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Press Release

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HISTORIC LABOR AGREEMENT BETWEEN THE CITY AND ASSOCIATION OF UNIONS PRESERVED BY FEDERAL COURT

\$6 BILLION IN PUBLIC WORKS PROJECTS WERE THREATENED BY CONTRACTOR GROUPS

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New York, August 9, 2011 – The U.S. District Court for the Southern District of New York found that project labor agreements between the City and the Building and Construction Trades Council (BCTC), an organization representing some 50 local unions comprising the various construction trades in New York City, do not violate the federal National Labor Relations Act. The project labor agreements – which sought to improve efficiency by preventing strikes and standardizing work rules – affected \$6 billion in infrastructure projects, including the construction of a new police academy and a larger 911 call center.

The agreements were the most comprehensive in New York City history, and was expected to save \$300 million. These savings would then be used to pay for projects that would have otherwise been cut because of the economic downturn. The City and BCTC entered into project labor agreements beginning in 2009 for public infrastructure projects involving 32,000 construction jobs through 2014. These projects were anticipated to create 1,800 new construction jobs.

"This important ruling will allow critical public works – such as the new police academy – to proceed without interruption, and ensure that future construction projects will be completed in a cost-effective and efficient manner," said Jonathan S. Becker, Deputy Chief of the Commercial and Real Estate Litigation Division, who served as the City's counsel on this case.

"This ruling validates what we've known all along: PLAs are legal and are very effective in lowering costs for taxpayers and improving efficiency on construction projects," said Gary La Barbera, president of the Building and Construction Trades Council of Greater New York. "These PLAs will help jumpstart additional economic activity and create thousands of solid, union construction jobs throughout New York City."

"We are gratified that the Court recognized this important construction management tool in the cost and efficiency of many key projects—both new construction and renovation," said Department of Design and Construction Commissioner David J. Burney, FAIA.

The two contractor groups, Building Industry Electrical Contractors Association and United Electrical Contractors Association alleged that PLAs are unlawful under the National Labor Relations Act. They

claimed that by entering into the PLAs, the City was acting as a regulator and not a market participant – allegedly by favoring unions and mandating work rules that are potentially inconsistent with existing collective bargaining agreements between contractors represented by the plaintiffs and other unions not signatories to the PLAs. In the Court’s decision, U.S. District Judge Robert P. Patterson, Jr. ruled that the City’s conduct as a market participant in entering into PLAs was lawful proprietary conduct, akin to what private entities are permitted to do, and thus not unlawful regulation, as had been claimed by the plaintiffs.

The Court relied in part on a U.S. Supreme Court decision regarding the clean-up of Boston Harbor which determined that PLAs negotiated to expedite the project were lawful. The contractor groups also raised state law claims which the court dismissed citing jurisdictional constraints. The decision was rendered on August 4th.

The New York City Law Department’s legal team included Jonathan S. Becker, Eric P. Jewell, and Steven Stein Cushman. Carol O’Rourke Pennington of Colleran O’Hara & Mills represented the Building and Construction Trades Council of Greater New York.

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The Building and Construction Trades Council of Greater New York consists of approximately 50 local affiliates of 15 national and international unions representing 100,000 working men and women in the five boroughs of New York City.

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