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**Report on the Fiscal 2023  
Preliminary Plan and the Fiscal 2022  
Mayor's Management Report for the  
Law Department**

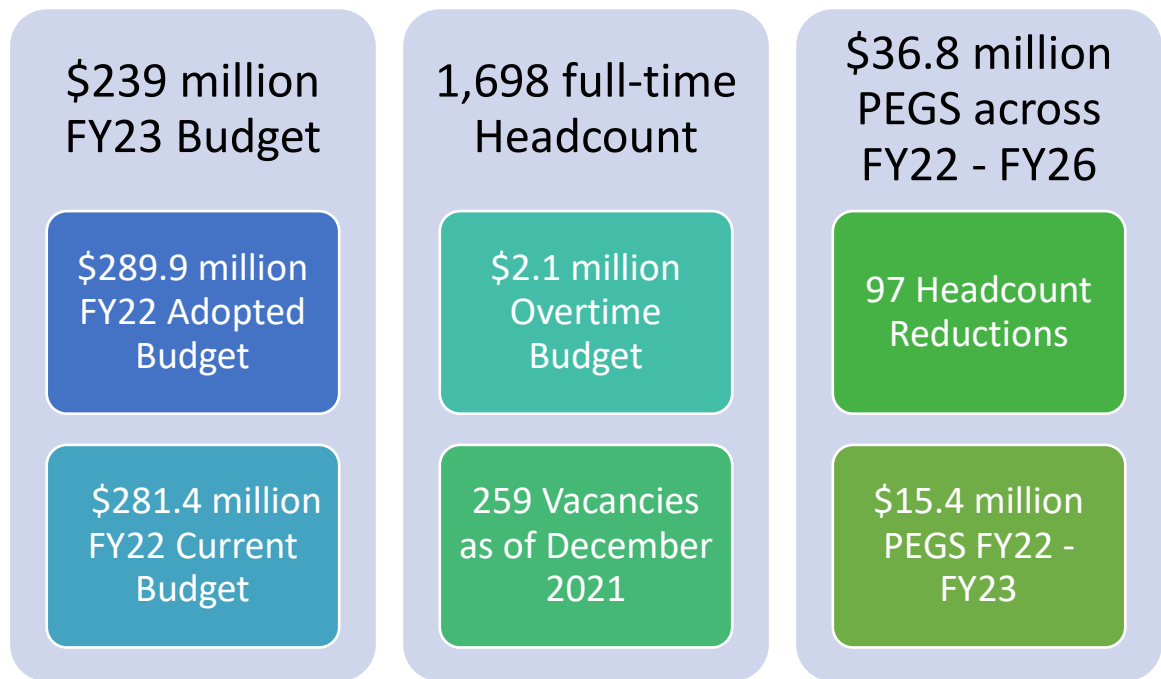
**March 22, 2022**

(Report prepared by Sebastian Palacio Bacchi)

## Table of Contents

Law Department Fiscal 2023 Budget Snapshot.....	1
Law Department Financial Plan Overview.....	1
Financial Plan Summary.....	1
Fiscal 2023 Preliminary Budget Changes.....	2
New Needs.....	3
Other Adjustments .....	3
Citywide Savings Program .....	3
Headcount .....	3
Judgement and Claims.....	4
Fiscal 2023 Preliminary Mayor’s Management Report.....	5
Budget Issues and Concerns.....	5
Family Court Issues .....	5
New York City Monitors.....	5
Appendices .....	7
A. Budget Actions in the November and Preliminary Plans .....	7
B. Law Department Headcount .....	7
C. Law Department Fiscal 2023 Personal Services (PS) Chart .....	8
D. Judgement and Claims Payouts by Agency .....	8
E. Fiscal 2023 Contract Budget .....	9
F. Fiscal 2023 Miscellaneous Revenue.....	9

## Law Department Fiscal 2023 Budget Snapshot



### Law Department Financial Plan Overview

The Law Department (LAW or the Department), under the direction of the corporation counsel, is responsible for all of the legal affairs of the City. It represents the City, the Mayor, and other elected officials, and the City’s many agencies in all affirmative and defensive civil litigation, as well as juvenile delinquency prosecutions brought in Family Court and Administrative Code enforcement proceedings brought in Criminal Court Law. Department attorneys draft and review local and State legislation, real estate leases, procurement contracts, and financial instruments for the sale of municipal bonds. The Department is comprised of 23 divisions with over 700 lawyers. It is responsible for more than 80,000 matters and provides legal advice to all city agencies. The Law Department’s Fiscal 2023 budget is less than one percent of the City’s Fiscal 2023 Preliminary Budget. Additionally, the Law Department will generate savings of \$36.8 million across the five-year plan period, equating to three percent of its City-funded budget, in line with a Program to Eliminate the Gap (PEG) target set by the new Administration to find savings to balance the City’s budget.

### Financial Plan Summary

The Law Department’s Fiscal 2023 Preliminary Budget totals \$239 million, including \$163.1 million in Personal Services (PS) funding to support 1,698 Full-Time (FT) positions and 135 Full-Time Equivalent (FTE) positions. Approximately \$230.6 million, or 96.5 percent, of the Department’s Fiscal 2023 budget is funded through City tax-levy resources, with Intra-City, Capital Inter-Fund Agreement (IFA), and other categorical funding representing the remaining funding. The Law Department’s operations

are carried out by 23 divisions. However, the Department's budget is only broken into two Units of Appropriation (U/A), which includes one for PS and one for Other Than Personal Services (OTPS)<sup>1</sup>.

<b>LAW Financial Summary</b>						
<i>Dollars in Thousands</i>	FY20	FY21	FY22	Preliminary Plan		**Difference
	Actual	Actual	Adopted	FY22	FY23	FY23-FY22
<b>Personal Services</b>						
Additional Gross Pay	\$2,300	\$2,608	\$2,272	\$2,927	\$2,272	\$0
Full-Time Salaried - Civilian	151,227	146,736	157,196	145,352	152,796	(4,400)
Unsalaries & Other Salaried	5,846	4,872	5,945	7,456	5,953	8
Overtime & P.S. Other	1,671	349	2131	2,151	2,131	0
<b>SUBTOTAL</b>	<b>\$161,044</b>	<b>\$154,565</b>	<b>\$167,544</b>	<b>\$157,886</b>	<b>\$163,152</b>	<b>\$(4,392)</b>
<b>Other Than Personal Services</b>						
Contractual Services	\$77,442	\$67,904	\$78,230	\$77,917	\$31,578	\$(46,652)
Fixed & Misc. Charges	74	1	18	45	18	0
Other Services & Charges	33,209	36,729	41,855	40,359	42,058	203
Property & Equipment	2,234	3,020	984	3,523	984	0
Supplies & Materials	1,283	870	1,250	1,712	1,250	0
<b>SUBTOTAL</b>	<b>\$114,242</b>	<b>\$108,524</b>	<b>\$122,337</b>	<b>\$123,556</b>	<b>\$75,888</b>	<b>\$(46,449)</b>
<b>TOTAL</b>	<b>\$275,286</b>	<b>\$263,089</b>	<b>\$289,881</b>	<b>\$281,442</b>	<b>\$239,040</b>	<b>\$(50,841)</b>
<b>Funding</b>						
City Funds			\$278,799	\$266,351	\$230,585	\$(48,214)
Other Categorical			417	617	417	0
Capital- IFA			4,065	4,065	4,065	0
Federal – Community Development			8	8	0	(8)
State			0	75	0	0
Federal - Other			2,619	2,619	0	(2,619)
Intra-City			3,973	7,707	3,973	0
<b>TOTAL</b>	<b>\$275,286</b>	<b>\$263,089</b>	<b>\$289,881</b>	<b>\$281,442</b>	<b>\$239,040</b>	<b>\$(50,841)</b>
<b>Budgeted Headcount</b>						
<b>Full-Time Positions - Civilian</b>	<b>1,713</b>	<b>1,621</b>	<b>1,795</b>	<b>1,698</b>	<b>1,698</b>	<b>(97)</b>

\*\* The difference of Fiscal 2022 Adopted Budget compared to Fiscal 2023 Preliminary Budget

The Law Department's Fiscal 2023 Preliminary Budget totals \$239 million, and includes \$163.1 million in PS funding to support 1,698 FT positions. The Department's Fiscal 2023 Preliminary Budget is \$50.8 million less than its Fiscal 2022 Adopted Budget of \$289.9 million. This is a combination of the Department's Citywide Savings Program, and due to the fact that its Fiscal 2023 budget, particularly associated with its Contract Budget, has yet to accurately reflect the Department's annual expenditures. Furthermore, the Department's FT headcount in Fiscal 2023 is 97 positions less than what was budgeted for in the Fiscal 2022 Adopted Budget. This is a direct result of the Department's Citywide Savings Program, which will be discussed in the following section of this report. For additional information regarding budgetary actions that impacted the Law Department since the Fiscal 2022 Adopted Budget, please refer to Appendix A.

## Fiscal 2023 Preliminary Budget Changes

This section will provide an itemized list of significant budget actions that impact the budget of the Law Department as of the release of the Fiscal 2023 Preliminary Plan.

<sup>1</sup> Units of Appropriation are the subdivisions of the City Expense Budget that the City Council votes upon.

### New Needs

- **Vaccine Incentive.** The Fiscal 2023 Preliminary Budget includes one-time new needs of \$2,000 in Fiscal 2022 for vaccine incentives. This is part of the City’s initiative to grant City workers \$500 each for getting the COVID-19 vaccine between the announcement of the vaccine mandate and the deadline to be vaccinated during the last Administration.

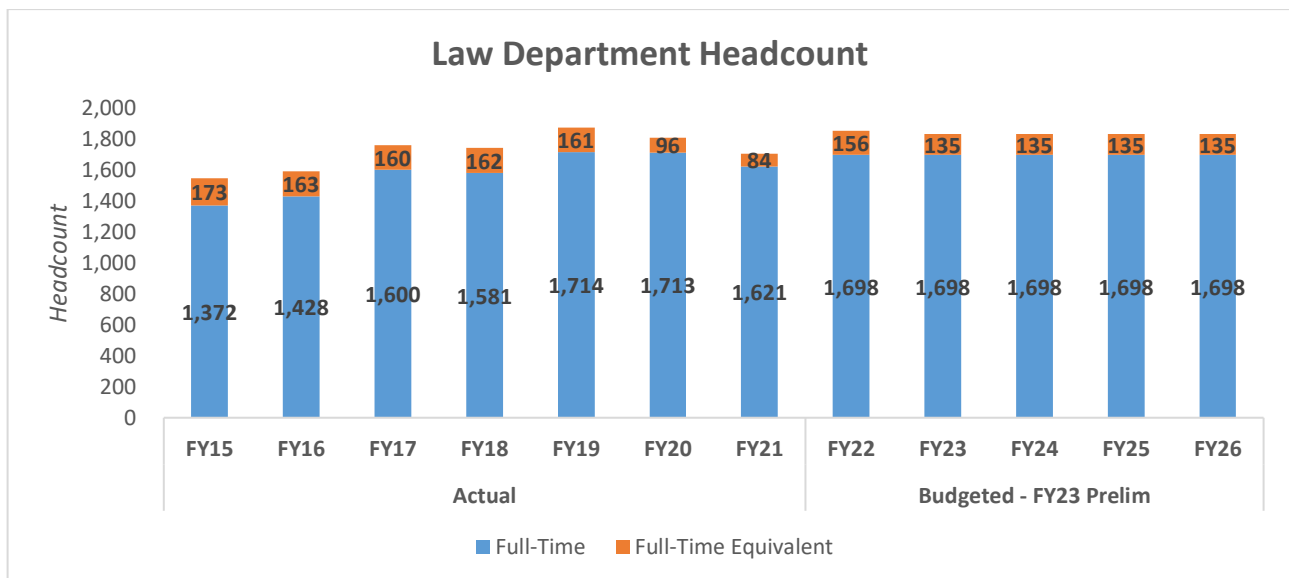
### Other Adjustments

- **Intra-City Funding.** The Fiscal 2023 Preliminary Budget includes an increase of intra-city of \$426,000 in Fiscal 2022 associated with legal services provided by the Department’s legal contracts for the Department of Correction (DOC).

### Citywide Savings Program

- **Lease Re-estimate.** The Law Department will generate one-time savings of \$2.7 million in Fiscal 2022 through the re-estimate of expected lease costs. These savings were realized through leasing delays in two sites associated with Raise the Age, primarily Gertz Plaza in Queens, and 233 Broadway in Manhattan.
- **Vacancy Reduction.** The Law Department will generate savings of \$5.5 million in Fiscal 2022 and baselined savings of \$7.1 million in Fiscal 2023 through the reduction of 97 vacant positions across the Department. These savings primarily came from divisions that had significant vacancies, including the Tort Division, the Family Court Division, and the Special Federal Litigation Division, among others.

### Headcount



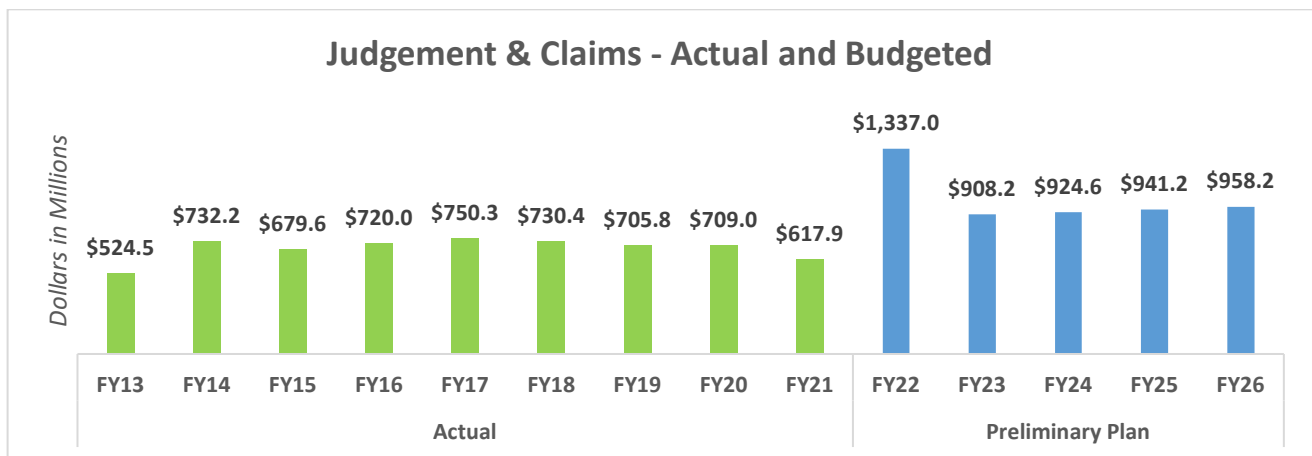
The Law Department’s Fiscal 2023 budget includes \$163.1 million in PS funding to support 1,698 FT positions and 156 FTE positions. As of December 2021, the Department was operating with 259 FT vacancies, equivalent to a vacancy rate of 14.4 percent. Of this total, 209 are City-funded vacancies. The Law Department’s headcount has risen in recent years, as the Department has made efforts to reduce its reliance on outside counsel by hiring additional in-house lawyers, and expanded the number of staff in its Tort Division in an effort to better defend the City against lawsuits. For additional information on the Law Department’s headcount, please refer to Appendix B.

The Law Department’s expense budget is categorized into two Units of Appropriation (U/As), the units by which the City Council approves agency funding. The Department’s headcount and PS funding are spread across these divisions. For additional information regarding the headcount and PS funding across the Law Department’s divisions in Fiscal 2023, please refer to Appendix C.

### Judgement and Claims

The City’s Judgement and Claims (J&C) budget is a fund used to pay settlements resulting from judgements against the City. J&C payments include medical malpractice suits, contract suits, police suits, among other judgements.

While the J&C budget is part of the City’s Miscellaneous Budget, and is not included in the Law Department’s budget, the Law Department’s Tort Division defends the City against most J&C suits. The Law Department does not defend medical malpractice suits against the City, as Health and Hospitals (H+H) manages their own separate legal department. The J&C budget totals \$908.2 million for Fiscal 2023. Over the past four fiscal years, actual J&C spending has averaged \$690.7 million annually.



Payments for J&C vary from year to year due to settlements for major cases. For example, J&C payments increased in Fiscal 2014 in large part due to the settlement of the Central Park Five case and the FDNY exam bias case. Furthermore, Fiscal 2017 and Fiscal 2018 saw the establishment of Conviction Integrity Units in New York City’s District Attorney offices, which led to relatively higher J&C expenditures. It should also be noted that in the November 2021 Financial Plan, \$150 million was baselined in the J&C budget beginning in Fiscal 2023 as part of a funding agreement to pay \$600 million for 2,244 judgements related to *the Gulino vs. Board of Education* case<sup>2</sup>. The City agreed to pay the judgements over time, subject to a cap on the amount to be paid each fiscal year. For additional information regarding the citywide J&C payouts by agency, please refer to Appendix D.

<sup>2</sup> This case first began in 1996, when plaintiffs sued the Board of Education for violating Title VII of the 1964 Civil Rights Act, by requiring New York City public school teachers to pass the Liberal Arts and Sciences Test (LAST) to keep or obtain teaching positions and licenses. The suit found that the DOE failed to establish, as required by federal law, that the test was related to the job of teaching. It should be noted, however, that according to the Law Department, the agreement does not include approximately 2,000 claims that are yet to be adjudicated.

## Fiscal 2023 Preliminary Mayor's Management Report

The Preliminary Mayor's Management Report (PMMR) for Fiscal 2022 was released in February 2022, and contains information regarding City agencies/offices that allow the public to better understand how NYC programs are performing. The Law Department's PMMR report includes several metrics, which provide high-level information regarding the Department's numerous operations. These include its work to establish and enforce child support orders in interstate cases, prosecute juvenile delinquency cases in Family Court, among others. Most of these metrics contain valuable information, however, some of its targets do not seem to take into account historical performance rates. The Law Department should continue to assess which targets require an update, in order to accurately reflect the work being done by the Department. Some notable performance metrics provided by the Law Department in the Fiscal 2022 PMMR include the following.

- **Family Court.** Referred cases filed for prosecution in Family Court remained steady between Fiscal 2020 and Fiscal 2021 at 30 percent, however, they increased by 10 percent in the first four months of Fiscal 2021 compared to the same time period last fiscal year. This change is due to the Family Court having lifted the operational order which limited the filing of cases during the pandemic to essential matters.
- **Special Federal Litigation.** The Special Federal Litigation Division's approach has resulted in decreases in new filings. However, there was a slight uptick in cases pending, which is a result of more complex matters, such as reverse conviction cases, as well as cases pending from last fiscal year.

For additional information regarding the Law Department's Fiscal 2022 performance metrics, please refer to the Fiscal 2022 Preliminary Mayor's Management report, found here: [https://www1.nyc.gov/assets/operations/downloads/pdf/pmmr2022/2022\\_pmmr.pdf](https://www1.nyc.gov/assets/operations/downloads/pdf/pmmr2022/2022_pmmr.pdf)

## Budget Issues and Concerns

### Family Court Issues

A report released by the New York Bar Association, along with the Fund for Modern Courts, and later reported by NBC News New York on February 4, 2022, highlighted failures in Family Court in the City<sup>3</sup>. The report highlighted severe backlogs in Family Court cases in the City, specifically highlighting the fact that the court had too few judges and limited technology. The report mentioned that throughout the pandemic, Family Court chose to deal with cases that were deemed "essential", such as child protection cases, juvenile delinquency, and orders of protection, while cases deemed "non-essential" by the court, such as custody, visitation, adoption, and child support, were put on hold for over a year. Lastly, the report highlighted that this backlog in cases primarily affected the City's minority population (particular black and brown communities), and those with a lower income, who often find themselves without the necessary finances to hire a lawyer. The Council seeks to understand what steps the Law Department plans to take in the near future to address this issue.

### New York City Monitors

An article released by NY Post on February 19, 2022, highlighted that the City has spent \$111 million on "monitors and special masters" overseeing agencies ordered to fix failures, including living

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<sup>3</sup> "Report reveals failures in Family Court". <https://www.nbcnewyork.com/report-reveals-failures-in-family-court/3534436/>

conditions in public housing and alleged racist practices in the City's jails, among others. The article mentioned that the NY Post examined 11 ongoing cases that had the highest spending, which include \$36.9 million collected by a lawyer to assess the Fire Department's (FDNY) efforts to hire more black and Hispanic firefighters, \$12.8 million to monitor the steering of the Police Department's (NYPD) revamping of its controversial stop and frisk tactics, among others. The Council seeks to understand the way in which monitors receive funding and what the Law Department, along with the City's Administration, plan to do in order to reduce the need for monitors at City agencies<sup>4</sup>.

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<sup>4</sup> "Monitors, special masters overseeing failing NYC agencies racked up \$111 million tab".  
<https://nypost.com/2022/02/19/monitors-overseeing-failing-nyc-agencies-racked-up-111m-tab/>



## Appendices

### A. Budget Actions in the November and Preliminary Plans

<i>Dollars in Thousands</i>	FY22			FY23		
	City	Non-City	Total	City	Non-City	Total
<b>LAW Budget as of the Adopted 2022 Budget</b>	<b>\$278,800</b>	<b>\$11,082</b>	<b>\$289,882</b>	<b>\$237,470</b>	<b>\$8,455</b>	<b>\$245,925</b>
<b>New Needs</b>						
Vaccine Incentive	44	0	44	0	0	0
<b>Subtotal New Needs</b>	<b>\$44</b>	<b>\$0</b>	<b>\$44</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Other Adjustments</b>						
Collective Bargaining	242	0	242	246	0	246
Couch White Law MOU	0	1,700	1,700	0	0	0
PS Savings	(4,500)	0	(4,500)	0	0	0
Other Categorical Adjustments	0	200	200	0	0	0
Other State Adjustments	0	75	75	0	0	0
Other Cintra-City Adjustments	0	1,606	1,606	0	0	0
<b>Subtotal Other Adjustments</b>	<b>\$(4,258)</b>	<b>\$3,581</b>	<b>\$(677)</b>	<b>\$246</b>	<b>\$0</b>	<b>\$246</b>
<b>Total All Changes</b>	<b>\$(4,214)</b>	<b>\$3,581</b>	<b>\$(633)</b>	<b>\$246</b>	<b>\$0</b>	<b>\$246</b>
<b>LAW Budget as of the November 2021 Plan</b>	<b>\$274,587</b>	<b>\$14,664</b>	<b>\$289,251</b>	<b>\$237,716</b>	<b>\$8,455</b>	<b>\$246,171</b>
<b>New Needs</b>						
Vaccine Incentive	2	0	2	0	0	0
<b>Subtotal New Needs</b>	<b>\$2</b>	<b>\$0</b>	<b>\$2</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Other Adjustments</b>						
Lease Re-estimate	(2,750)	0	(2,750)	0	0	0
Vacancy Reduction	(5,488)	0	(5,488)	(7,131)	0	(7,131)
Other Intra-City Adjustments	0	426	426	0	0	0
<b>Subtotal Other Adjustments</b>	<b>\$(8,238)</b>	<b>\$426</b>	<b>\$(7,812)</b>	<b>\$(7,131)</b>	<b>\$0</b>	<b>\$(7,131)</b>
<b>Total All Changes</b>	<b>\$(8,236)</b>	<b>\$426</b>	<b>\$(7,810)</b>	<b>\$(7,131)</b>	<b>\$0</b>	<b>\$(7,131)</b>
<b>LAW Budget as of the FY23 Prelim Plan</b>	<b>\$266,351</b>	<b>\$15,090</b>	<b>\$281,441</b>	<b>\$230,585</b>	<b>\$8,455</b>	<b>\$239,040</b>

### B. Law Department Headcount

	Actual				Budgeted - FY23 Prelim				
	FY18	FY19	FY20	FY21	FY22	FY23	FY24	FY25	FY26
<b>Full-Time</b>	1,581	1,714	1,713	1,621	1,698	1,698	1,698	1,698	1,698
<b>Full-Time Equivalent</b>	162	161	96	84	156	135	135	135	135
<b>Total</b>	<b>1,743</b>	<b>1,875</b>	<b>1,809</b>	<b>1,705</b>	<b>1,854</b>	<b>1,833</b>	<b>1,833</b>	<b>1,833</b>	<b>1,833</b>

**C. Law Department Fiscal 2023 Personal Services (PS) Chart**

<i>Dollars in Thousands</i>		
<b>Program Area</b>	<b>Fiscal 2023 Budgeted</b>	<b>Budgeted Headcount</b>
Raise the Age	\$19,342	219
Administrative Services	14,779	74
Administrative Law	4,182	41
Appeals	5,024	48
Commercial Litigation	5,287	53
Contracting Department	1,423	12
Economic Development	1,724	15
E-Discovery Department	1,905	11
Environmental Law	1,957	18
Executive	3,797	30
Family Court	9,579	118
General Litigation	3,259	29
Information Technology	2,563	27
Labor and Employment Law	7,053	77
Legal Counsel	3,520	31
Litigation Support	2,784	30
Municipal Finance	706	7
Office of Special Enforcement	1,179	15
Operations	4,367	71
Special Federal Litigation	12,343	132
Tax and Bankruptcy	4,851	60
Tort	48,227	552
Worker Compensation	5,817	88
Financial Plan Savings	(6,978)	(96)
Other	4,463	36
<b>Total</b>	<b>\$163,153</b>	<b>1,698</b>

**D. Judgement and Claims Payouts by Agency**

<i>Dollars in Thousands</i>						
<b>Agency</b>	<b>Actuals</b>					
	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>
Police	\$303,927	\$328,385	\$262,782	\$237,505	\$240,421	\$212,444
Fire	21,286	43,543	26,347	19,670	30,834	29,788
H+H	131,882	118,936	122,329	130,994	140,881	104,022
Transportation	70,155	81,847	84,066	55,319	92,911	84,536
Sanitation	50,468	58,957	81,259	73,370	44,654	53,711
Education	44,952	45,799	40,772	46,077	54,942	29,091
Environmental Protection	5,718	8,884	15,420	15,759	4,426	19,710
Parks	12,253	14,712	20,118	29,931	25,322	21,164
Corrections	44,326	36,173	41,650	45,728	46,442	40,738
All Other Payments	35,001	13,113	35,639	51,398	28,137	22,662
<b>Total</b>	<b>\$719,968</b>	<b>\$750,349</b>	<b>\$730,382</b>	<b>\$705,751</b>	<b>\$708,970</b>	<b>\$617,866</b>

**E. Fiscal 2023 Contract Budget**

<i>Dollars in Thousands</i>	FY22 Adopted		FY23 Prelim	
	# of Contracts	Amount	# of Contracts	Amount
Contractual Services General	14	\$440	14	\$440
Maint & Repair General	17	1,501	17	1,501
Office Equipment Maintenance	9	160	9	160
Data Processing Equipment	8	701	8	701
Security Services	1	225	1	763
Temporary Services	15	5,093	15	5,093
Cleaning Services	1	15	1	15
Transportation Expenditures	1	50	1	50
Training Prgm for City Employees	24	105	24	105
Professional Svcs: Accounting & Auditing	1	100	1	100
Professional Svcs: Legal Services	31	8,802	31	8,802
Professional Svcs: Engineering & Architectural	28	130	28	130
Professional Svcs: Other	279	60,908	279	13,718
<b>Total</b>	<b>429</b>	<b>\$78,230</b>	<b>429</b>	<b>\$31,578</b>

**F. Fiscal 2023 Miscellaneous Revenue**

<i>Dollars in Thousands</i>	Actual				FY23 Prelim	
	2018	2019	2020	2021	2022	2023
Adm. Code Violations	\$1,615	\$648	\$1,187	\$88	\$650	\$650
Sale of Streets	1,363	275	275	858	275	275
Affirmative R/E Litigation	272	14,605	355	257	250	250
Affirmative Litigation	5,968	21,346	22,071	61,534	9,759	9,759
Vending, Xerox, Subpoena Fees	41	84	73	30	75	75
Collection Agency Claims	5,153	3,371	3,402	5,091	3,300	3,300
Worker Compensation	8,103	8,071	8,045	8,352	7,000	7,000
<b>Total</b>	<b>\$22,515</b>	<b>\$48,400</b>	<b>\$35,408</b>	<b>\$76,210</b>	<b>\$21,309</b>	<b>\$21,309</b>