner or officer of the submitting vendor, or any member of his/her immediate family, have an ownership interest in any entity that holds the title or lease to any real property used by the submitting vendor in the New York City metropolitan area?
 ⓘ

33. Complete **Section 7: Site Information**.

34. After you have answered the questions for this section, click the **“Save and Next”** button.

In this section, you will be asked about your organization’s place of business including any information related to sites where potential **contract** work would occur. Use the information below to help you answer the questions in this section. *Definitions for the key terms below can be found in the Glossary at the end of this document.*

Section 7: Site Information



- The addresses and **telephone numbers** of other places of business within the New York City metropolitan area that your organization has maintained within the past five years.
- The address(es) of any real property your organization anticipates using or occupying within the next three years.
- Identifying information for any **principal owner** and/or **officer** of your organization, or any member of their **immediate family**, who owns an **entity** that owns or leases real property in the New York City metropolitan area that your organization uses.



- **Business Addresses**
- **Entity**
- **Officer**
- **Principal Owner**
- **Submitting Vendor**
- **Telephone Numbers**

NYC Contracting History

36 Save Save and Previous

35 SECTION 8: NYC CONTRACTING HISTORY

37

1 2 3 4 5 6 7 8

Section Status: Not Started
Selecting 'Yes' requires that you add a row.

NYC CONTRACTING HISTORY

Subcontracting

1. Has the submitting vendor, or any affiliate listed in response to Vendor Questionnaire Section 2 – Question 3, been a subcontractor on any contract with any New York City agency in the past three (3) years?

Hired Consultants/Lobbyists

2. Other than the submitting vendor's employees, did the submitting vendor retain, employ, or designate anyone to influence the preparation of contract specifications, the solicitation of any contract, or the award of any contract in the next three (3) years?

35. Complete **Section 8: NYC Contracting History**.

36. After you have answered the questions for this section, click the **"Save"** button.

37. Click the **✕** icon to close the **Vendor Questionnaire**.

Upon clicking the **✕** icon, PASSPort will update the status of your **Vendor Questionnaire**.

In this short section, you will disclose your organization's contracting history (within the past three years) with the City and the extent to which your organization hired or designated someone to assist your organization to receive a **contract**. Use the information below to help you answer the questions in this section. *Definitions for the key terms below can be found in the Glossary at the end of this document.*

Section 8: NYC Contracting History



- Details regarding your organization and/or its **affiliates' subcontracts** with the City during the past three years.
- Identifying information for **individuals** or **entities**, other than your organization's employees, that worked for your organization to influence the procurement of City **contracts** during this three year VENDEX cycle.



- **Affiliates**
- **Contract**
- **Entity**
- **Individual**
- **Prime**
- **Subcontract**
- **Submitting Vendor**

PASSPort Profile Tasks Contracts Performance Support

Vendor Vendor804 - Draft

Save and Refresh Check Progress

Section	Action	Progress	Status
Section 2: Business Relationships / Related Entities	Edit	○	Complete
Section 3: Vendor Integrity History	Edit	○	Complete
Section 4: Vendor Financial History	Edit	○	Complete
Section 5: Investigative History	Edit	○	Complete
Section 6: Employment of City-Affiliated Individuals	Edit	○	Complete
Section 7: Site Information	Edit	○	Complete
Section 8: NYC Contracting History	Edit	○	Complete

Vendor Questionnaire Attachments

38 Add an Attachment

0 Result(s)

PRINCIPAL IDENTIFICATION AND QUESTIONNAIRES

If you have less than three principal owners/officers, please email help@mocs.nyc.gov to request a change to the requirement

Select your Principal(s) and / or Officer(s):

0 Result(s)

PARENT/CONTROLLING ENTITIES IDENTIFICATION

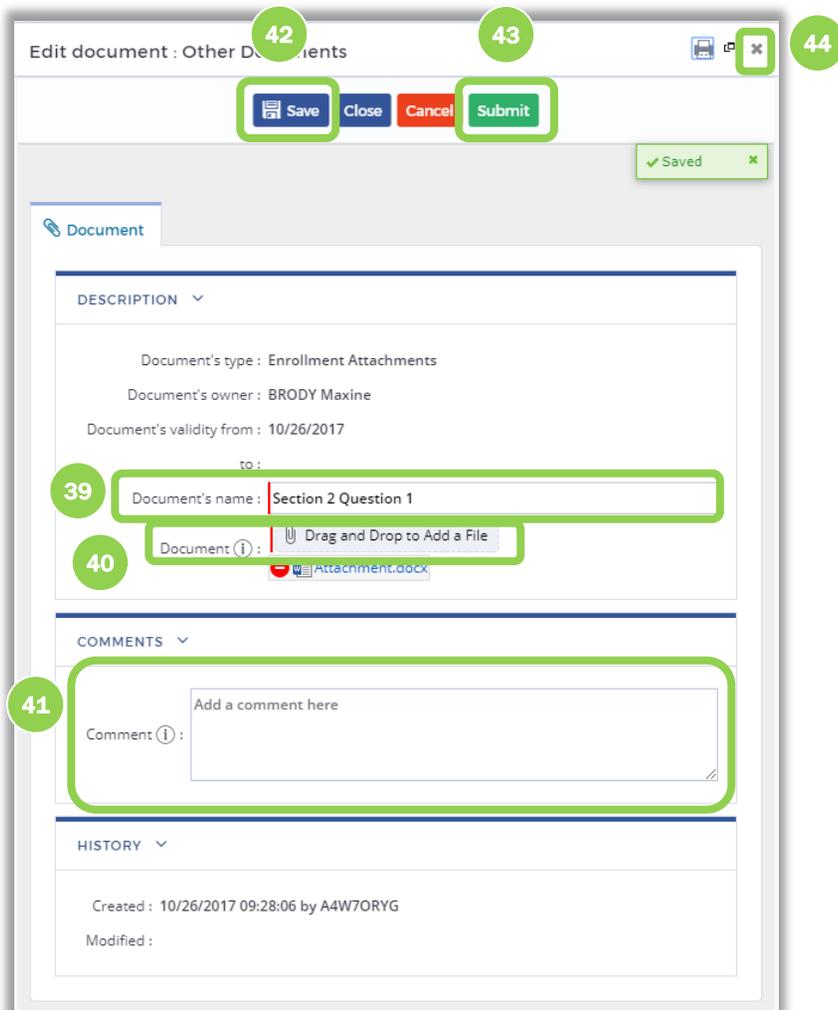
Do you have any Parent or Controlling Entities? ⓘ :

In this example, all eight sections of the **Vendor Questionnaire** have been completed.

38. If any attachments need to be added to your **Vendor Questionnaire**, click the **“Add an Attachment”** button.

Note: *Uploading attachments to your responses to questions included in the Vendor Questionnaire or PASSPort Principal Questionnaire must supplement your questionnaire responses. You may not upload explanatory documents in lieu of completing the questions included on the questionnaires.*

Please indicate the question number to which each attachment corresponds.



39. Enter the "Document's name."
40. Upload the attachment by clicking on the "Drag and Drop to Add a File" button.
41. Add any notes in the "Comments" field to indicate what the attachment relates to.
42. Click the "Save" button.
43. Click the "Submit" button.
44. Click the ✕ icon to close the window.

3. Glossary

Unlike the descriptions of information and documents necessary to complete PASSPort enrollment, listed in Sections 1 and 2, above, this glossary of terminology clarifies and modifies the meaning of the terms included in the PASSPort Vendor Questionnaire and **Principal Questionnaire**. You should refer to this glossary to resolve any uncertainties regarding the meaning of the PASSPort Vendor Questionnaire or PASSPort **Principal Questionnaire**. The City, in its sole discretion, may require that other **principal owners** or **officers** complete a **principal questionnaire**.

Account Creation	The initial entry point for an entity into PASSPort. The entity fills out basic contact information, such as but not limited to: their primary place of business , telephone number , and e-mail . At this point the entity has their EIN or SSN verified before they are able to move on to Vendor Enrollment .
Administrative Charge	When an agency charges an entity with violating the agency's regulations. These charges include, but are not limited to violations of prevailing wage laws, workers' compensation laws, Occupational Safety and Health Administration (OSHA) violations and tax offenses.
Affiliate	An entity in which the parent of the enrolling vendor either owns more than fifty (50) percent of the voting stock and/or an entity in which a group of principal owners or officers that owns more than fifty (50) percent of the enrolling vendor also owns more than fifty (50) percent of that entity's voting stock.
Agency	Any government body, whether Federal, State, City, County, local agency or other office, position, administration, department, division, bureau, commission, authority, corporation, advisory committee or other agency of government, including departments, offices, quasi-public agencies, public authorities, public corporations, public development corporations, local development corporations and others. (See below for definition of " New York City Agencies .")
Board of Directors	Board members are individuals that make up the governing body of an entity that are responsible for overseeing the entity's activities, and that also meet periodically to discuss and vote on the affairs of the entity .
Business Addresses	The address and telephone numbers for the location(s) at which the enrolling vendor conducts its activities.
Consulting Capacity	Serving in a capacity to act on behalf of or assist the enrolling vendor with services including, but not limited to legal, engineering or architectural.
Contact	Person identified as being associated with the vendor's profile in PASSPort. A contact is not limited to an organization's principal owner or officer , and can be anyone associated with the organization in an administrative capacity. Contacts are assigned the roles of " vendor administrator ," " contributor " and/or " signatory ".
Contract	Any agreement between a New York City agency and an individual or entity , which (a) is for the provision of goods, services, or construction and has a value that when aggregated with the values of all other such agreements with the same individual or entity or subcontractor during the immediately preceding twelve (12) month period is valued at one hundred thousand dollars (\$100,000) or more; or (b) is for the provision of goods and/or services, was awarded on a sole source basis and is valued at ten thousand dollars (\$10,000) or more; or (c) is a concession and has a value that when aggregated with the value of all other contracts/agreements held by the same concessionaire is valued at one hundred thousand dollars (\$100,000) or more; or (d) is a franchise. Where it is used in Section 3 of the Vendor Questionnaire or Section 4 of the

	Principal Questionnaire , the term “ contract ” means “ government contract ,” as defined below. In all other instances, “ contract ” and “ government contract ” carry separate meanings, as defined in this glossary.
Controlling Entity	The enrolling vendor is controlled by another entity when: <ul style="list-style-type: none"> • The controlling entity holds ten (10) percent or greater ownership interest; or • The controlling entity directs or has the right to direct daily operations <p>The enrolling vendor controls another entity when:</p> <ul style="list-style-type: none"> • It holds ten (10) percent or more of the voting stock of the entity it controls; or • It directs or has the right to direct daily operations <p>A controlling entity is considered a Parent when it owns more than fifty (50) percent of the voting stock of another entity.</p>
DBA	“Doing business as” or DBA , is a formal notice filed with a county clerk that an individual or entity is conducting business under an assumed name.
DUNS Number	A unique nine-digit identifier for businesses, issued by Duns & Bradstreet, also known as the “D&B number,” that is tied to a business information file administered independently by Duns & Bradstreet.
EIN	A nine-digit number assigned by the Internal Revenue Service to sole proprietors, corporations, partnerships, estates, trusts, and other entities for tax filing and reporting business purposes. Where an entity uses an SSN in lieu of an EIN , PASSPort users must disclose the SSN used by that entity as if it were an EIN .
E-mail	Electronic mail address of an individual , entity and/or enrolling vendor at the primary place of business address , principal executive office address and business addresses .
Enrolling Vendor	The entity enrolling in PASSPort.
Entity	Any joint venture, sole proprietorship, general partnership, limited liability partnership, limited partnership, limited liability company, professional limited liability company, business corporation, professional business corporation, or others. This also includes any not-for-profit corporation.
FMS Vendor Code	Number generated in the City’s Financial Management System (“FMS”) (either assigned manually by agency or generated when a vendor signed up in PIP) that a vendor needs in order to be eligible to receive payment from the City of New York.
Government Contract	Any agreement between an individual or entity and an agency , as defined above. Where it is used in Section 3 of the Vendor Questionnaire or Section 4 of the Principal Questionnaire , the term “ contract ” means “ government contract .” In all other instances, “ contract ” and “ government contract ” carry separate meanings, as defined in this glossary.
Immediate Family	Includes former or current husband(s), and or wife(ves), son(s), daughter(s), stepson(s), stepdaughter(s), adopted child(ren), grandchild(ren), parent(s), brother(s), sister(s), grand parent (s), mother(s)-in-law, father(s)-in-law, brother(s)-in-law and sister(s)-in-law.
Individual	Any person (not an entity).
Internal Revenue Code	The set of rules and regulations established by the United States Internal Revenue Service (IRS).
Investigated	An individual or entity has been investigated if there has been any inquiry by any prosecutorial, investigative or regulatory agency concerning such individual or entity or the activities and/or the business practices thereof.

	<p>An “inquiry” includes, but is not limited to the following:</p> <ol style="list-style-type: none"> 1. an appearance before a grand jury by the individual or any current or former representative of the entity or its affiliates has been made or been sought; 2. a subpoena requiring testimony has been issued and/or received; 3. a subpoena for the production of documents in a criminal proceeding or criminal investigation has been issued and/or received; 4. a search warrant at any location occupied or used by individual/entity, any affiliate, or any of their principal owners or officers has been executed; 5. notice has been received that the communications or activities of the individual or any current or former representative of the entity or its affiliates have been monitored under a court order; 6. notice has been received that the individual/entity, or any current or former representative of the entity or its affiliates is the subject or target of an investigation; 7. any questioning of an employee concerning the individual/entity, or the conduct of the individual/entity’s or the affiliate’s business which relates to the possible commission of any act or acts that could expose the individual, the entity, or its affiliates to either criminal or civil liability; 8. any investigation into compliance with prevailing wage laws or regulations. <p>The following are not inquiries:</p> <ol style="list-style-type: none"> 1. background investigations for employment; 2. contact with the contracting agency relating to performance or routine aspects of an existing contract; 3. agency communications relating to constituent complaints; 4. routine non-forensic program or financial audits.
<p>Managerial Employees or Managerial Capacity</p>	<p>Employees in a supervisory capacity who, either by virtue of their title or their duties, operate with discretion over solicitation, letting, or management of contracts with New York City.</p>
<p>Material Weakness</p>	<p>A reportable condition in which the design or operation of one or more of the components of internal control does not reduce to a relatively low level the risk that errors and irregularities in amounts that would be material in relation to the general purpose financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.</p>
<p>New York City Agencies</p>	<p>Those agencies for which expenses are paid in whole or in part from the city treasury, and include but are not be limited to, the City Council, the offices of each elected official, the Department of Education, the School Construction Authority, community boards, the Financial Services Corporation, the Health and Hospitals Corporation, the Economic Development Corporation, and the New York City Housing Authority, but do not include any court or any corporation or institution maintaining or operating a public library, museum, botanical garden, arboretum, tomb, memorial building, aquarium, zoological garden or similar facility.</p>

Nonprofit	Any group incorporated under the New York State Not-For-Profit Corporation Law and/or registered with the Secretary of the State as a Not-For-Profit Corporation in accordance with Article 13 of that law, and/or exempt from taxation under section 501 of the Internal Revenue Code .
Non-Responsible	When an individual or entity lacks the capability in all respects to fully perform the contract requirements and/or lacks the business integrity to justify the award of public tax dollars.
Officer	Any individual who serves as or performs the functions of chief executive officer , chief financial officer , or chief operating officer of the enrolling vendor , without regard to such individual 's title e.g., president, vice president, secretary, treasurer, board chairperson, trustee, (individual or entity who administers a trust) or their equivalents.
Parent	Any individual or entity including, but not limited to any partnership, joint venture or corporation which owns more than fifty (50) percent of the voting stock of another entity .
Primary Place of Business	The most important location from which the enrolling vendor conducts its business in the New York City metropolitan area. See business address definition.
Prime	The entity awarded the contract .
Principal Executive Office	The location at which the enrolling vendor 's principals are located. See also the definitions for primary place of business , business address , and telephone numbers .
Principal Owner	An individual , partnership, joint venture or corporation that holds a ten (10) percent or greater ownership interest in an enrolling vendor or subcontractor .
Principal Questionnaire	The questionnaire collects information on the enrolling vendor 's principal owners and/or officers .
Responsibility Determination	A conclusion reached by any government agency or quasi-governmental agency , concerning the responsibility of an entity . A responsibility determination is based on several factors including, but not limited to an entity 's financial resources, business integrity, and performance.
Role- Contributor	Account permission that allows a user to add and save information to the account, vendor questionnaire and principal questionnaire but not to sign for or submit account for filing.
Role- Signatory	Account permission that allows a user to add and save information to the account, vendor questionnaire and principal questionnaire in addition to signing for and submitting account for filing.
Role- Vendor Admin	Account permission that allows a user to add and save information to the account, vendor questionnaire and principal questionnaire in addition to signing for and submitting account for filing. User is also able to assign other users on a vendor account either contributor , signatory or vendor admin permissions.
Sanction	Any fine, penalty, judgment, injunction, violation, debarment or suspension.
Share	To have space, staff, equipment, expenses, etc., or use such items, in common with one or more other entities .
Shared Equipment	Equipment is considered to be the items used in an individual or entity 's operation or activity that include, but are not limited to telephone(s) and telephone systems, photocopiers, computer, motor vehicles and construction machinery. These items are considered shared whenever the enrolling vendor shares the ownership and/or the use of any equipment with any other entity . Equipment should not be considered to be shared under the following three circumstances: (1) when, although the equipment is owned by another entity , the enrolling vendor has entered into a formal lease for the use of the equipment and exercises exclusive use of the equipment; or (2) when the enrolling vendor owns equipment that it has formally leased

	to another entity , and for the duration of such lease the enrolling vendor has relinquished all right to the use of such leased equipment; or (3) when the enrolling vendor out-sources internal administrative functions, such as payroll.
Shared Expenses	Expenses are costs, charges, fees, etc. When the enrolling vendor and any other entity jointly incur or pay for expenses, they are considered shared .
Shared Space	Space is considered to be shared when any part of the space utilized by the enrolling vendor , at any of its sites, is also utilized on a regular or intermittent basis for any purpose by any other entity , and where there is no lease or sublease in effect between the enrolling vendor , and any other entity , that is sharing space with the enrolling vendor .
Shared Staff	Staff should be considered to be shared when any individual provides the services of an employee (including services of any type or level, managerial or supervisory, whether paid or unpaid) to the enrolling vendor , and also, on either a regular or irregular basis, provides the services of an employee, paid or unpaid, to one or more other entities , if such services are provided during any part of the same hours the individual is providing services to the enrolling vendor . This type of sharing may include, but is not limited to, individuals who provide the following services: telephone answering, receptionist, delivery, custodial, and driving.
SSN	The unique nine-digit number assigned by the Social Security Administration that assists in maintaining an accurate record of wages or self-employment earnings that are covered under the Social Security Act, and used by the Internal Revenue Service for tax administration purposes. Except where an entity elects to use an SSN in lieu of an EIN , PASSPort users are only required to enter the last four digits of an SSN where SSN data is solicited.
Subcontract	An agreement between an individual or entity that is party to a contract and another individual or entity which (a) is for the provision of goods, services or construction pursuant to that contract , and has a value that when aggregated with the values of all other such agreements with the same individual or entity and subcontractor during the immediately preceding twelve (12) month period is valued at one hundred thousand dollars (\$100,000) or more; or (b) is for the provision of goods and/or services, was awarded on a sole source basis and is valued at ten thousand dollars (\$10,000) or more; or (c) is a concession and has a value that when aggregated with the value of all other contracts/agreements held by the same concessionaire is valued at one hundred thousand dollars (\$100,000) or more; or (d) is a franchise.
Subcontractor	Any individual or entity engaged under a subcontract .
Submitting Vendor	The entity enrolling in PASSPort.
Subsidiary	An entity in which the majority of the voting stock is owned by a parent .
Telephone Numbers	The telephone numbers of an individual , entity and/or enrolling vendor at the primary place of business address, principal executive office address and business addresses .
Vendor Enrollment	Action in PASSPort where enrolling vendors can fill out required information prior to being able to do business with the City of New York.

CERTIFICATE OF SERVICE

I certify that on March 25, 2022, I served via electronic mail a copy of the Declaration Of Rachel B. Kane In Opposition To Plaintiff's Motion For Preliminary Injunction and its exhibits on the following counsel of record:

Claude M. Millman
Caroline Rule
Usman Mohammad
Michelle Lee
Seven World Trade Center, 34th Floor
New York, NY 10007
cmillman@kflaw.com
umohammad@kflaw.com
crule@kflaw.com
mlee@kflaw.com
*Attorneys for Plaintiff Human Services
Council of New York*

Richard F. Griffin, Jr.
Leon Dayan
Joshua A. Segal
BREDHOFF & KAISER, P.L.L.C.
805 15th Street NW, Suite 1000
Washington, DC 20005
Phone: 202-842-2600
Fax: 202-842-1888
rgriffin@bredhoff.com
ldayan@bredhoff.com
jsegal@bredhoff.com
*Attorneys for Proposed Intervenor District Council 37,
AFCSME, AFL-CIO*

Dated: April 8, 2022

/s Rachel B. Kane
Rachel B. Kane