



Department of
Environmental
Conservation

BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION TO AMEND BROWNFIELD CLEANUP AGREEMENT AND AMENDMENT

PART I. BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

1. Check the appropriate box(es) below based on the nature of the amendment modification requested:

Amendment to modify the existing BCA: [check one or more boxes below]

- Add applicant(s)
- Substitute applicant(s)
- Remove applicant(s)
- Change in Name of applicant(s)

Amendment to reflect a transfer of title to all or part of the brownfield site

1a. A copy of the recorded deed must be provided. Is this attached? Yes No

1b. Change in ownership Additional owner (such as a beneficial owner)

If yes, pursuant to 6 NYCRR Part 375-1.11(d), a Change of Use form should have been previously submitted. If not, please submit this form with this Amendment. See <http://www.dec.ny.gov/chemical/76250.html>

Amendment to modify description of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Sections I and V below and Part II*]

Amendment to Expand or Reduce property boundaries of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Section I and V below and Part II*]

Sites in Bronx, Kings, New York, Queens, or Richmond counties ONLY: Amendment to request determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit. Please answer questions on the supplement at the end of the form.

Other (explain in detail below)

2. Required: Please provide a brief narrative on the nature of the amendment:

On June 21, 2022, 1510 Broadway Housing Development Fund Company, Inc. became the record title owner of the BCP Site located at 1510 Broadway, Brooklyn, New York (Block 1489, Lot 11) pursuant to the deed attached as Exhibit A. Also on June 21, 2022, 1510 Broadway LLC, the Site Volunteer, became the beneficial owner of the site pursuant to the Declaration of Interest and Nominee Agreement attached as Exhibit B. 1510 Broadway Housing Development Fund Company, Inc is not being added to the BCA. This purchase will not affect the remedial efforts at the Site because 1510 Broadway LLC is the Remedial Party for the Site. The 60-Day Advanced Notification form was provided to the DEC on April 7, 2022 to notify DEC of the ownership transfer however the new owner is 1510 Broadway Housing Development Company, Inc. as opposed to the Volunteer 1510 Broadway LLC.

In addition, the affordable housing Regulatory Agreement and Land Disposition Agreement both fully executed on June 21, 2022 as attached as support the project on this Site is for 100% affordable housing.

Please refer to the attached instructions for guidance on filling out this application

Submission of a full BCP application will be required should this application be determined to be a major amendment. If the amendment involves a non-insignificant change in acreage, applicants are encouraged to consult with the DEC project team prior to submitting this application.

| Section I. Current Agreement Information | | | |
|--|-----|---------------------------------------|--|
| BCP SITE NAME: 1510 Broadway Dry Cleaners Site | | BCP SITE NUMBER: C224280 | |
| NAME OF CURRENT APPLICANT(S): 1510 Broadway LLC | | | |
| INDEX NUMBER OF AGREEMENT: C224280-10-01 | | DATE OF ORIGINAL AGREEMENT: 11/7/2018 | |
| Section II. New Requestor Information (complete only if adding new requestor or name has changed) | | | |
| NAME | | | |
| ADDRESS | | | |
| CITY/TOWN | | ZIP CODE | |
| PHONE | FAX | E-MAIL | |
| <p>1. Is the requestor authorized to conduct business in New York State (NYS)? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <ul style="list-style-type: none"> If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the NYS Department of State's (DOS) Corporation & Business Entity Database. A print-out of entity information from the DOS database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS. | | | |
| NAME OF NEW REQUESTOR'S REPRESENTATIVE | | | |
| ADDRESS | | | |
| CITY/TOWN | | ZIP CODE | |
| PHONE | FAX | E-MAIL | |
| NAME OF NEW REQUESTOR'S CONSULTANT (if applicable) | | | |
| ADDRESS | | | |
| CITY/TOWN | | ZIP CODE | |
| PHONE | FAX | E-MAIL | |
| NAME OF NEW REQUESTOR'S ATTORNEY (if applicable) | | | |
| ADDRESS | | | |
| CITY/TOWN | | ZIP CODE | |
| PHONE | FAX | E-MAIL | |
| <p>2. Requestor must submit proof that the party signing this Application and Amendment has the authority to bind the Requestor. This would be documentation from corporate organizational papers, which are updated, showing the authority to bind the corporation, or a Corporate Resolution showing the same, or an Operating Agreement or Resolution for an LLC. Is this proof attached? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> | | | |
| <p>3. Describe Requestor's Relationship to Existing Applicant:</p> | | | |

Section III. Current Property Owner/Operator Information (only include if new owner/operator)
Owner below is: Existing Applicant New Applicant Non-Applicant

OWNER'S NAME (if different from requestor) 1510 Broadway Hosing Development Fund Company, Inc

ADDRESS Sherry D. Roberts c/o Local Development Corporation of East New York, 80 Jamaica Avenue

CITY/TOWN Brooklyn, New York

ZIP CODE 11207

PHONE (718) 385-6700

FAX N/A

E-MAIL sdroberts100@aol.com

OPERATOR'S NAME (if different from requestor or owner) Requestor/Volunteer

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

Section IV. Eligibility Information for New Requestor (Please refer to ECL § 27-1407 for more detail)

If answering "yes" to any of the following questions, please provide an explanation as an attachment.

1. Are any enforcement actions pending against the requestor regarding this site? Yes No
2. Is the requestor presently subject to an existing order for the investigation, removal or remediation relating to contamination at the site? Yes No
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? Yes No
 Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.
4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of i) any provision of the subject law; ii) any order or determination; iii) any regulation implementing ECL Article 27 Title 14; or iv) any similar statute, regulation of the state or federal government? If so, provide an explanation on a separate attachment. Yes No
5. Has the requestor previously been denied entry to the BCP? If so, include information relative to the application, such as name, address, Department assigned site number, the reason for denial, and other relevant information. Yes No
6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving the handling, storing, treating, disposing or transporting of contaminants? Yes No
7. Has the requestor been convicted of a criminal offense i) involving the handling, storing, treating, disposing or transporting of contaminants; or ii) that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration (as that term is used in Article 195 of the Penal Law) under federal law or the laws of any state? Yes No
8. Has the requestor knowingly falsified statements or concealed material facts in any matter within the jurisdiction of the Department, or submitted a false statement or made use of or made a false statement in connection with any document or application submitted to the Department? Yes No
9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.9(f) that committed an act or failed to act, and such act or failure to act could be the basis for denial of a BCP application? Yes No
10. Was the requestor's participation in any remedial program under DEC's oversight terminated by DEC or by a court for failure to substantially comply with an agreement or order? Yes No
11. Are there any unregistered bulk storage tanks on-site which require registration? Yes No

THE NEW REQUESTOR MUST CERTIFY THAT IT IS EITHER A PARTICIPANT OR VOLUNTEER IN ACCORDANCE WITH ECL §27-1405 (1) BY CHECKING ONE OF THE BOXES BELOW:

PARTICIPANT

A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.

VOLUNTEER

A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.

NOTE: By checking this box, a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site certifies that he/she has exercised appropriate care with respect to the hazardous waste found at the facility by taking reasonable steps to: i) stop any continuing discharge; ii) prevent any threatened future release; iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous waste.

If a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site, submit a statement describing why you should be considered a volunteer – be specific as to the appropriate care taken.

12. Requestor's Relationship to Property (check one):

Prior Owner Current Owner Potential /Future Purchaser Other _____

13. If requestor is not the current site owner, **proof of site access sufficient to complete the remediation must be submitted.** Proof must show that the requestor will have access to the property before signing the BCA and throughout the BCP project, including the ability to place an easement on the site Is this proof attached? Yes No

Note: a purchase contract does not suffice as proof of access.

Section V. Property description and description of changes/additions/reductions (if applicable)

1. Property information on current agreement:

ADDRESS

CITY/TOWN

ZIP CODE

TAX BLOCK AND LOT (SBL)

TOTAL ACREAGE OF CURRENT SITE: _____

| Parcel Address | Section No. | Block No. | Lot No. | Acreage |
|----------------|-------------|-----------|---------|---------|
| | | | | |
| | | | | |
| | | | | |

2. Check appropriate boxes below:

Addition of property (may require additional citizen participation depending on the nature of the expansion – see attached instructions)

2a. PARCELS ADDED:

| Parcel Address | Section No. | Block No. | Lot No. | Acreage Added by Parcel |
|----------------|-------------|-----------|---------|-------------------------|
| | | | | |
| | | | | |
| | | | | |

Total acreage to be added: _____

Reduction of property

2b. PARCELS REMOVED:

| Parcel Address | Section No. | Block No. | Lot No. | Acreage Removed by Parcel |
|----------------|-------------|-----------|---------|---------------------------|
| | | | | |
| | | | | |
| | | | | |

Total acreage to be removed: _____

Change to SBL (e.g. merge, subdivision, address change)

2c. NEW SBL INFORMATION:

| Parcel Address | Section No. | Block No. | Lot No. | Acreage |
|----------------|-------------|-----------|---------|---------|
| | | | | |
| | | | | |
| | | | | |

If requesting to modify a metes and bounds description or requesting changes to the boundaries of a site, please attach a revised metes and bounds description, survey, or acceptable site map to this application.

3. TOTAL REVISED SITE ACREAGE: _____

Supplement to the Application To Amend Brownfield Cleanup Agreement And Amendment - Questions for Sites Seeking Tangible Property Credits in New York City ONLY.

| | |
|--|---|
| Property is in Bronx, Kings, New York, Queens, or Richmond counties. | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| Requestor seeks a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit. | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| Please answer questions below and provide documentation necessary to support answers. | |
| 1. Is at least 50% of the site area located within an environmental zone pursuant to Tax Law 21(6)? Please see DEC's website for more information. | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 2. Is the property upside down as defined below? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| From ECL 27-1405(31): | |
| <p>"Upside down" shall mean a property where the projected and incurred cost of the investigation and remediation which is protective for the anticipated use of the property equals or exceeds seventy-five percent of its independent appraised value, as of the date of submission of the application for participation in the brownfield cleanup program, developed under the hypothetical condition that the property is not contaminated.</p> | |
| 3. Is the project an affordable housing project as defined below? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| <p>From 6 NYCRR 375- 3.2(a) as of August 12, 2016:</p> <p>(a) "Affordable housing project" means, for purposes of this part, title fourteen of article twenty seven of the environmental conservation law and section twenty-one of the tax law only, a project that is developed for residential use or mixed residential use that must include affordable residential rental units and/or affordable home ownership units.</p> <p>(1) Affordable residential rental projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which defines (i) a percentage of the residential rental units in the affordable housing project to be dedicated to (ii) tenants at a defined maximum percentage of the area median income based on the occupants' households annual gross income.</p> <p>(2) Affordable home ownership projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which sets affordable units aside for home owners at a defined maximum percentage of the area median income.</p> <p>(3) "Area median income" means, for purposes of this subdivision, the area median income for the primary metropolitan statistical area, or for the county if located outside a metropolitan statistical area, as determined by the United States department of housing and urban development, or its successor, for a family of four, as adjusted for family size.</p> | |

PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT

| Existing Agreement Information | |
|---|--------------------------|
| BCP SITE NAME: 1510 Broadway Dry Cleaners Site | BCP SITE NUMBER: C224280 |
| NAME OF CURRENT APPLICANT(S): 1510 Broadway LLC | |
| INDEX NUMBER OF AGREEMENT: C224280-10-01 | |
| EFFECTIVE DATE OF ORIGINAL AGREEMENT: 11/7/2018 | |

Declaration of Amendment:

By the Requestor(s) and/or Applicant(s) signatures below, and subsequent signature by the Department, the above application to amend the Brownfield Cleanup Agreement described above is hereby approved. This Amendment is made in accordance with and subject to all of the BCA and all applicable guidance, regulations and state laws applicable thereto. All other substantive and procedural terms of the Agreement will remain unchanged and in full force and effect regarding the parties to the Agreement.

Nothing contained herein constitutes a waiver by the Department or the State of New York of any rights held in accordance with the Agreement or any applicable state and/or federal law or a release for any party from any obligations held under the Agreement or those same laws.

Statement of Certification and Signatures: New Requestor(s) (if applicable)

(Individual)

I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: _____ Signature: _____

Print Name: _____

(Entity)

I hereby affirm that I am (title _____) of (entity _____); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction; and that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.

_____ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: _____ Signature: _____

Print Name: _____

Statement of Certification and Signatures: Existing Applicant(s) (an authorized representative of each applicant must sign)

(Individual)

I hereby affirm that I am a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: _____ Signature: _____

Print Name: _____

(Entity)

I hereby affirm that I am Sole Member (title) of 1510 Broadway LLC (entity) which is a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. Rella Fogliano signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 8/10/2022 Signature: 

Print Name: Rella Fogliano

REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT

Please see the following page for submittal instructions.

NOTE: Applications submitted in fillable format will be rejected.

Status of Agreement:

| | |
|---|--|
| <input type="checkbox"/> PARTICIPANT A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination. | <input checked="" type="checkbox"/> VOLUNTEER A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the contamination. |
|---|--|

Effective Date of the Original Agreement: 11/7/2018

Signature by the Department:

DATED: 10/6/2022

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By: *Andrew Guglielmi*

~~Michael J. Ryan, P.E.~~, Director Andrew Guglielmi
Division of Environmental Remediation

Site Code: C224280

SUBMITTAL INFORMATION:

- **Two (2)** copies, one hard copy with original signatures and one electronic copy in final, non-fillable Portable Document Format (PDF) must be sent to:

Chief, Site Control Section
New York State Department of Environmental Conservation
Division of Environmental Remediation
625 Broadway
Albany, NY 12233-7020

- **NOTE: Applications submitted in fillable format will be rejected.**

FOR DEPARTMENT USE ONLY

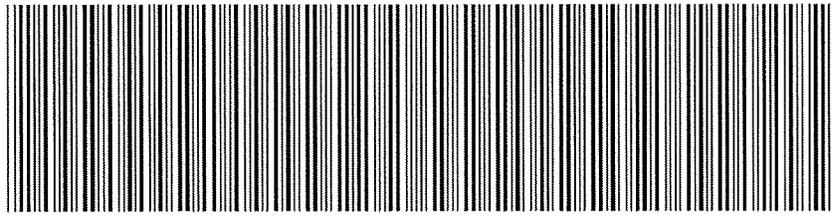
BCP SITE T&A CODE: _____ **LEAD OFFICE:** _____

PROJECT MANAGER: _____

EXHIBIT A

**NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER**

This page is part of the instrument. The City Register will rely on the information provided by you on this page for purposes of indexing this instrument. The information on this page will control for indexing purposes in the event of any conflict with the rest of the document.



2022062400330001001E4029

RECORDING AND ENDORSEMENT COVER PAGE

PAGE 1 OF 35

Document ID: 2022062400330001

Document Date: 06-21-2022

Preparation Date: 06-24-2022

Document Type: DEED

Document Page Count: 34

PRESENTER:

71198863/1594782
STEWART TITLE INSURANCE COMPANY
711 WESTCHESTER AVENUE, SUITE 302
WHITE PLAINS, NY 10604
914-993-9393
NYMETRORECORDINGS@STEWART.COM

RETURN TO:

71198863/1594782
STEWART TITLE INSURANCE COMPANY
711 WESTCHESTER AVENUE, SUITE 302
WHITE PLAINS, NY 10604
914-993-9393
NYMETRORECORDINGS@STEWART.COM

PROPERTY DATA

| Borough | Block | Lot | Unit | Address |
|---|-------|-----|------------|---------------|
| BROOKLYN | 1489 | 11 | Entire Lot | 1510 BROADWAY |
| Property Type: NON-RESIDENTIAL VACANT LAND | | | | |

CROSS REFERENCE DATA

CRFN _____ or DocumentID _____ or Year _____ Reel _____ Page _____ or File Number _____

PARTIES

GRANTOR/SELLER:

THE CITY OF NEW YORK
100 GOLD STREET
NEW YORK, NY 10038

GRANTEE/BUYER:

1510 BROADWAY HOUSING DEVELOPMENT FUND
COMPANY INC
C/O: THE MACQUESTEN COMPANIES, 438 FIFTH
AVENUE, SUITE 100
PELHAM, NY 10803

FEES AND TAXES

Mortgage :

| | | |
|--------------------------|-----------|-------------|
| Mortgage Amount: | \$ | 0.00 |
| Taxable Mortgage Amount: | \$ | 0.00 |
| Exemption: | | |
| TAXES: County (Basic): | \$ | 0.00 |
| City (Additional): | \$ | 0.00 |
| Spec (Additional): | \$ | 0.00 |
| TASF: | \$ | 0.00 |
| MTA: | \$ | 0.00 |
| NYCTA: | \$ | 0.00 |
| Additional MRT: | \$ | 0.00 |
| TOTAL: | \$ | 0.00 |
| Recording Fee: | \$ | 207.00 |
| Affidavit Fee: | \$ | 0.00 |

Filing Fee:

| | | |
|---------------------------------|----|--------|
| Filing Fee: | \$ | 250.00 |
| NYC Real Property Transfer Tax: | | |
| Exemption: | \$ | 0.00 |
| NYS Real Estate Transfer Tax: | \$ | 0.00 |

**RECORDED OR FILED IN THE OFFICE
OF THE CITY REGISTER OF THE**

CITY OF NEW YORK

Recorded/Filed 07-01-2022 10:55

City Register File No.(CRFN):

2022000262014



Ganette McMill

City Register Official Signature

THIS DEED ("Deed"), entered into as of the 21st day of June, 2022, by and between **THE CITY OF NEW YORK**, a municipal corporation formed pursuant to the laws of the State of New York, having its principal office at City Hall, New York, New York 10007 ("City"), acting by and through its **DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT**, having its principal office at 100 Gold Street, New York, New York 10038 ("HPD"), as Grantor, and **1510 BROADWAY HOUSING DEVELOPMENT FUND COMPANY, INC.**, a New York not-for-profit corporation formed pursuant to the Not-For-Profit Corporation Law and Article XI of the Private Housing Finance Law having its principal office at c/o Local Development Corporation of East New York, 80 Jamaica Avenue, 3rd Floor, Brooklyn, New York 11207 ("Sponsor"), as Grantee.

WHEREAS, the City is the owner of certain real property, consisting of all those plots, pieces, or parcels of real property situated, lying, and being in the City and State of New York, as more particularly described in Exhibit A annexed hereto and made a part hereof ("Land"), and all buildings and improvements situated on the Land ("Improvements"); and

WHEREAS, the present condition of the Land and Improvements (collectively, "Disposition Area") tends to impair or arrest the sound growth and development of the municipality; and

WHEREAS, the City desires to encourage the redevelopment of deteriorated City-owned properties and to promote the development of affordable housing; and

WHEREAS, the Disposition Area is eligible to be conveyed pursuant to Article 16 of the General Municipal Law ("GML"); and

WHEREAS, in furtherance of the objectives of Article 16 of the GML, the City has undertaken a program for the clearance, replanning, reconstruction, and neighborhood rehabilitation of slum and blighted areas in the City; and

WHEREAS, in furtherance of such program, the City is undertaking an Urban Development Action Area Project for the development of the Disposition Area ("Project"), as such Project is more fully described in a certain Land Disposition Agreement ("LDA") and Regulatory Agreement ("Regulatory Agreement") between the City, 1510 Broadway LLC, a New York limited liability company ("Beneficial Owner") and Sponsor of even date herewith; and

WHEREAS, HPD has prepared the Project Summary ("Project Summary") annexed to the LDA for the development of the Project; and

WHEREAS, HPD issued a request for proposals ("RFP") under its Building Opportunity: Growing the Capacity of M/WBE Affordable Housing Developers Program ("Program") for the development of the Disposition Area that, among other things, governed the selection criteria for designating a sponsor for the Disposition Area; and

WHEREAS, HPD has selected Sponsor pursuant to the RFP and has designated Sponsor as a qualified and eligible sponsor of the Project pursuant to Section 695 of the GML; and

WHEREAS, the parties contemplate that the Disposition Area will be developed with subsidy assistance pursuant to Article 16 of the GML and that the Sponsor and the Project shall be subject thereby to the requirements of the GML and the Program; and

WHEREAS, Sponsor will obtain mortgage loan financing to develop the Project and, in connection with such financing, Sponsor, Beneficial Owner and the lenders will execute one or more notes, mortgages, and related agreements or instruments (collectively, "Loan Documents");

WHEREAS, on October 15, 2020, by Resolution No. 1465, a copy of which is annexed hereto as Exhibit C and made a part hereof, the Council, having held a public hearing following notice of the date, time, place, and purpose of such hearing, (i) found that the present status of the Disposition Area tends to impair or arrest the sound growth and development of the municipality and that the proposed Urban Development Action Area Project is consistent with the policy and purposes of Section 691 of the GML, (ii) designated the Disposition Area as an Urban Development Action Area pursuant to Section 693 of the GML, and (iii) approved the project as an Urban Development Action Area Project pursuant to Section 694 of the GML; and

WHEREAS, on December 2, 2021, by the document annexed hereto as Exhibit D and made a part hereof, the Mayor, having held a public hearing following notice of the date, time, place, and purpose of such hearing, (i) approved the designation of Sponsor as a qualified and eligible sponsor pursuant to Section 695 of the GML, (ii) approved the sale of the Disposition Area by the City to Sponsor pursuant to Section 695 of the GML, and (iii) approved the LDA;

WHEREAS, Sponsor proposes to purchase the Disposition Area from the City upon the terms and conditions set forth in the LDA and to undertake the redevelopment of the Disposition Area in accordance with the Project Summary, which redevelopment shall accomplish the construction and development of the Project; and

WHEREAS, Sponsor intends to enter into a declaration of interest and nominee agreement with the Beneficial Owner, effective as of the date hereof; and

WHEREAS, any capitalized terms not defined herein shall have the meanings ascribed to them in the LDA.

NOW THEREFORE, the City, in consideration of the sum of ONE DOLLARS (\$1) paid by Sponsor, the receipt and sufficiency of which is hereby acknowledged, does hereby grant and release the Disposition Area unto Sponsor, its successors and assigns forever, subject only to the restrictions set forth or referred to herein.

TO HAVE AND TO HOLD the Disposition Area herein granted unto Sponsor, its successors and assigns forever, as follows:

1. Conveyance.

- A. Title. The City hereby conveys to Sponsor, and Sponsor accepts from the City, all right, title, and interest of the City in and to the Disposition Area, subject to, without limitation, the trust fund provisions of Section 13 of the Lien Law and all terms, covenants, and conditions of this Deed, the LDA, and the Regulatory Agreement.
- B. "As Is" Condition. Sponsor accepts the Disposition Area in its "as is" condition on the date ("Closing Date") of delivery of this Deed to Sponsor ("Closing"). The City has not made any representations or warranties regarding the condition of the Disposition Area and neither has nor had any obligation to undertake demolition,

site clearance, or site preparation. The City neither represents nor warrants any facts regarding such condition, including, but not limited to, that it will be suitable for the Project. Sponsor represents and warrants that Sponsor has inspected the Disposition Area and is fully familiar with its condition.

2. Revesting.

A. Revesting.

1. Default. Until the issuance of a Certificate of Completion for the entire Project pursuant to Section 201.B of the LDA, the occurrence of any of the following shall constitute an event of default ("Default"):
 - a. Failure to commence Construction on or before the Commencement Date;
 - b. Failure to perform the Construction in accordance with the Approved Plans;
 - c. Abandonment or substantial suspension of Construction before the Completion Date;
 - d. Failure to both (i) complete ninety five percent (95%) of the value of Construction on or before the Completion Date in accordance with the Approved Plans, as such percentage and compliance are determined by HPD, and (ii) obtain a temporary or permanent Certificate of Occupancy on or before the Completion Date for all of the improvements on the Disposition Area;
 - e. Any Prohibited Transfer without the prior written consent of HPD; and
 - f. Any default or event of default under a nominee agreement which remains uncured beyond the applicable cure period.
2. Cure.
 - a. Upon the occurrence of any Default, HPD shall give written notice of such Default ("Default Notice") to Sponsor and to any Holder which has previously requested such Default Notice in writing.
 - b. Sponsor and any Holder shall be permitted thirty (30) days from the date of any Default Notice ("Cure Period") to cure such Default to the satisfaction of HPD ("Cure").
 - c. If HPD, in its sole discretion, determines in writing that the nature of the Default makes it impossible to complete a Cure within the Cure Period, the Default Notice shall state such determination and shall specify such longer period ("Extended Cure Period") to effectuate a Cure as HPD, in its sole discretion, shall determine; provided, however, that such Extended Cure Period shall end not

later than ninety (90) days after the Completion Date. Sponsor or any Holder shall be permitted to commence the Cure of such Default and to thereafter diligently and continuously pursue the Cure of such Default during the Extended Cure Period until such Default shall be completely Cured.

- d. Any Default which is Cured within the Cure Period or, if applicable, any Extended Cure Period, shall be deemed to be a Cured Default ("Cured Default"). Any Default which is not Cured within the Cure Period or, if applicable, any Extended Cure Period, shall be deemed to be an uncured Default ("Uncured Default").
 - e. If, after the issuance of a Default Notice, such Default is Cured within the Cure Period or, if applicable, any Extended Cure Period, HPD shall issue, within thirty (30) days after receipt of a written request therefor by Sponsor or any Holder, a written notice ("Cure Notice") (i) certifying that such Default is a Cured Default, (ii) certifying that such Cured Default will not result in an exercise of the City's rights pursuant to this Section 2, and (iii) reserving the right of the City to exercise its rights pursuant to this Section 2 for any other or future Default; provided, however, that the failure to explicitly reserve any right in the Cure Notice shall not result in the waiver of any such right.
 - f. In the event of any Uncured Default, the City may, at its sole option, exercise the City's rights pursuant to Section 2.A.3.
3. Revesting. If any Uncured Default shall occur prior to the issuance of a Certificate of Completion for the entire Project pursuant to Section 201.B of the LDA, the City may, subject to the laws of the State of New York, re-enter and take possession of the Disposition Area and terminate and re-vest in the City the estate conveyed to Sponsor, in which event all right, title, and interest of Sponsor in and to the Disposition Area shall revert to the City. Upon the issuance of a Certificate of Completion for the entire Project pursuant to Section 201.B of the LDA, the City's rights pursuant to this Section 2.A shall terminate. Upon the issuance of a Certificate of Completion for a portion of the Project pursuant to Section 201.B of the LDA, the City's right to re-vest that portion of the Project pursuant to this Section 2.A shall terminate.
4. Subordination.
- a. Notwithstanding the provisions of this Section 2.A, any re-vesting of title in the City pursuant to the terms of this Deed or the LDA shall be subject to and limited by, and shall not defeat, render invalid, or limit in any way (i) the lien of any mortgage ("Mortgage") held by a Holder which is authorized by the LDA, or (ii) any rights or interests provided in the LDA for the protection of the Holder of such Mortgage.

- b. Upon the request of Sponsor, the City shall deliver to the Holder at the Closing an instrument in recordable form, whereby the City's rights and interests and Sponsor's covenants under this Deed and the LDA (except for the provisions of Section 202 of the LDA and any provisions which would control by operation of law even in the absence of this Deed and the LDA) are subordinated to the lien of the Mortgage in the event that Sponsor ceases to hold title to the Disposition Area as a result of the Holder's exercise of a remedy for the Sponsor's default under the Loan Documents.
 - c. If, after the issuance of any Default Notice, any Holder shall Cure the Default before the expiration of the Cure Period (or, if applicable, any Extended Cure Period), such Holder may add the cost of Curing such Default to the Mortgage debt and to the lien of its Mortgage.
 - B. Assignment of Surplus Money. If title to the Disposition Area is revested in the City pursuant to this Section 2, and HPD thereafter determines to sell all or any portion of the Disposition Area, the proceeds thereof, if any, shall be retained by HPD. Sponsor hereby assigns to HPD any surplus money paid into a court as the result of any foreclosure of any lien on any portion of the Disposition Area prior to the issuance of the Certificate of Completion for that portion. Sponsor shall execute an assignment of surplus money in recordable form if the City, in its sole discretion, determines that such a document is necessary in order to effectuate such assignment.
 - C. Other Remedies. Notwithstanding any provisions of this Section 2 to the contrary, the remedies of the City pursuant to this Section 2 shall not be exclusive. With respect to any Default, the remedies of the City pursuant to this Section 2 shall be in addition to and concurrent with all other defenses, rights, and remedies which the City has, will have, or may have pursuant to this Deed, the LDA, the Regulatory Agreement, the Loan Documents, or any other agreement between Sponsor and the City (collectively, "Project Documents"), or under law, equity, or otherwise. With respect to any violation of any Project Document which is not a Default, the City shall retain each and every defense, right, and remedy which the City has, will have, or may have pursuant to this Deed or any other Project Document or under law, equity, or otherwise.
- 3. No Transfer. Prior to issuance of a Certificate of Completion for the entire Project by the City pursuant to Section 201.B of the LDA, there shall be no transfer of title to the Disposition Area or change of ownership interest in Sponsor except in accordance with Article III of the LDA.
 - 4. Program Compliance And Non-Discrimination. Sponsor, by its acceptance and execution of this Deed, covenants and agrees, for and on behalf of itself, its successors and assigns, and every successor in interest to the Disposition Area, or any part thereof, to be bound by the following covenants, which shall be binding for the benefit of the City and enforceable by the City against Sponsor and its successors and assigns to the fullest extent permitted by law and equity:

- A. Sponsor, its successors and assigns shall devote the Disposition Area to the uses specified in, and shall otherwise comply with, the LDA, the Regulatory Agreement, and the other Project Documents.
 - B. Sponsor, its successors and assigns, and any lessees of the Disposition Area or any improvements erected or to be erected thereon, or any part thereof, shall comply with all applicable federal, state, and local laws in effect from time to time prohibiting discrimination or segregation by reason of actual or perceived age, race, creed, religion, gender, sex, color, national origin, ancestry, sexual orientation, disability, marital status, partnership status, familial status, alienage status, citizenship status, lawful source of income, lawful occupation, military status, because children are, may be, or would be residing with such person or persons, or any other class protected from discrimination in housing accommodations by federal, state, or local law (collectively, "Prohibited Distinctions") in the sale, lease, or occupancy of the Disposition Area or any improvements erected or to be erected thereon, or any part thereof.
 - C. Sponsor, its successors and assigns, and any lessees of the Disposition Area or any improvements erected or to be erected thereon, or any part thereof, shall not effect or execute any agreement, lease, conveyance, or other instrument whereby the sale, lease, or occupancy of the Disposition Area or any improvements erected or to be erected thereon, or any part thereof, is restricted upon the basis of any Prohibited Distinction. Sponsor, its successors and assigns, and any lessees of the Disposition Area or any improvements erected or to be erected thereon, or any part thereof, shall comply with all applicable statutory and regulatory obligations to provide reasonable accommodations to individuals with disabilities
 - D. Sponsor, its successors and assigns, and any lessees of the Disposition Area or any improvements erected or to be erected thereon, or any part thereof, shall include the covenants of Section 4.B and Section 4.C in any agreement, lease, conveyance, or other instrument with respect to the sale, lease, or occupancy of the Disposition Area or any improvements erected or to be erected thereon, or any part thereof.
5. Sponsor's Certification Pursuant to Section 695 of the GML. Sponsor hereby represents, warrants, and certifies, pursuant to Section 695 of the GML, that Sponsor is neither a former owner in fee nor the spouse of a former owner in fee of all or any part of the Disposition Area, or of any property acquired by the City through real property tax or other lien enforcement proceedings, nor is Sponsor a business entity substantially controlled by such a former owner, nor is Sponsor a successor in interest to any such former owner. If such representation, warranty, and certification by Sponsor is false in whole or in part, or if Sponsor otherwise violates or has violated Section 695 of the GML, this Deed and the LDA shall be voidable by the City in accordance with Section 695 of the GML.
6. No Merger. Notwithstanding the specific recital in this Deed of certain of the covenants and agreements which are provided for in the LDA, the Regulatory Agreement, or any other Project Document, each and every covenant, term, provision, and condition contained in the LDA, the Regulatory Agreement, or any other Project Document shall survive this Deed and shall remain in full force and effect, and no covenant, term,

provision, or condition contained in the LDA, the Regulatory Agreement, or any other Project Document shall in any event or in any respect be merged with this Deed.

7. Covenants Running With Land. The agreements and covenants set forth in this Deed shall run with the land and shall be binding to the fullest extent permitted by law and equity. Such covenants shall inure to the benefit of the City and shall bind and be enforceable against Sponsor and its successors and assigns.
8. Severability. If any term or provision of this Deed shall be found to be void, voidable, or otherwise unenforceable, such term or provision shall be deemed severed from this Deed and shall have no further force or effect, and the remaining terms and provisions shall thereafter continue in full force and effect to accomplish the intent and purpose of this Deed to the fullest extent possible.
9. Waiver. To the extent permitted by law, Sponsor hereby waives any and all rights it may have, at law or equity, to challenge, modify, set aside, extinguish, enjoin enforcement of, or seek relief from any of the terms, conditions, covenants, restrictions, or agreements in this Deed.
10. Cross-Default. A default pursuant to the LDA, the Regulatory Agreement, or any other Project Document shall constitute a default pursuant to this Deed.
11. Notices.
 - A. Each notice, approval, consent, request, waiver, or communication given or required to be sent under this Deed ("Notice") shall be in writing and either (i) sent by regular or express mail, postage prepaid, or (ii) delivered in person or by nationally recognized overnight courier, with receipt acknowledged.
 - B. Each Notice shall be addressed as follows:
 1. When sent by the City to Sponsor, at the address first set forth above.
 2. When sent by Sponsor to the City, to:

Department of Housing Preservation and Development
100 Gold Street, Room 9A-1
New York, New York 10038
Attention: Deputy Commissioner for Development
 - C. Each party shall notify the other in the case of a change in address in the manner for delivering Notices provided in this Section 11, which changed address shall thereafter be the address to which Notices are sent.
 - D. Each Notice delivered by regular or express mail shall be deemed to have been given upon the third (3rd) business day following the date upon which such Notice is deposited in the United States mail, postage prepaid. Each Notice delivered in person or by nationally recognized overnight courier, with receipt acknowledged, shall be deemed given upon actual delivery, as evidenced by a signed receipt. Notwithstanding the foregoing, any notice of a change in address

shall only be deemed to have been given when actually received by the other party.

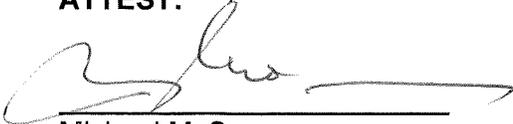
12. No Waiver. Waiver by either party of any breach of any provision of this Deed shall not be deemed to be a waiver of any other subsequent breach and shall not be construed to be a modification of the terms of this Deed unless and until the same be agreed to in a writing executed and acknowledged by the parties hereto.
13. Provisions Required by Law Deemed Inserted. Each and every provision of law and governmental regulation required by law to be inserted in this Deed shall be deemed to be inserted herein and this Deed shall read and shall be enforced as though so included herein. If, through mistake or otherwise, any such provision is not inserted, or is not correctly inserted, then, upon the application of either party, this Deed shall be deemed to be amended to make such insertion or correction so as to comply strictly with the law.
14. Titles. Any titles of the several parts, Articles, Sections, and Subsections of this Deed are for convenience only and shall be disregarded in construing or interpreting any of its provisions.
15. Compliance With Laws. Sponsor shall comply with all applicable laws, ordinances, orders, rules, and regulations promulgated by any local, state, or federal authority having jurisdiction over the subject matter thereof, as the same may be amended from time to time.
16. Unused Development Rights. If, at any time after the Completion Date, the amount of floor area permitted on the Disposition Area pursuant to the New York City Zoning Resolution exceeds the amount of floor area in the improvements existing on the Disposition Area on the Completion Date ("Unused Development Rights"), such Unused Development Rights shall not be used, transferred, or encumbered without the prior written consent of HPD.
17. Consents And Approvals. Except as otherwise specifically provided in this Deed, any consent or approval by HPD pursuant to this Deed shall be made in writing by (i) HPD's Commissioner, HPD's Deputy Commissioner for Development, or by an Associate Commissioner or Assistant Commissioner in HPD's office of Development (each, an "Authorized Official"), or (ii) an HPD employee designated in writing by any Authorized Official to grant such consent or approval. In the case of any consent or approval by an HPD employee who is not an Authorized Signatory, Sponsor shall be required to verify that such HPD employee has a valid written delegation of authority from an Authorized Signatory that authorizes such HPD employee to give such consent or approval, and shall not act upon any purported consent or approval without first performing such verification.
18. Sole Discretion. Except as otherwise specified herein, any determination or approval by HPD pursuant to this Deed shall be in the sole discretion of HPD.
19. Reservation of Easements. The City reserves for itself, and for the use of New York City Transit Authority ("NYCTA"), and each of their contractors, invitees, designees, successors and assigns an exclusive perpetual easement in, to, within, across, through and upon the portions of the Disposition Area described in Exhibit E and made a part hereof (the "Easement Area") for the purposes of constructing, installing, operating,

maintaining, inspecting, repairing, altering and/or replacing an elevator (such elevator and related and appurtenant equipment and improvements, collectively, "Elevator Infrastructure") to serve the subway line at the Halsey Street station including passenger and employee use thereof (the "Easement"). Sponsor acknowledges that contemporaneously herewith, the Easement and the City's rights in and to the Easement and the Easement Area are being indentured by the City to NYCTA under that certain agreement of lease dated June 1, 1953 (as amended, supplemented, renewed and extended, the "Master Lease") pursuant to which NYCTA operates the New York City transit system (the "Subway"), for the purpose of constructing and installing the aforesaid elevator Subway entrance and the Elevator Infrastructure. If requested by the City, Sponsor, on its own behalf and on behalf of its successors and assigns, agrees to provide non-exclusive access over, across and through portions of the Disposition Area which is necessary to access the Easement Area or Elevator Infrastructure for the stated purpose of the Easement, which access may be memorialized in a separate agreement, and during the term of the Master Lease such access from Sponsor may be pursuant to a certain Use and Access Agreement with, among others, NYCTA regarding construction of the Elevator Infrastructure and NYCTA's use of, and access to, the Easement and Easement Area, which Use and Access Agreement will be recorded with the Office of the Register of the City of New York, Kings County.

IN WITNESS WHEREOF, the City has caused this Deed to be executed by the Commissioner of HPD, and its corporate seal to be affixed hereto and duly attested by the City Clerk, and

Sponsor has caused this Deed to be executed as of the day and year first above written.

ATTEST:



Michael McSweeney
City Clerk

THE CITY OF NEW YORK

**By: DEPARTMENT OF HOUSING
PRESERVATION AND DEVELOPMENT**

By: 
Nicholas Lundgren
General Counsel
and Deputy Commissioner, Legal Affairs

**1510 BROADWAY HOUSING
DEVELOPMENT FUND COMPANY, INC.**

By: _____
Sherry D. Roberts
Secretary/Treasurer

Seal of The City of New York
APPROVED AS TO FORM

By: /s/ Amrita Barth
Acting Corporation Counsel
6/14/22

Sponsor has caused this Deed to be executed as of the day and year first above written.

THE CITY OF NEW YORK

ATTEST:

**By: DEPARTMENT OF HOUSING
PRESERVATION AND DEVELOPMENT**

Michael McSweeney
City Clerk

By: _____
Adolfo Carrión Jr.
Commissioner

**1510 BROADWAY HOUSING
DEVELOPMENT FUND COMPANY, INC.**

By: 

Sherry D. Roberts
Secretary/Treasurer

Seal of The City of New York
APPROVED AS TO FORM
BY STANDARD TYPE OF CLASS
FOR USE UNTIL DECEMBER 31, 2022

By: /s/ Lori Barrett-Peterson
Acting Corporation Counsel

GENERAL COUNSEL ACKNOWLEDGMENT

STATE OF NEW YORK)
) SS:
COUNTY OF NEW YORK)

On the 15 day of June in the year 2022 before me, the undersigned, personally appeared Nicholas Lundgren, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

[Handwritten Signature]
NOTARY PUBLIC

Loretta DeLorenzo
Notary Public State of New York
Registration No 01DE6331346
Qualified in New York County
Commission Expires October 5, 2023

Loretta DeLorenzo
Notary Public, State of New York
Registration No. 01DE6331346
Qualified in New York County
Commission Expires October 5, 2023

CITY CLERK ACKNOWLEDGMENT

STATE OF NEW YORK)
) SS:
COUNTY OF NEW YORK)

On the 16th day of June in the year 2022 before me, the undersigned, personally appeared Michael McSweeney, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

[Handwritten Signature: Wendy Irizarry-Lopez]
NOTARY PUBLIC

Wendy Irizarry-Lopez
Commissioner of Deeds
City of New York No. 2-12331
Certificate Filed in New York County
Commission Expires:

11/2024

Wendy Irizarry-Lopez
Commissioner of Deeds
City of New York No 2-12331
Certificate Filed in New York County
Commission Expires 1/1/2024

SPONSOR ACKNOWLEDGMENT

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

On the 14th day of June in the year 2022 before me,, the undersigned, personally appeared Sherry D. Roberts, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



NOTARY PUBLIC

JONATHAN S. WONG
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 02W06400213
Qualified in New York County
Commission Expires : 11/17/2023

EXHIBIT A

Property Description

All those certain plots, pieces and parcels of land, with the buildings and improvements thereon erected, situate, lying and being in the City and State of New York, designated on the Tax Map of the City of New York as:

| <u>Block(s)</u> | <u>Lot(s)</u> | <u>Address(es)</u> |
|-----------------|---------------|--------------------|
| 1489 | 11 | 1510-1524 Broadway |

County: Kings

EXHIBIT B

Reserved

EXHIBIT C

City Council Resolution

(next page)

**THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 1463**

Resolution approving the decision of the City Planning Commission on Application No. N 200082 ZRK, for an amendment of the text of the Zoning Resolution (L.U. No. 682).

By Council Members Salamanca and Moya

WHEREAS, the New York City Department of Housing Preservation and Development, filed an application pursuant to Section 201 of the New York City Charter, for an amendment of the text of the Zoning Resolution of the City of New York, modifying Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area within the project area (Block 1489, Lots 1 and 11) utilizing Options 1 and 2, which in conjunction with the related actions would facilitate the development of a new eight-story mixed-use building containing 107 affordable residential units and commercial space at 1510 Broadway in the Ocean Hill neighborhood of Brooklyn Community District 16 (Application No. N 200082 ZRK) (the "Application");

WHEREAS, the City Planning Commission filed with the Council on September 18, 2020, its decision dated September 16, 2020 (the "Decision"), on the Application;

WHEREAS, the Application is related to applications C 200083 PQQ (L.U. No. 683), an acquisition of property by the New York City Department of Citywide Administrative Services (DCAS); C 200084 HAK (L.U. No. 684), an Urban Development Action Area designation, project approval, and disposition of City-owned property to a developer selected by HPD; and C 200085 ZMK (L.U. No. 685), a zoning map amendment to rezone the project area from R6/C1-3 to R7-1/C2-4;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on September 24, 2020;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues, including the Revised Negative Declaration issued November 21st, 2019, which supersedes the Negative Declaration issued October 7th, 2019, (CEQR No. 19HPD057K) which include an (E) designation to avoid the potential for significant adverse impacts related to hazardous materials and noise (E-536) (the "Revised Negative Declaration");

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the (E) Designation (E-536) and Revised Negative Declaration.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in the report, N 200082 ZRK, incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission.

Matter underlined is new, to be added;

Matter ~~struck out~~ is to be deleted;

Matter within # # is defined in Section 12-10;

* * * indicates where unchanged text appears in the Zoning Resolution.

* * *

APPENDIX F

Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas

* * *

BROOKLYN

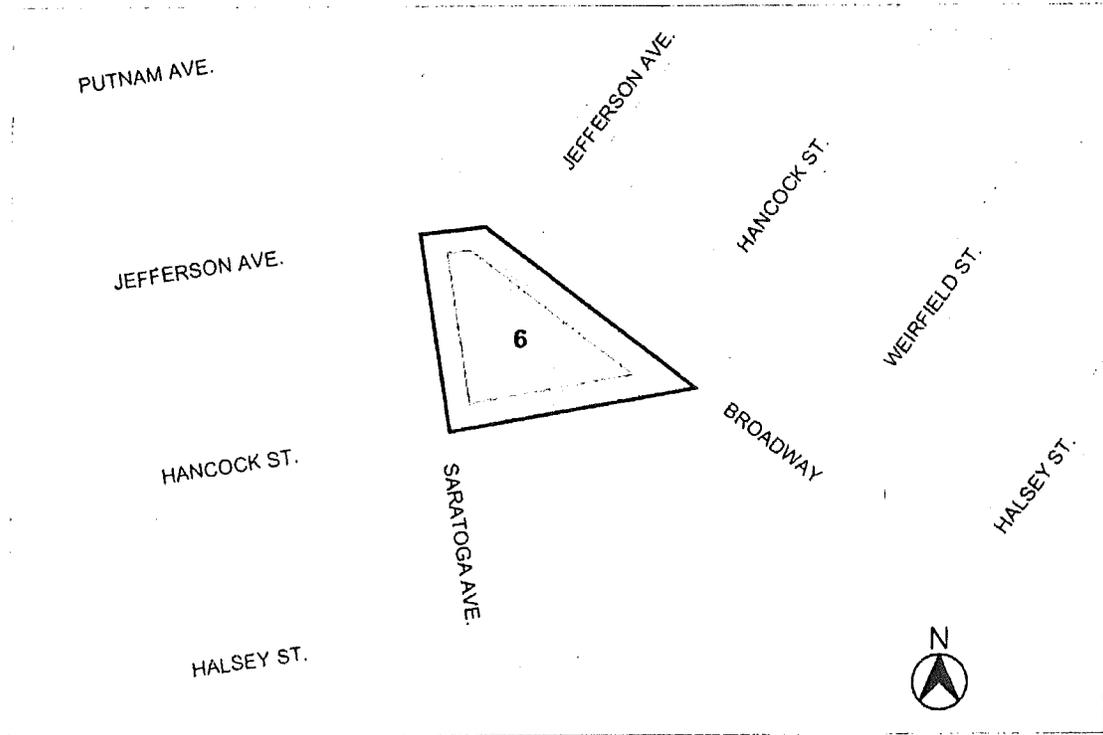
* * *

Brooklyn Community District 16

* * *

Map 5 - [date of adoption]

[PROPOSED MAP]



 Mandatory Inclusionary Housing Program Area *see Section 23-154(d)(3)*
Area 6 — [date of adoption] - MIH Program Option 1 and 2

Portion of Community District 16, Brooklyn

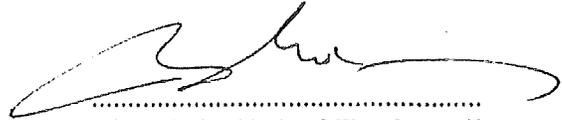
* * *

Page 4 of 4
N 200082 ZRK
Res. No. 1463 (L.U. No. 682)

Adopted.

Office of the City Clerk, }
The City of New York, } ss.:

I hereby certify that the foregoing is a true copy of a Resolution passed by The Council of The City of New York on October 15, 2020, on file in this office.



.....
City Clerk, Clerk of The Council

**THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 1464**

Resolution approving the decision of the City Planning Commission on ULURP Application No. C 200083 POK, for the acquisition of property located at 1510 Broadway (Block 1489, p/o Lot 11), to facilitate transit infrastructure, Borough of Brooklyn, Community District 16 (L.U. No. 683; C 200083 POK).

By Council Members Salamanca and Moya

WHEREAS, the New York City Department of Citywide Administrative Services (DCAS), filed an application pursuant to Section 197-c of the New York City Charter for the acquisition of property located at 1510 Broadway (Block 1489, p/o Lot 11), which in conjunction with the related actions would facilitate the development of a new mixed-use building with approximately 107 units of affordable housing and commercial space on City-owned vacant land at 1510 Broadway in the Ocean Hill neighborhood of Brooklyn, Community District 16 (ULURP No. C 200083 POK), (the "Application");

WHEREAS, the City Planning Commission filed with the Council on September 18, 2020, its decision dated September 16, 2020 (the "Decision") on the Application;

WHEREAS, the Application is related to applications N 200082 ZRK (L.U. No. 682), a zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area; C 200084 HAK (L.U. No. 684), an Urban Development Action Area designation, project approval, and disposition of City-owned property to a developer selected by HPD; and C 200085 ZMK (L.U. No. 685), a zoning map amendment to rezone the project area from R6/C1-3 to R7-1/C2-4;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on September 24, 2020;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues, including the Revised Negative Declaration issued November 21st, 2019, which supersedes the Negative Declaration issued October 7th, 2019, (CEQR No. 19HPD057K) which include an (E) designation to avoid the potential for significant adverse impacts related to hazardous materials and noise (E-536) (the "Revised Negative Declaration").

RESOLVED:

Page 2 of 2
C 200083 PQQ
Res. No. 1464 (L.U. No. 683)

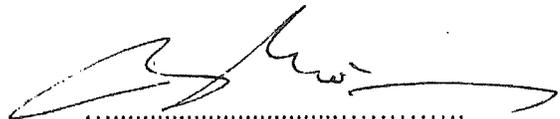
The Council finds that the action described herein will have no significant impact on the environment as set forth in the (E) Designation (E-536) and Revised Negative Declaration.

Pursuant to Section 197-d of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in the report, C 200083 PQQ, incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission.

Adopted.

Office of the City Clerk, }
The City of New York, } ss.:

I hereby certify that the foregoing is a true copy of a Resolution passed by The Council of The City of New York on October 15, 2020, on file in this office.



.....
City Clerk, Clerk of The Council

**THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 1465**

Resolution approving the application submitted by the New York City Department of Housing Preservation and Development ("HPD") and the decision of the City Planning Commission, ULURP No. C 200084 HAK, approving the designation of an Urban Development Action Area, an Urban Development Action Area Project, and the disposition of property located at 1510 Broadway (Block 1489, Lot 11), Borough of Brooklyn, Community District 16, to a developer selected by HPD (L.U. No. 684; C 200084 HAK).

By Council Members Salamanca and Moya

WHEREAS, the City Planning Commission filed with the Council on September 18, 2020 its decision dated September 16, 2020 (the "Decision"), on the application submitted by the New York City Department of Housing Preservation and Development ("HPD") regarding city-owned and privately-owned property located at 1510 Broadway (Block 1489, Lot 11), (the "Project Area"), approving:

- a) pursuant to Article 16 of the General Municipal Law of New York State the designation of Disposition Area as an Urban Development Action Area;
- b) pursuant to Article 16 of the General Municipal Law of New York State an Urban Development Action Area Project for the Disposition Area (the "Project"); and
- c) pursuant to Section 197-c of the New York City Charter the disposition of the Disposition Area to a developer to be selected by the New York City Department of Housing Preservation and Development;

which in conjunction with the related actions would facilitate the development of a new mixed-use building with approximately 107 units of affordable housing and commercial space at 1510 Broadway in the Ocean Hill neighborhood of Brooklyn, Community District 16, (ULURP No. C 200084 HAK) (the "Application");

WHEREAS, the Application is related to applications N 200082 ZRK (L.U. No. 682), a zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area; C 200083 PJK (L.U. No. 683), an acquisition of property by the New York City Department of Citywide Administrative Services (DCAS); and C 200085 ZMK (L.U. No. 685), a zoning map amendment to rezone the project area from R6/C1-3 to R7-1/C2-4;

WHEREAS, the City Planning Commission has certified its unqualified approval of UDAAP pursuant to Article 16 of the General Municipal Law;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d of the City Charter;

WHEREAS, by letter dated September 18, 2020 and submitted to the Council on September 18, 2020, HPD submitted its requests (the "HPD Requests") respecting the Application including the submission of the project summary for the Project (the "Project Summary");

WHEREAS, upon due notice, the Council held a public hearing on the Application and Decision and the HPD Requests on September 24, 2020;

WHEREAS, the Council has considered the land use and financial implications and other policy issues relating to the Application; and

WHEREAS, the Council has considered the relevant environmental issues, including the Revised Negative Declaration issued November 21st, 2019, which supersedes the Negative Declaration issued October 7th, 2019, (CEQR No. 19HPD057K) which include an (E) designation to avoid the potential for significant adverse impacts related to hazardous materials and noise (E-536) (the "Revised Negative Declaration");

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the (E) Designation (E-536) and Revised Negative Declaration.

Pursuant to Section 197-d of the New York City Charter, based on the environmental determination and the consideration described in the report C 200084 HAK and incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission and the HPD Requests.

Pursuant to Article 16 of the General Municipal Law of the New York State, based on the environmental determination and the consideration described in the report C 200084 HAK and incorporated by reference herein, the Council approves the Decision of the City Planning Commission and the HPD Requests.

The Council finds that the present status of the Area tends to impair or arrest the sound growth and development of the City of New York and that a designation of the Project as an urban development action area project is consistent with the policy and purposes stated in Section 691 of the General Municipal Law.

The Council approves the designation of the Area as an urban development action area pursuant to Section 693 of the General Municipal Law.

The Council approves the Project as an urban development action area project pursuant to Section 694 of the General Municipal Law and subject to the terms and conditions of the Project Summary.

The Council approves the disposition of the Disposition Area under Section 197-d of the New York City Charter, to a developer to be selected by the New York City Department of Housing Preservation and Development for the development of the Project consistent with the Project Summary.

PROJECT SUMMARY

1. PROGRAM: EXTREMELY LOW AND LOW INCOME AFFORDABILITY PROGRAM
2. PROJECT: 1510 Broadway
3. LOCATION:
 - a. BOROUGH: Brooklyn
 - b. COMMUNITY DISTRICT: 16
 - c. COUNCIL DISTRICT: 41
 - d. DISPOSITION AREA:

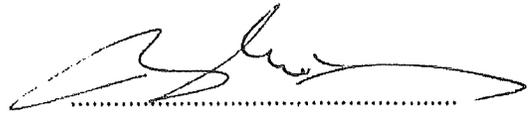
| <u>BLOCK</u> | <u>LOT</u> | <u>ADDRESS</u> |
|--------------|------------|----------------|
| 1489 | 11 | 1510 Broadway |
4. BASIS OF DISPOSITION PRICE: Nominal. Sponsor will pay one dollar per lot and deliver a note and mortgage for the remainder of the appraised value ("Land Debt"). For a period of at least thirty (30) years following completion of construction, the Land Debt or the City's capital subsidy may be repayable out of resale or refinancing profits. The remaining balance, if any, may be forgiven at the end of the term.
5. TYPE OF PROJECT: New Construction
6. APPROXIMATE NUMBER OF BUILDINGS: 1
7. APPROXIMATE NUMBER OF UNITS: 107 dwelling units, plus 1 superintendent's unit

- | | |
|--------------------------------|--|
| 8. HOUSING TYPE: | Rental |
| 9. ESTIMATE OF INITIAL RENTS | Rents will be affordable to families earning from 30% - 80% of the area median income ("AMI"). Formerly homeless tenants referred by DHS and other City agencies will pay up to 30% of their income as rent. |
| 10. INCOME TARGETS | 30% to 80% of AMI |
| 11. PROPOSED FACILITIES: | Approximately 9,793 square feet of commercial space |
| 12. PROPOSED CODES/ORDINANCES: | None |
| 13. ENVIRONMENTAL STATUS: | Negative Declaration |
| 14. PROPOSED TIME SCHEDULE: | Approximately 24 months from closing to completion of construction |

Adopted.

Office of the City Clerk, }
The City of New York, } ss.:

I hereby certify that the foregoing is a true copy of a Resolution passed by The Council of The City of New York on October 15, 2020, on file in this office.



City Clerk, Clerk of The Council

**THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 1466**

Resolution approving the decision of the City Planning Commission on ULURP No. C 200085 ZMK, a Zoning Map amendment (L.U. No. 685).

By Council Members Salamanca and Moya

WHEREAS, the New York City Department of Housing Preservation and Development, filed an application pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Map, Section No. 17a, eliminating from within an existing R6 District a C1-3 District, changing from an R6 District to an R7-1 District, and establishing within the proposed R7-1 District a C2-4 District, which in conjunction with the related actions would facilitate the development of a new mixed-use building with approximately 107 units of affordable housing and commercial space at 1510 Broadway in the Ocean Hill neighborhood of Brooklyn, Community District 16. (ULURP No. C 200085 ZMK) (the "Application");

WHEREAS the City Planning Commission filed with the Council on September 18, 2020, its decision dated September 16, 2020 (the "Decision") on the Application;

WHEREAS, the Application is related to applications N 200082 ZRK (L.U. No. 682), a zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area; C 200083 PJK (L.U. No. 683), an acquisition of property by the New York City Department of Citywide Administrative Services (DCAS); and C 200084 HAK (L.U. No. 684), an Urban Development Action Area designation, project approval, and disposition of City-owned property to a developer selected by HPD;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on September 24, 2020;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues, including the Revised Negative Declaration issued November 21st, 2019, which supersedes the Negative Declaration issued October 7th, 2019, (CEQR No. 19HPD057K) which include an (E) designation to avoid the potential for significant adverse impacts related to hazardous materials and noise (E-536) (the "Revised Negative Declaration");

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the (E) Designation (E-536) and Revised Negative Declaration.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in the report, C 200085 ZMK, incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 17a:

1. eliminating from within an existing R6 District a C1-3 District bounded by the easterly centerline prolongation of Jefferson Avenue, Broadway, Hancock Street, and Saratoga Avenue;
2. changing from an R6 District to an R7-1 District property bounded by the easterly centerline prolongation of Jefferson Avenue, Broadway, Hancock Street, and Saratoga Avenue; and
3. establishing within the proposed R7-1 District a C2-4 District bounded by the easterly centerline prolongation of Jefferson Avenue, Broadway, Hancock Street, and Saratoga Avenue;

Borough of Brooklyn, Community District 16, as shown on a diagram (for illustrative purposes only) dated December 2, 2019.

Adopted.

Office of the City Clerk, }
The City of New York, } ss.:

I hereby certify that the foregoing is a true copy of a Resolution passed by The Council of The City of New York on October 15, 2020, on file in this office.



.....
City Clerk, Clerk of The Council

EXHIBIT D

Mayoral Approval Document

(next page)

**THE MAYOR
CITY OF NEW YORK
NOVEMBER 30, 2021
Cal. No. 5**

WHEREAS, The Department of Housing Preservation and Development ("HPD") of the City of New York ("City") has proposed to the Council the sale of certain City-owned real property located in the Borough of Brooklyn, City and State of New York, known as:

| <u>Block</u> | <u>Lot</u> |
|--------------|------------|
| 1489 | 11 |

on the Tax Map of the City and as 1510 Broadway in HPD's Extremely Low and Low Income Affordability Program ("Disposition Area"); and

WHEREAS, the Council, pursuant to Article 16 of the General Municipal Law, has held a public hearing upon due notice and has (i) approved the designation of the Disposition Area as an Urban Development Action Area, and (ii) approved the proposed project ("Project") as an Urban Development Action Area Project, and

WHEREAS, the City Planning Commission duly filed with the Council and the affected Borough President its approval (Report No. C 200084 HAK, dated September 16, 2020) of the use and disposition of the Disposition Area in conformity with the land use review procedures required by Sections 197-c and 197-d of the Charter, which have been adhered to; and

WHEREAS, the action of the City Planning Commission has been approved or deemed approved by the Council pursuant to Section 197-d of the Charter; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Part 617 of Volume 6 of the Codes, Rules and Regulations of the State of New York, Chapter 5 of Title 62 of the Rules of the City of New York, and Mayoral Executive Order No. 91 of August 24, 1977, as amended, HPD has issued a Negative Declaration which has been duly considered by the Mayor; and

WHEREAS, HPD has designated 1510 Broadway Housing Development Fund Company, Inc. ("Sponsor") as a qualified and eligible sponsor; and

WHEREAS, it is anticipated that the Project to be developed by Sponsor will contain approximately one building containing approximately 108 dwelling units and approximately 9,793 square feet of commercial space; and

WHEREAS, upon or prior to construction completion, Sponsor will convey a portion of the Disposition Area to the City for no consideration for use as a potential accessibility improvement to the adjacent subway station; and

WHEREAS, a proposed agreement ("Land Disposition Agreement") between the City and Sponsor providing for the sale of the Disposition Area to Sponsor for the nominal price of \$1.00 per tax lot ("Disposition Price") and setting forth the terms and conditions for the development of the Disposition Area has been submitted to the Mayor; and

WHEREAS, the Mayor has held a public hearing upon due notice published in The City Record, as required by Section 1802(6)(j) of the Charter, and in a newspaper of general circulation in New York City, as required by Section 695(2)(b) of the General Municipal Law; and

WHEREAS, as certified below, a duly noticed public hearing in the matter of the disposition, pursuant to Section 1802(6)(j) of the Charter, was held and closed by the Mayor on November 30, 2021 (Cal. No. 5). At such public hearing, no amendments were made and no testimony was offered. The relevant portion of the calendar is annexed hereto.

CERTIFICATION by the Mayor's Office Of Contract Services/Public Hearings Unit of the actions at and final disposition of the Real Property Public Hearing held on November 30, 2021 (Cal. No. 5).

| | | |
|--------------------------|--------------------------|-------------------------|
| <u>JACQUELINE GALORY</u> | <u>HEARING SECRETARY</u> | <u>DECEMBER 2, 2021</u> |
| NAME | TITLE | DATE |

NOW THEREFORE:

1. The Mayor hereby approves the designation of Sponsor as a qualified and eligible sponsor.
2. The Mayor hereby authorizes and approves the sale of the Disposition Area at the Disposition Price by negotiated sale, without public auction or sealed bids.
3. The Mayor hereby approves the acquisition of the approximately 12'x13' portion of the Disposition Area by the City pursuant to Section 1804 or Section 824(a) of the Charter for no consideration.
4. The Mayor hereby approves the Land Disposition Agreement in substantially the form submitted and authorizes the subordination of the Land Disposition Agreement to the lien of mortgages securing loans financing the Project.
5. The Mayor hereby authorizes any Deputy Mayor or the Commissioner of HPD to execute a Land Disposition Agreement in substantially the form submitted, when approved as to form by the Corporation Counsel, and directs the City Clerk or acting City Clerk to attest the same and to affix the seal of the City thereto.
6. The Mayor hereby authorizes the City, as more particularly described in the Land Disposition Agreement, to indemnify Sponsor and its successors or assigns, holders of mortgages securing loans financing the Project and their successors or assigns, and title companies against any claims of interest in the Disposition Area, or any portion thereof, by the holders of any mortgages of record against the Disposition Area, or any portion thereof, at the time the City acquired title.
7. The Mayor hereby authorizes any Deputy Mayor or the Commissioner of HPD to execute and deliver to Sponsor, or to an affiliate or successor of Sponsor controlled by the same principal(s) that controlled Sponsor, a deed of conveyance of title to the Disposition Area, when approved as to form by the Corporation Counsel, at the Disposition Price, without public auction or sealed bids, and upon the terms and conditions contained in the Land Disposition Agreement, and directs the City Clerk or acting City Clerk to attest said deed and to affix the seal of the City thereto.

12/2/2021
Date: _____, 2021

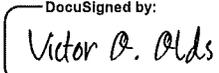
By: _____
DocuSigned by:

D4F74A8B540819D...
 Victor O. Olds, Director
 Mayor's Office Of Contract Services

Exhibit E

Easement Area

[see attached]

The Easement Area includes those portions of the Disposition Area and the Improvements in which are located any portions of the Easement Area and the Elevator Infrastructure that encroach on any other portion of the Disposition Area or the Improvements following construction of Elevator Infrastructure by reason of (i) any unintended settling and any associated shifting thereof subsequent to the construction thereof and/or (ii) minor differences between the outside perimeter line of the Easement Area (and the Elevator Infrastructure) and the Improvements facing the same in their as-built condition.

PARCEL 1 - EASEMENT ABOVE STREET LEVEL

ALL that certain volume of space, situate, lying, and being in the Borough of Brooklyn, Kings County, City and State of New York, lying between a horizontal limiting plane having an elevation of 47.63 feet and a horizontal limiting plane having an elevation of 97.63, which elevations are in reference to the North American Vertical Datum of 1988 (NAVD88), bounded and described as follows:

Commencing at the intersection of the northwesterly side of Hancock Street and the southwesterly side of Broadway, thence northwesterly along the southwesterly side of Broadway 58 feet 9 inches to the Point or Place of Beginning, thence;

- a) Southeasterly, forming an angle of 90 degrees 00 minutes 00 seconds with Broadway, a distance of 12 feet 6 inches to a point, thence;
- b) Northwesterly, forming an angle of 90 degrees 00 minutes 00 seconds with the previous course, a distance of 11 feet to a point, thence;
- c) Northeasterly, forming an angle of 90 degrees 00 minutes 00 seconds with the previous course, a distance of 12 feet 6 inches to a point on the Southwesterly side of Broadway, thence;
- d) Southeasterly, forming an angle of 90 degrees 00 minutes 00 seconds with the previous course, a distance of 11 feet to the Point or Place of Beginning.

PARCEL 2 - EASEMENT BELOW STREET LEVEL

ALL that certain volume of space, situate, lying, and being in the Borough of Brooklyn, Kings County, City and State of New York, lying between a horizontal limiting plane having an elevation of 47.63 feet and a horizontal limiting plane having an elevation of 40.63 which elevations are in reference to the North American Vertical Datum of 1988 (NAVD88), bounded and described as follows:

Commencing at the intersection of the northwesterly side of Hancock Street and the southwesterly side of Broadway, thence northwesterly along the southwesterly side of Broadway 58 feet 9 inches, thence southeasterly forming an angle of 90 degrees 00 minutes 00 seconds with Broadway, a distance of 10 inches to the Point or Place of Beginning, thence;

- a) Southeasterly, perpendicular with Broadway, a distance of 11 feet 8 inches to a point, thence;
- b) Northwesterly, forming an angle of 90 degrees 00 minutes 00 seconds with the previous course, a distance of 11 feet to a point, thence;
- c) Northeasterly, forming an angle of 90 degrees 00 minutes 00 seconds with the previous course, a distance of 11 feet 8 inches to a point, thence;
- d) Southeasterly, forming an angle of 90 degrees 00 minutes 00 seconds with the previous course, a distance of 11 feet to the Point or Place of Beginning.

DEED

THE CITY OF NEW YORK

TO

1510 BROADWAY HOUSING DEVELOPMENT FUND COMPANY, INC.

| <u>Block(s)</u> | <u>Lot(s)</u> | <u>Address(es)</u> |
|-----------------|---------------|--------------------|
| 1489 | 11 | 1510-1524 Broadway |

County: Kings

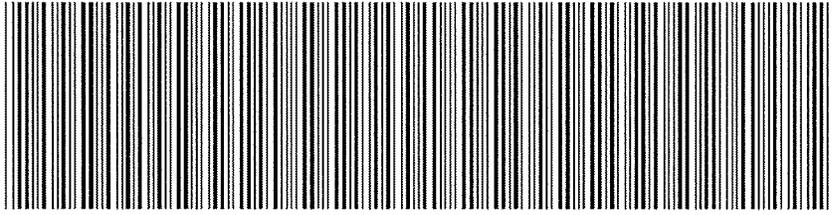
RECORD AND RETURN TO:

Joshua Bloodworth, Esq.
Department of Housing Preservation
and Development
Office of Legal Affairs
100 Gold Street, Room 5-Q5
New York, New York 10038

EXHIBIT B

**NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER**

This page is part of the instrument. The City Register will rely on the information provided by you on this page for purposes of indexing this instrument. The information on this page will control for indexing purposes in the event of any conflict with the rest of the document.



2022070500886001001EFC6B

RECORDING AND ENDORSEMENT COVER PAGE

PAGE 1 OF 15

Document ID: 2022070500886001

Document Date: 06-21-2022

Preparation Date: 07-06-2022

Document Type: SUNDRY AGREEMENT

Document Page Count: 14

PRESENTER:

71198863/1594782
STEWART TITLE INSURANCE COMPANY
711 WESTCHESTER AVENUE, SUITE 302
WHITE PLAINS, NY 10604
914-993-9393
NYMETRORECORDINGS@STEWART.COM

RETURN TO:

71198863/1594782
STEWART TITLE INSURANCE COMPANY
711 WESTCHESTER AVENUE, SUITE 302
WHITE PLAINS, NY 10604
914-993-9393
NYMETRORECORDINGS@STEWART.COM

PROPERTY DATA

| Borough | Block | Lot | Unit | Address |
|--|-------|-----|------------|---------------|
| BROOKLYN | 1489 | 11 | Entire Lot | 1510 BROADWAY |
| Property Type: COMMERCIAL REAL ESTATE | | | | |

CROSS REFERENCE DATA

CRFN _____ or DocumentID _____ or Year _____ Reel _____ Page _____ or File Number _____

PARTIES

PARTY 1:

1510 BROADWAY HOUSING DEVELOPMENT FUND
COMPANY, IN
C/O LOCAL DEVELOPMENT CORPORATION OF EAST
NEW YORK, 80 JAMAICA AVENUE

PARTY 2:

1510 BROADWAY LLC
C/O THE MACQUESTEN COMPANIES, 438 FIFTH
AVENUE, SUITE 100
PELHAM, NY 10803

FEES AND TAXES

Mortgage :

| | | |
|--------------------------|-----------|-------------|
| Mortgage Amount: | \$ | 0.00 |
| Taxable Mortgage Amount: | \$ | 0.00 |
| Exemption: | | |
| TAXES: County (Basic): | \$ | 0.00 |
| City (Additional): | \$ | 0.00 |
| Spec (Additional): | \$ | 0.00 |
| TASF: | \$ | 0.00 |
| MTA: | \$ | 0.00 |
| NYCTA: | \$ | 0.00 |
| Additional MRT: | \$ | 0.00 |
| TOTAL: | \$ | 0.00 |

Filing Fee:

| | | |
|---------------------------------|----|------|
| Filing Fee: | \$ | 0.00 |
| NYC Real Property Transfer Tax: | \$ | 0.00 |
| NYS Real Estate Transfer Tax: | \$ | 0.00 |

**RECORDED OR FILED IN THE OFFICE
OF THE CITY REGISTER OF THE**

CITY OF NEW YORK

Recorded/Filed 07-12-2022 12:05

City Register File No.(CRFN):

2022000275590



Annette McMill

City Register Official Signature

DECLARATION OF INTEREST AND NOMINEE AGREEMENT

THIS DECLARATION OF INTEREST AND NOMINEE AGREEMENT (“Agreement”) is made as of June 21, 2022, by and between of **1510 BROADWAY HOUSING DEVELOPMENT FUND COMPANY, INC.**, a New York not-for-profit corporation and entity organized pursuant to Article XI of the Private Housing Finance Law of the State of New York (“Article XI”), having its principal offices c/o Local Development Corporation of East New York, 80 Jamaica Avenue, Brooklyn, New York 11207 (the “HDFC”) and **1510 BROADWAY LLC**, a New York limited liability company, having its principal offices c/o The MacQuesten Companies, 438 Fifth Avenue, Suite 100, Pelham, New York 10803 (the “Beneficial Owner”).

WITNESSETH:

WHEREAS, the premises located at (i) 1510 Broadway, Block 1489, Lot 11 (f/k/a Lots 24-27, 128 and 129), Brooklyn, Kings County, City and State of New York, and more particularly described in Exhibit A annexed hereto and made a part hereof (the “Property”) is being acquired this day by the HDFC, solely as nominee legal or record title holder on behalf of the Beneficial Owner, for the development thereon of a residential rental project for families of low-income to be known as 1510 Broadway (the “Project”) in accordance with Article XI; and

WHEREAS, a portion of the development of the Project will be financed by certain loans made or to be made to the Beneficial Owner (the “Loans”) from the New York City Housing Development Corporation (“HDC”) and the City of New York, acting by and through its Department of Housing Preservation and Development (“HPD”) and together with HDC and their successors and/or assigns, collectively, the “Lenders”); and

WHEREAS, the Beneficial Owner and the HDFC desire that the HDFC hold legal or record title to the Property solely as nominee on behalf of the Beneficial Owner, with the Beneficial Owner retaining all of the equitable and beneficial ownership of the Property and the Project; and

WHEREAS, on or before the date hereof, the HDFC was authorized by its Board of Directors and by the Beneficial Owner to acquire and hold record ownership to the Property and the Project on behalf of the Beneficial Owner, which shall possess the entire equitable and beneficial ownership interest in the Property and the Project; and

WHEREAS, on the date of this Agreement, pursuant to a deed from the City of New York, the HDFC became the record title owner in fee of the Property; and

WHEREAS, the Company and the HDFC intend to record a condominium declaration in the New York City Register’s Office, Kings County, (the “Condominium Declaration”) to form a three (3) unit condominium (the “Condominium”) on the Property, which will consist of: (i) one condominium unit containing the 68 residential apartments that will be occupied by families earning 60% or less of the Area Median Income for the New York, NY HUD Metro FMR Area (“AMI”) and 1 superintendents unit and the common elements appurtenant thereto

(the "LIHTC Unit 1"), (ii) one condominium unit containing the 39 residential apartments that will be occupied by families earning 80% or less of AMI and the common elements appurtenant thereto (the "LIHTC Unit 2"), and (iii) one condominium unit consisting of approximately 10,645 net square feet of commercial space and the common elements appurtenant thereto (the "Commercial Unit" and together with the LIHTC Unit 1 and LIHTC Unit 2, collectively, the "Condominium Units"); and

WHEREAS, from the date hereof until formation of the Condominium, the Company and the HDFC desire that the HDFC hold legal and record fee title to the Property solely as nominee on behalf of the Company, with the Company retaining all of the equitable and beneficial ownership of the fee interest in the entire Property and the Project; and

WHEREAS, that upon formation of the Condominium, the Company and the HDFC desire that the HDFC hold legal and record fee title to the Condominium Units solely as nominee on behalf of the Company with the Company retaining all of the equitable and beneficial ownership in the fee interest in the Condominium Units; and

WHEREAS, the parties desire to set forth their agreement and understanding concerning all of the foregoing;

NOW, THEREFORE, in consideration of the sum of Ten and 00/100 Dollars (\$10.00), as well as other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. A. The parties hereto acknowledge and agree that upon the effectiveness of the Condominium Declaration, the Company's equitable and beneficial fee interests in the Property and Project shall automatically convert to and vest as equitable and beneficial fee interests in the Condominium Units and the HDFC shall have the legal or record fee title in the Condominium Units.

B. The HDFC's acceptance of the deed to the Property and its acquisition and holding of legal or record ownership of the Property were each and all effected and performed by the HDFC solely as a nominee of, and on behalf of, the Beneficial Owner. Although the HDFC will hold legal or record ownership of the Property, such ownership shall only be as nominee legal or record titleholder on behalf of the Beneficial Owner. As a result, the parties hereby acknowledge and agree that the Beneficial Owner has all of the equitable and beneficial ownership and other interests in the Property, and will have all the equitable and beneficial ownership and other interests in the Project, such that the Beneficial Owner, and not the HDFC, shall have an:

(a) unconditional obligation to bear the economic risk of depreciation and diminution in value of the Project due to obsolescence or exhaustion, and shall bear the risk of loss if the Project is destroyed or damaged;

(b) unconditional obligation to keep the Project in good condition and repair;

- (c) unconditional and exclusive right to the possession of the Project;
- (d) unconditional obligation to maintain insurance coverage on, and such reserves with respect to, the Project as may be required by the members or partners of the Beneficial Owner and/or any mortgage lenders with respect to the Project, and to include the HDFC as an additional insured on such insurance;
- (e) unconditional obligation to pay all taxes levied on, including any tax due pursuant to a payment in lieu of tax agreement, and assessments made with respect to, the Project;
- (f) unconditional and exclusive right to receive rental and any other income from the operation of the Project;
- (g) unconditional obligation to pay for all of the capital investment in the Project;
- (h) unconditional obligation to pay for all maintenance and operating costs in connection with the Project;
- (i) unconditional and exclusive right to include all income earned from the operation of the Project and claim all deductions and credits generated with respect to the Project on its annual federal, state and local tax returns;
- (j) unconditional obligation to make any payment due, bear the economic risk of loss under and to comply with all terms, conditions and/or restrictions set forth in the Project Documents. For the purposes of this Agreement, "Project Documents" shall mean the documents relating to the acquisition, financing, construction, development and operation of the Project, and any other document relating to the Project by which the Beneficial Owner is bound, as amended or supplemented from time to time;
- (k) unconditional right to receive all economic benefits associated with the Property and the Project (i.e. appreciation and increase in value) including the right to retain all of the net proceeds from any sale or the refinancing of the Property and the Project;
- (l) unconditional right to develop residential units in the Project and to operate and manage the Property and the Project in accordance with the Project Documents; and
- (m) unconditional and exclusive right to cause the Project to be subjected to a condominium regime as determined by the Beneficial Owner and to serve as, and to exclusively exercise all rights and powers of, the declarant under any condominium declaration and to convey beneficial ownership of any condominium units; and

2. The HDFC agrees at the direction of the Beneficial Owner to execute any and all documents necessary to grant to the financial institution or institutions making Loans to the Beneficial Owner a mortgage or mortgages and any similar security interests on the Project.

3. The HDFC irrevocably and unconditionally agrees, promptly upon the request of the Beneficial Owner, to execute and deliver to the Beneficial Owner a deed in proper recordable form transferring and conveying to the Beneficial Owner all of the HDFC's right, title and interest in and to the Project. The parties agree that HDFC's failure to comply with the provisions of this Paragraph 3 shall cause irreparable harm to the Beneficial Owner for which no adequate remedy at law will be available and, in addition to any other available remedies, the Beneficial Owner shall be entitled to the right of specific performance in the event of a breach by the HDFC of the provisions of this Paragraph 3.

4. The HDFC agrees that the Beneficial Owner shall have all management authority and control over the Property and the Project with respect to, but not by way of limitation, performance and enforcement of all leases and agreements with regard to the assignment, sale, transfer, conveyance, subletting, encumbrance or other disposition of the Property or any interest therein or otherwise, and any covenants concerning the Property.

5. The HDFC covenants and agrees to perform all acts reasonably requested by the Beneficial Owner in regard to or arising from the ownership, management and operation of the Property.

6. The HDFC and the Beneficial Owner, on behalf of themselves and their respective successors and assigns, hereby jointly and severally represent, warrant, acknowledge, covenant and agree as follows:

(a) So long as the HDFC shall hold legal title to the Property, the Beneficial Owner shall have complete and exclusive possession and control of the Project, and the HDFC shall not have any right to possess or control the Project;

(b) The Beneficial Owner is the "owner", as such term is defined in Section 2 of the New York Lien Law, of the Property and the HDFC is not in any respect an "owner" of the Property for federal tax purposes or under the New York Lien Law, and the Beneficial Owner is the "owner" of the Property for federal tax purposes and is entitled to tax benefits, including depreciation and low-income housing tax credits;

(c) The HDFC is not, and shall not be, entitled to receive any proceeds of any Loans made to the Beneficial Owner and/or otherwise have any rights, title, interests or benefits from, of, to and/or under any documents executed in connection with the Loans;

(d) Unless specifically authorized in writing by the Beneficial Owner, the HDFC shall have no power, right and/or authority to sell, encumber, lien, and/or create or grant any rights and/or interests in or to the Property or Project and/or any part or parts thereof, and any sale, encumbrance, lien, right and/or interest purported to be undertaken, created, granted, permitted and/or resulting from any action or inaction of the HDFC in connection with the Property or Project and/or any part or parts thereof shall be void, unenforceable and of no effect whatsoever and shall not be binding in any manner upon the Beneficial Owner;

(e) The HDFC shall not have any power, right and/or authority to employ, and or agree to employ, any persons and/or entities in connection with and/or with respect to the Property or the Project or any part or parts thereof and/or to purchase, and/or agree to purchase any goods, materials and/or services in connection with, the Property or the Project or any part or parts thereof, and any such employment, purchase and/or agreement to employ or purchase purported to be made by the HDFC shall be void, unenforceable and of no force or effect and shall not be binding upon the Beneficial Owner;

(f) The HDFC shall have no rights, powers and/or authority over, with respect to and/or in connection with the Property or any part or parts thereof in any bankruptcy or other proceeding in which the Beneficial Owner may hereafter be a party, and no shareholder, officer, trustee, receiver, administrator, legal representative, regulator or creditor of the HDFC shall have any right, power and/or authority over, with respect to and/or in connection with the Property or any part or parts thereof;

(g) No actions may be taken by the HDFC nor may the HDFC permit any other person to take any actions which relate to or will impact or affect the Property or Project or any part or parts thereof or any interest therein, except with the prior written consent of the Beneficial Owner, which may be withheld in its sole discretion. Further, any and all actions taken by the HDFC with respect to the Property or Project or any part or parts thereof shall be taken solely in its capacity as nominee for the Beneficial Owner and not for its own ends or purposes;

(h) The HDFC shall hold any policy of insurance with respect to the Property or Project and/or any parts thereof that may be issued to it, and all claims and payments to be received thereunder, solely for the benefit of the Beneficial Owner and will take such action under such policy or policies as the Beneficial Owner may direct, but at the expense of the Beneficial Owner. In the event there is an action in eminent domain, any award in respect thereof shall be received by the HDFC as agent for the Beneficial Owner, and all proceeds in respect thereof shall be paid to the Beneficial Owner directly by the governmental authority upon issuance of a letter of direction by the HDFC;

(i) The HDFC may make no settlement in respect of casualty or taken in the nature of eminent domain without the express written authorization of the Beneficial Owner;

(j) The HDFC and the Beneficial Owner each have full power and authority to enter into this Agreement and to comply with all of the terms, provisions and conditions contained in this Agreement; and

(k) Neither the execution, delivery or recording of this Agreement, nor the fulfillment of or compliance with the terms, conditions or provisions of this Agreement, conflicts with, violates or results in a breach of the terms, conditions or provisions of any agreement, instrument, law, rule or regulation of which the HDFC and/or the Beneficial Owner is now a party or by which either or both may be bound or affected or results in the creation of any lien, charge or encumbrance upon the Property, the Project and/or any part or parts thereof.

(l) The Beneficial Owner shall fully protect, indemnify, and hold the HDFC, its members, officers, directors, agents and employees (each an "Indemnified Party") harmless from and against any and all liabilities, obligations, claims, causes of actions, judgments, damages, penalties, costs and expenses (including without limitation reasonable attorneys' fees and expenses) whether incurred in disputes, both litigated and non-litigated, with third parties arising out of or in any way relating to its ownership of the Property from and after the date of transfer of title to the HDFC, including, but not limited to (a) the Project, (b) the use or occupancy of the Project or Property, or (c) the enforcement of any obligation under any policy of insurance or any obligation or indemnity provision provided in the Project Documents, except if arising from the willful misconduct, fraud or gross negligence of the HDFC (collectively, "Claims"). The forgoing indemnification shall include, but shall not be limited to Beneficial Owner's primary obligation to defend all Claims, whether or not groundless, on its own behalf and on behalf of all additional insureds, and indemnification for Claims resulting from any (i) accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Property or Project or any part thereof, or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (ii) use, nonuse or condition in, on or about the Property or Project or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (iii) failure on the part of the Beneficial Owner to perform or comply with any of the terms of the Project Documents or any applicable law, rule or regulation; (iv) performance of any labor or services or the furnishing of any materials or other property in respect of the Property or any part thereof; (v) defect in the construction or condition or characteristics of the Property or the Project, whoever and whatever the cause.

(m) The Beneficial Owner shall, to the fullest extent permitted by law, protect, defend, indemnify and save HDFC harmless from all liabilities, obligations, judgments, claims, damages, penalties, causes of action, costs and expenses (including without limitation reasonable attorneys' fees and expenses, whether incurred in litigation with the Beneficial Owner or with any third party), imposed upon or incurred by or asserted against HDFC by reason of: (i) the presence, disposal, escape, seepage, leakage, spillage, discharge, emission, release or threatened release of any Hazardous Materials (as hereinafter defined) on, from, about or affecting the Property, (ii) any personal injury (including wrongful death) or property damage (real or personal) arising out of or relating to such Hazardous Materials, (iii) any lawsuit brought or threatened, settlement reached or government order relating to such Hazardous Materials or (iv) any violation of laws, orders, rules or regulations, requirements or demands of governmental authorities, or any policies or requirements of the HDFC that are based upon or in any way related to such Hazardous Materials including, without limitation, reasonable attorney or consultant fees, investigation and laboratory fees, court costs and litigation expenses. The Beneficial Owner's obligations and liabilities under this section shall survive (x) completion of the Project; and (y) any foreclosure involving the Property, or any part thereof, or HDFC's delivery of a deed in lieu of foreclosure. Hazardous Materials means, including by example but without limitation, any explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances (or related or similar materials), asbestos or any material containing asbestos, lead paint or any other hazardous substance or material as defined by any Federal, state or local environmental law, ordinance, rule or regulation, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended

(42 U.S.C. Section 9601 et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Section 1801 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 6901 et seq.) and the rules and regulations promulgated pursuant thereto.

(n) In the event that any action or proceeding is brought against an Indemnified Party with respect to which indemnity may be sought under this Section, the Beneficial Owner, upon written notice from such Indemnified Party, shall assume the investigation and defense of such action or proceeding, including the employment of counsel selected by the Beneficial Owner, but reasonably acceptable to the Indemnified Party, and shall assume the payment of all expenses related thereto. Each Indemnified Party shall have the right, if such indemnified party shall conclude in good faith that a conflict of interest exists, to employ separate counsel at such Indemnified Party's sole cost and expense, in any such action or proceeding and to participate in the investigation and defense thereof.

(o) This paragraph 6 shall survive the termination of this Agreement.

7. Notwithstanding anything to the contrary herein, the HDFC shall be under no obligation to execute and/or deliver any deeds or other documents which violate the Project Documents, Article XI, the Not-for-Profit Corporation Law of the State of New York, and/or the HDFC's Certificate of Incorporation..

8. The parties hereto agree that if less than two-thirds of the rental units in the Project are affordable to persons and families with household incomes not to exceed 165% of area median income for the New York metropolitan statistical area, it shall be considered an Event of Default under this Agreement.

9. Notwithstanding anything contained herein to the contrary, if there is an event of default past any applicable cure periods (an "Event of Default") that is continuing under any Government Financing Document, as defined herein, the HDFC shall have the right to enter the Property to cure the default as agent for and on behalf of the Beneficial Owner, provided that Beneficial Owner is not diligently acting to cure such default. For purposes of this provision, "Government Financing Document" shall mean all City, State or Federal loan documents, including but not limited to mortgages, regulatory agreements and financing commitments.

10. Miscellaneous Provisions.

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

(b) If any provision of this Agreement shall be or become invalid under any provision of federal, state, or local law, such invalidity shall not affect the validity or enforceability of any other provision hereof.

(c) This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof, and no amendment, change or modification shall be effective unless in writing and signed by the parties hereto. Provided however that if HDC or HPD

requests any supplemental documentation to clarify the equitable and beneficial or nominal legal ownership of the Project among the parties, the parties shall provide such documentation to HDC and HPD.

(d) No party may assign this Agreement, or its rights and/or obligations hereunder, without the express written consent of the other parties. Any such assignment made without such express written consent shall be void *ab initio*.

(e) The waiver of a breach of any provision of this Agreement by any party shall not operate or be construed as a waiver of any subsequent breach.

(f) Unless otherwise specified, notices or consents required to be given by any party to the others under this Agreement shall be in writing and personally delivered or sent by registered or certified mail, return receipt requested, to the undersigned representative of the recipient at its address first stated above, or as changed pursuant to a notice served as prescribed by this Section. Such notices shall be deemed to be effective on the date when they are mailed or personally delivered. Notwithstanding anything else contained in this Agreement, copies of all notices shall also be provided to the investor, CREA 1510 Broadway, LLC and CREA SLP LLP, 30 South Meridian Street, Suite 400, Indianapolis, Indiana 46204 Attention: Asset Manager, with a copy to Barnes & Thornburg, LLP, 41 South High Street, Suite 3300, Columbus, Ohio 43215 Attention: Jordan R. Carr, Esq.; with copies to HDC at New York City Housing Development Corporation, 110 William Street, 9th Floor New York, NY 10038 Attention: Acting First Executive Vice President; and with copies to HPD at The City of New York by its Department of Housing Preservation & Development, 100 Gold Street, New York, NY 10038, Attention: General Counsel.

(g) No party is authorized to act as agent for the other or to incur any liability or dispose of any assets in the name of or on behalf of the others unless provided in this Agreement or specifically authorized by the party which will be responsible for the obligation.

(h) Any third party may rely on this Agreement with respect to the rights and obligations of the Company and the HDPC hereunder.

(i) This Agreement shall automatically terminate and be of no further force or effect upon transfer of the Property and Project by foreclosure or otherwise.

THE NEXT PAGE IS THE SIGNATURE PAGE.

IN WITNESS WHEREOF, the parties hereto have executed this Declaration of Interest and Nominee Agreement as of the date and year first written above.

**1510 BROADWAY HOUSING
DEVELOPMENT FUND COMPANY, INC.**

By: _____
Name: Sherry D. Roberts
Title: Secretary/Treasurer

1510 BROADWAY LLC

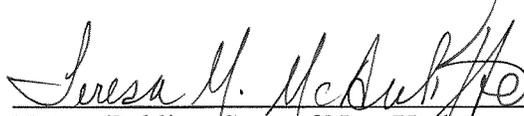
By: 1510 Broadway Managers LLC,
its Managing Member

By: MacQuesten Broadway Managers LLC,
its Managing Member

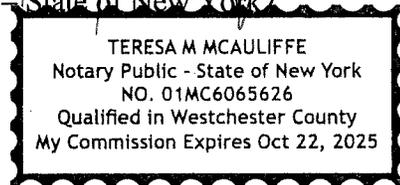
By:  _____
Name: Rella Fogliano
Title: Manager

STATE OF NEW YORK)
)
COUNTY OF WESTCHESTER) ss.:

On the 6th day of June, 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared **Rella Fogliano**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public - State of New York



STATE OF NEW YORK)
)
COUNTY OF NEW YORK) ss.:

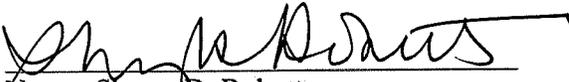
On the ___ day of June, 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared **Sherry D. Roberts**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public - State of New York

Record & Return:
Cannon Heyman & Weiss, LLP
54 State Street, 5th Floor
Albany, New York 12207
Attn: Colleen A. Morello

IN WITNESS WHEREOF, the parties hereto have executed this Declaration of Interest and Nominee Agreement as of the date and year first written above.

**1510 BROADWAY HOUSING
DEVELOPMENT FUND COMPANY, INC.**

By: 
Name: Sherry D. Roberts
Title: Secretary/Treasurer

1510 BROADWAY LLC

By: 1510 Broadway Managers LLC,
its Managing Member

By: MacQuesten Broadway Managers LLC,
its Managing Member

By: _____
Name: Rella Fogliano
Title: Manager

STATE OF NEW YORK)
)
COUNTY OF WESTCHESTER) ss.:

On the ___ day of June, 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared **Rella Fogliano**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public – State of New York

STATE OF NEW YORK)
)
COUNTY OF NEW YORK) ss.:

On the 14th day of June, 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared **Sherry D. Roberts**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public – State of New York

JONATHAN S. WONG
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 02WO6400213
Qualified in New York County
Commission Expires : 11/12/2023

Record & Return:
Cannon Heyman & Weiss, LLP
54 State Street, 5th Floor
Albany, New York 12207
Attn: Colleen A. Morello

EXHIBIT "A"

LEGAL DESCRIPTION OF THE LAND

EXHIBIT A
LEGAL DESCRIPTION

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Borough of Brooklyn, County of Kings, City and State of New York, bounded and described as follows:

BEGINNING at the corner formed by the intersection of the southeasterly side of Jefferson Avenue with the northeasterly side of Saratoga Avenue;

RUNNING THENCE southeasterly along the northeasterly side of Saratoga Avenue 133 feet 0 inches to the land now or formerly Naziemul Safi;

THENCE southeasterly parallel or nearly so to the southwesterly side of Broadway 9 feet 8 $\frac{1}{4}$ inches to a point;

THENCE northeasterly at right angles or nearly so to Broadway and along the lands now or formerly Naziemul Safi 29 feet 0 inches (28 feet 0 inches per Tax Map) to a point;

THENCE continuing along the lands now or formerly Naziemul Safi southeasterly parallel or nearly so to Broadway 114 feet 3 inches to a point on the northwesterly side of Hancock Street;

THENCE northeasterly along the northwesterly side of Hancock Street 123 feet 5 $\frac{3}{4}$ inches to the intersection of the northwesterly side of Hancock Street and the southwesterly side of Broadway;

THENCE northwesterly along the southwesterly side of Broadway 281 feet 1 $\frac{1}{4}$ inches to the corner formed by the intersection of the southwesterly side of Broadway and the southeasterly side of Jefferson Avenue;

THENCE southwesterly along the southeasterly side of Jefferson Avenue 33 feet 0 $\frac{1}{2}$ inches to the point or place of BEGINNING.

EXHIBIT C

**WRITTEN CONSENT
OF SOLE MEMBER**

The undersigned being the Sole Member of 1510 Broadway LLC, a New York limited liability company (the "Company"), pursuant to and in accordance with the provisions of New York Limited Liability Company Law, hereby waives notice of a meeting and consents to and adopts the following resolutions:

RESOLVED, that the Company be, and it hereby is, authorized and directed to enter into, execute and deliver, all documents, agreements and instruments and to take any and all action necessary or desirable on behalf of, and for the benefit of, the Company, to implement, secure and/or consummate the entering into a Brownfield Cleanup Agreement (BCA) with the State of New York by the New York State Department of Environmental Conservation; and

RESOLVED, that Rella Fogliano, as the sole member of the Company, is authorized to sign on behalf of the Company, is authorized to execute any and all instruments and documents and to take any and all actions as she deems necessary or desirable to evidence, implement, secure and/or consummate the transactions as described above, including but not limited to the execution of a BCA with the State of New York by the New York State Department of Environmental Conservation and any required amendments thereto; and

RESOLVED, that all actions heretofore taken and all documents heretofore executed and all present and future actions taken in connection with the above and/or these resolutions, be, and they hereby are, ratified, confirmed and approved.



Rella Fogliano, Sole Member

1510 Broadway LLC

Date: _____

6/11/11

EXHIBIT D

Sherry D. Roberts
1510 Broadway Housing Development Fund Company, Inc.
c/o Local Development Corporation of East New York,
80 Jamaica Avenue,
Brooklyn, NY 11207

**Re: Site Access to Perform Brownfield Cleanup Program Work
1510 Broadway, Brooklyn, NY.**

Dear Ms. Roberts:

1510 Broadway LLC is the volunteer for the Brownfield Cleanup Program ("BCP") Site 1510 Broadway Dry Cleaners Site (C224280) located at 1510 Broadway, Brooklyn, New York 11221. As you know, 1510 Broadway Housing Development Fund Company, Inc. owns the aforementioned parcel that make up the BCP Site. We need your written permission below to access your property for the purpose of performing environmental investigation and remediation work for acceptance into the BCP.

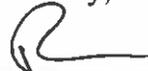
If you agree to sign below, you are granting us what is known as a "temporary license" to allow an appropriate contractor we hire to enter the property to perform investigation and remediation work. We promise to provide you with copies of any information we generate about the property, and if we do accidentally damage your property in any way, we agree to repair the damages to restore the property to the way it was before we entered. Our contractor will also maintain insurance that would cover any accidents on the job. We promise to minimize any and all inconvenience to you in connection with this work, and will give you one week notice before the work begins.

In addition, since you will still own the BCP Site when the remediation is complete and the Certificate of Completion is about to be obtained, and a Track 1 remediation level is not achieved, you are hereby also agreeing to impose an environmental easement on the BCP Site if required by the New York State Department of Environmental Conservation.

If you have any questions, please do not hesitate to call Joseph Apicella, our Project Manager at (914) 667-7227. Otherwise, please sign below so that this work can proceed.

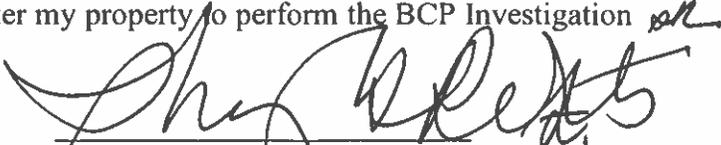
Thank you for your cooperation.

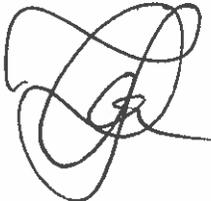
Sincerely,



1510 Broadway LLC
By. Rella Fogliano,
Sole Member

As a member of the site owner, I am authorized to grant this temporary license and agree to allow 1510 Broadway LLC and its agents to enter my property to perform the BCP Investigation and/or remediation work required.


1510 Broadway Housing Development Fund
Company, Inc.
By: Sherry D. Roberts

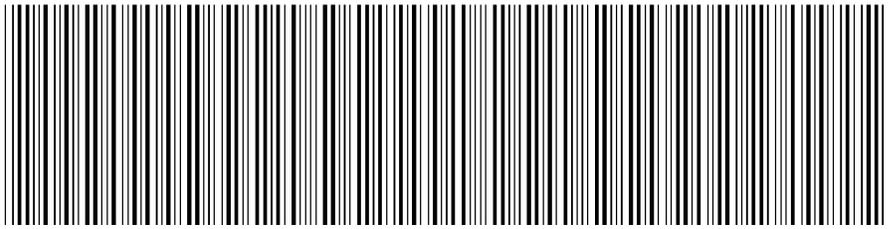


GREGORY AVNER YADGAROFF
NOTARY PUBLIC-STATE OF NEW YORK
No. 01YA6194434
Qualified in Queens County
My Commission Expires 09-29-2024

EXHIBIT E

**NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER**

This page is part of the instrument. The City Register will rely on the information provided by you on this page for purposes of indexing this instrument. The information on this page will control for indexing purposes in the event of any conflict with the rest of the document.



2022070500886005001E3C9A

RECORDING AND ENDORSEMENT COVER PAGE

PAGE 1 OF 101

Document ID: 2022070500886005

Document Date: 06-21-2022

Preparation Date: 07-06-2022

Document Type: SUNDRY AGREEMENT

Document Page Count: 99

PRESENTER:

71198863/1594782
STEWART TITLE INSURANCE COMPANY
711 WESTCHESTER AVENUE, SUITE 302
WHITE PLAINS, NY 10604
914-993-9393
NYMETRORECORDINGS@STEWART.COM

RETURN TO:

71198863/1594782
STEWART TITLE INSURANCE COMPANY
711 WESTCHESTER AVENUE, SUITE 302
WHITE PLAINS, NY 10604
914-993-9393
NYMETRORECORDINGS@STEWART.COM

PROPERTY DATA

| Borough | Block | Lot | Unit | Address |
|---|-------|-----|------------|---------------|
| BROOKLYN | 1489 | 11 | Entire Lot | 1510 BROADWAY |
| Property Type: NON-RESIDENTIAL VACANT LAND | | | | |

CROSS REFERENCE DATA

Document ID: 2022070500886001

Additional Cross References on Continuation Page

PARTIES

PARTY 1:

1510 BROADWAY LLC
C/O: THE MACQUESTEN COMPANIES, 438 FIFTH AVENUE, SUITE 100
PELHAM, NY 10803

PARTY 2:

NEW YORK CITY HOUSING DEVELOPMENT CORPORATION
110 WILLIAM STREET
NEW YORK, NY 10038

Additional Parties Listed on Continuation Page

FEES AND TAXES

Mortgage :

| | | |
|--------------------------|-----------|-------------|
| Mortgage Amount: | \$ | 0.00 |
| Taxable Mortgage Amount: | \$ | 0.00 |
| Exemption: | | |
| TAXES: County (Basic): | \$ | 0.00 |
| City (Additional): | \$ | 0.00 |
| Spec (Additional): | \$ | 0.00 |
| TASF: | \$ | 0.00 |
| MTA: | \$ | 0.00 |
| NYCTA: | \$ | 0.00 |
| Additional MRT: | \$ | 0.00 |
| TOTAL: | \$ | 0.00 |
| Recording Fee: | \$ | 532.00 |
| Affidavit Fee: | \$ | 0.00 |

Filing Fee:

| | | |
|---------------------------------|----|------|
| Filing Fee: | \$ | 0.00 |
| NYC Real Property Transfer Tax: | \$ | 0.00 |
| NYS Real Estate Transfer Tax: | \$ | 0.00 |

**RECORDED OR FILED IN THE OFFICE
OF THE CITY REGISTER OF THE**

CITY OF NEW YORK

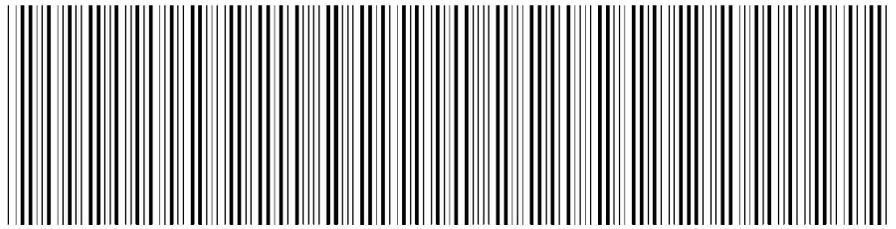
Recorded/Filed 07-12-2022 12:05
City Register File No.(CRFN):
2022000275594



Annette McMill

City Register Official Signature

NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER



2022070500886005001C3E1A

RECORDING AND ENDORSEMENT COVER PAGE (CONTINUATION) PAGE 2 OF 101

Document ID: 2022070500886005

Document Date: 06-21-2022

Preparation Date: 07-06-2022

Document Type: SUNDRY AGREEMENT

CROSS REFERENCE DATA

Document ID: 2022070500886004

PARTIES

PARTY 1:

1510 BROADWAY HOUSING DEVELOPMENT FUND
COMPANY INC
C/O: MACQUESTEN COMPANIES, 438 FIFTH
AVENUE, SUITE 100

PARTIES

PARTY 2:

THE CITY OF NEW YORK
CITY HALL
NEW YORK, NY 10007

Affordable Housing Regulatory Agreement

between:

1510 Broadway LLC

1510 Broadway Housing Development Fund Company, Inc.

and

New York City Housing Development Corporation

**The City of New York, acting by and through its
Department of Housing Preservation and Development**

AS OF June 21st, 2022

Record and return to:

Borough: Brooklyn
Block: 1489
Lot: 11

New York City Housing Development
Corporation
110 William Street, 10th Floor
New York, NY 10038
Attention – General Counsel

Table of Contents

| | | | | | |
|---|---|------|---|---|-------------------------------------|
| RECITALS | 1 | 4.13 | Non-Discrimination..... | 18 | |
| ARTICLE 1 DEFINITIONS | 3 | 4.14 | Conversion to Co-Op or Condo..... | 18 | |
| 1.01 | Certain Definitions..... | 3 | 4.15 | Next Available Unit Rule..... | 19 |
| ARTICLE 2 TERM OF RESTRICTIONS | 7 | 4.16 | Non-Residential Space..... | 19 | |
| 2.01 | Restriction Period..... | 7 | ARTICLE 5 RESIDENTIAL RENTS | 20 | |
| 2.02 | After the Restriction Period..... | 8 | 5.01 | Rents Charged to Tenants..... | 20 |
| 2.03 | Subordination to Financing..... | 8 | 5.02 | Rent Stabilization..... | 22 |
| ARTICLE 3 GENERAL REQUIREMENTS | 9 | 5.03 | Loss of Rental Assistance..... | 25 | |
| 3.01 | Compliance with Law; Agreements... .. | 9 | 5.04 | After the Restriction Period..... | 25 |
| 3.02 | More Restrictive Provisions Control... .. | 9 | ARTICLE 6 PROJECT OPERATIONS | 27 | |
| 3.03 | Real Property Tax Benefits..... | 9 | 6.01 | Standard of Care..... | 27 |
| 3.04 | Rental Assistance..... | 9 | 6.02 | Maintenance of Project..... | 27 |
| 3.05 | HDC Financing..... | 9 | 6.03 | Taxes and Municipal Charges..... | 28 |
| 3.06 | [intentionally deleted]..... | 10 | 6.04 | Records; Retention..... | 28 |
| 3.07 | Low-Income Housing Tax Credits... .. | 10 | 6.05 | Contracting..... | 28 |
| 3.08 | Tax-Exempt Bonds or Obligations... .. | 12 | 6.06 | HPD Building Registration..... | 29 |
| ARTICLE 4 PROJECT OCCUPANCY | 14 | 6.07 | Property Management..... | 29 | |
| 4.01 | Occupancy Restrictions..... | 14 | 6.08 | Insurance..... | 30 |
| 4.02 | Changes to Project..... | 15 | 6.09 | Utilities..... | 36 |
| 4.03 | Integration of Units..... | 15 | 6.10 | Mechanics and Tax Liens..... | 36 |
| 4.04 | Primary Residence..... | 15 | 6.11 | Loans by Owner..... | 37 |
| 4.05 | Lease-Up and Marketing..... | 16 | 6.12 | Reasonable Accommodations..... | 37 |
| 4.06 | Qualification of Eligible Households..... | 16 | 6.13 | Equal Access to Amenities..... | 37 |
| 4.07 | Leases of Units..... | 16 | 6.14 | Distribution of Information..... | 37 |
| 4.08 | Subleases and Assignments..... | 17 | 6.15 | Operation of Homeless Units..... | 37 |
| 4.09 | Right to Renewal Lease..... | 17 | [6.18 | Environmental Requirements..... | 38 |
| 4.10 | Evictions..... | 17 | 6.19 | Building Service Prevailing Wage... .. | 38 |
| 4.11 | Successors to Tenants..... | 18 | 6.20 | Building Service Prevailing Wage (City Rezoning)..... | 38 |
| 4.12 | Rental Assistance Status..... | 18 | 6.21 | Living Wage..... | Error! Bookmark not defined. |
| | | | ARTICLE 7 RESERVES | 40 | |
| | | | 7.01 | Replacement Reserve..... | 40 |

| | | | | | |
|---|------------------------------------|----|--|-----------------------------------|----|
| 7.02 | Operating Reserve. | 40 | 10.07 | No Retaliation..... | 56 |
| 7.03 | Other Reserves. | 40 | 10.08 | Waiver of Opposition..... | 56 |
| 7.04 | Servicing of Reserves..... | 41 | 10.09 | Third-Party Beneficiaries..... | 56 |
| 7.05 | Replenishment of Reserves. | 42 | 10.10 | Tenant Right to Enforce. | 57 |
| 7.06 | Reserves Remain with Project. | 42 | | | |
| 7.07 | Disposition of Reserves..... | 42 | | | |
| 7.08 | HDC Financing Requirements..... | 42 | | | |
| ARTICLE 8 OWNERSHIP AND FINANCING 43 | | | ARTICLE 11 STATEMENTS OF FACT58 | | |
| 8.01 | Property Transfers..... | 43 | 11.01 | In General..... | 58 |
| 8.02 | Changes in Ownership. | 44 | 11.02 | Organization..... | 58 |
| 8.03 | Financing..... | 45 | 11.03 | Not-for-Profit Corporations..... | 58 |
| 8.04 | Zoning; Development Rights..... | 47 | 11.04 | Due Authorization..... | 58 |
| 8.05 | Legal Owner..... | 47 | 11.05 | Valid and Binding Obligation..... | 58 |
| 8.06 | Condominium..... | 48 | 11.06 | No Conflicts..... | 59 |
| ARTICLE 9 COMPLIANCE MONITORING ... 50 | | | 11.07 | Obtaining of Approvals..... | 59 |
| 9.01 | Annual Submissions..... | 50 | 11.08 | Litigation..... | 59 |
| 9.02 | Late Fees..... | 51 | 11.09 | Bankruptcy..... | 59 |
| 9.03 | Testimony and Documents..... | 51 | 11.10 | Accuracy of Information..... | 60 |
| 9.04 | Access to Property..... | 52 | 11.11 | Rent Roll..... | 60 |
| 9.05 | Reports of Non-Compliance..... | 52 | 11.12 | Title to Property..... | 60 |
| 9.06 | Reports of Legal Actions..... | 52 | 11.13 | Flood Zone Status..... | 60 |
| 9.07 | Interaction with Authorities..... | 52 | 11.14 | Utilities and Public Streets..... | 61 |
| 9.08 | Disclosure of Ownership..... | 52 | 11.15 | Property Condition..... | 61 |
| 9.09 | Additional Information..... | 53 | 11.16 | Taxes..... | 61 |
| 9.10 | HDC Monitoring Fees..... | 53 | 11.17 | Insurance..... | 61 |
| ARTICLE 10 ENFORCEMENT 54 | | | 11.18 | Reserves..... | 61 |
| 10.01 | Defaults..... | 54 | 11.19 | Zoning and Building Codes..... | 61 |
| 10.02 | Remedies..... | 54 | 11.20 | Environmental Laws..... | 62 |
| 10.03 | All Rights Cumulative..... | 55 | 11.21 | Financing..... | 62 |
| 10.04 | Waivers of Agreement..... | 56 | 11.22 | Law and Agreements..... | 62 |
| 10.05 | No Distributions Upon Default..... | 56 | 11.23 | Agency and City Personnel..... | 62 |
| 10.06 | Prior Owner Defaults..... | 56 | 11.24 | Conflicts of Interest..... | 63 |
| | | | 11.25 | Lobbying..... | 63 |
| | | | 11.26 | Sponsor Loans..... | 63 |
| | | | 11.27 | Sponsor Loans (LIHTC Basis)..... | 63 |
| | | | ARTICLE 12 MISCELLANEOUS64 | | |

| | | |
|-------|-------------------------------|----|
| 12.01 | Recording | 64 |
| 12.02 | Successors | 64 |
| 12.03 | Notices | 64 |
| 12.04 | Agency Approvals | 65 |
| 12.05 | Amendments | 66 |
| 12.06 | Severability | 66 |
| 12.07 | Claims Against Officials | 66 |
| 12.08 | Cooperation | 66 |
| 12.09 | Forum Selection | 66 |
| 12.10 | Indemnity | 67 |
| 12.11 | Provisions Required by Law | 68 |
| 12.12 | Further Assurances | 68 |
| 12.13 | Duplicate Originals | 68 |
| 12.14 | Interpretation | 68 |
| 12.15 | Joint and Several Obligations | 68 |
| 12.16 | No Merger | 69 |
| 12.17 | Other Consents | 69 |
| 12.18 | Relationship of Parties | 69 |
| 12.19 | Asset Management by HDC | 69 |

**EXHIBIT D ENVIRONMENTAL
REQUIREMENTS**

ARTICLE 13 INVESTIGATIONS 70

| | | |
|-------|----------------------------|----|
| 13.01 | Definitions | 70 |
| 13.02 | Cooperation | 70 |
| 13.03 | Refusal to Testify | 70 |
| 13.04 | Adjournments | 71 |
| 13.05 | Penalties | 71 |
| 13.06 | Factors | 71 |
| 13.07 | Warranties and Enforcement | 72 |

EXHIBIT A PROPERTY DESCRIPTION

EXHIBIT B PROJECT DETAILS

**EXHIBIT C FORM OF MEMORANDUM OF
REGULATORY AGREEMENT**

AFFORDABLE HOUSING REGULATORY AGREEMENT ("**Agreement**") entered into as of June 21, 2022, between:

1510 Broadway LLC, a New York limited liability company having an address at c/o MacQuesten Development LLC, 438 Fifth Avenue, Suite 100, Pelham, New York 10803 ("**Beneficial Owner**")

1510 Broadway Housing Development Fund Company, Inc., a New York not-for-profit corporation having an address at c/o MacQuesten Development LLC, 438 Fifth Avenue, Suite 100, Pelham, New York 10803 ("**Legal Owner**", and together with the Beneficial Owner, "**Owner**");

New York City Housing Development Corporation, a New York public benefit corporation having its principal office at 110 William Street, New York, NY 10038; and

The City of New York, a New York municipal corporation having its principal office at City Hall, New York, NY 10007, acting by and through its **Department of Housing Preservation and Development**, having its principal office at 100 Gold Street, New York, NY 10038.

RECITALS

- A. Capitalized terms have the meanings given in Section 1.01.
- B. The Owner intends to own and operate the housing project described in Exhibit B ("**Project**") on the real property identified in Exhibit A ("**Property**"). Exhibit A and Exhibit B are annexed to this Agreement and made a part of this Agreement.
- C. The Beneficial Owner has entered into a Declaration of Interest and Nominee Agreement with the Legal Owner (together with any other nominee agreement with respect to the Property, "**Nominee Agreement**"), pursuant to which the Beneficial Owner is the beneficial and equitable owner of the Property and the Legal Owner retains the nominal record title to the Property. *and which Declaration is being simultaneously recorded herewith* §
- D. The Owner intends to create a condominium on the Property pursuant to which the Property will contain one structure with three condominium units, each with its interest in the common elements appurtenant thereto: one residential space condominium unit comprised of 62 Units with income restrictions for occupancy at or below 60% of AMI, and one (1) superintendent's unit ("**LIHTC Condo Unit 1**"); one residential space condominium unit comprised of 45 Units with income restrictions for occupancy at 80% of AMI ("**LIHTC Condo Unit 2**" and together with LIHTC Condo Unit 1, the "**LIHTC Condo Units**"); and one commercial space condominium unit (the "**Commercial Condo Unit**", and collectively with the LIHTC Condo Unit 1 and LIHTC Condo Unit 2, the "**Condo Units**"). The LIHTC Condo Units are expected to receive Tax Credits and each is to comprise a "building" for purposes of Section 42 of the Tax Code;
- E. HPD has conveyed the Property to the Owner pursuant to Article XVI of the General Municipal Law for the purpose of developing the Project.

- F. HDC is providing financing to the Owner pursuant to Article 12 of the Private Housing Finance Law ("**HDC Financing**"). HPD has granted funds to HDC pursuant to Section 661 of the Private Housing Finance Law to provide funds for a portion of the HDC Financing. This portion of the HDC Financing must comply with the requirements that would be applicable to financing provided directly by HPD under Article XVI of the General Municipal Law.
- G. The Owner expects that the Project will receive real property tax benefits pursuant to Section 420-c of the Real Property Tax Law ("**Real Property Tax Benefits**").
- H. The Project has been allocated federal low-income housing tax credits pursuant to Section 42 of the Internal Revenue Code ("**LIHTC**").
- I. The Property is located in a Mandatory Inclusionary Housing area under the Zoning Resolution, and the Owner intends to satisfy the requirements of the Zoning Resolution by providing affordable housing on the Property. The Owner is subject to a separate Restrictive Declaration concerning the Mandatory Inclusionary Housing program and which Mandatory Inclusionary Housing Restrictive Declaration is being simultaneously recorded herewith &
- J. The Agency requires that the Owner and the Project comply with this Agreement as a condition to participation in the Agency's affordable housing program.

In consideration of the foregoing, and for other good and valuable consideration, the parties to this Agreement agree as follows:

[Continues on next page]

ARTICLE 1
DEFINITIONS

1.01 Certain Definitions.

"Actual Rent" has the meaning set forth in Section 5.01(b).

"Agency" means HPD and HDC individually and not jointly.

"Agreement" has the meaning set forth in the preamble to this Agreement.

"AMI" means two times the Section 8 income limit for "very low-income families" (families with incomes that do not exceed 50% of median family income), as determined by HUD for the New York, NY HUD Metropolitan Fair Market Rent Area (or any successor area covering New York City), and adjusted for family size. If HUD stops publishing the Section 8 income limit for very low-income families, the Agency shall establish an alternative method for determining AMI. If HUD publishes an income limit for a different percentage of median family income, the Agency or Law may require the Owner to use the HUD-published income limit, as adjusted for family size, to determine rent or income limits at a corresponding percentage of AMI under this Agreement, instead of an adjustment to the Section 8 income limit for very low-income families. Unless otherwise noted, AMI refers to the amount in effect on the date of the applicable determination.

"Annual Income" means current annual gross income, calculated in accordance with the method for determining income eligibility specified in the Marketing Handbook or as otherwise may be required by Law.

"Beneficial Owner" has the meaning set forth in the preamble to this Agreement.

"Change in Ownership" has the meaning set forth in Section 8.02(a).

"City" means The City of New York.

"Default" has the meaning set forth in Section 10.01(b).

"Default Rate" means an interest rate that is the lower of (a) the highest interest rate permitted by Law, or (b) 16% per annum.

"Destabilization" has the meaning set forth in Section 5.02(e).

"DHCR" means the State's Division of Housing and Community Renewal, or any successor administering Rent Stabilization.

"Eligible Household" means, with respect to any Unit, a prospective or existing Tenant who meets the income, asset, and other requirements of this Agreement and the Marketing Handbook to occupy the Unit.

"Equipment" means all fixtures, fittings, appliances, apparatus, equipment, machinery, furniture, and other personal property (other than that which is owned by Tenants or any non-residential tenants of the Property) now or in the future attached to, located upon, or used in the operation of the Property, and all replacements, additions, proceeds, products, and accessions of or to the foregoing.

"Extended Use Period" has the meaning set forth in Exhibit B.

"FMR" means the fair market rent published by HUD for the New York, NY HUD Metropolitan Fair Market Rent Area (or any successor area covering the Property) and in effect on the date of the applicable rent determination.

"HDC" means the New York City Housing Development Corporation (or any successor).

"HDC Financing" has the meaning set forth in the Recitals.

"HDC Obligations" means that portion of the bonds or other obligations issued by HDC to fund all or part of the HDC Financing and any bonds or other obligations that may be subsequently issued by HDC to refund such bonds or other obligations.

"Homeless Units" has the meaning set forth in Section 4.01(c).

"Household" means all individuals who occupy, or will occupy, a Unit.

"HPD" means the City, acting by and through its Department of Housing Preservation and Development (or any successor).

"HUD" means the U.S. Department of Housing and Urban Development (or any successor).

"Improvements" means all buildings, structures, sidewalks, parking lots, and other physical improvements currently existing or at any time in the future constructed, installed, or placed upon the land in any part of the Property.

"Income-Based Rent" means the greater of (1) 30% of the Annual Income of the Tenant, divided by 12, rounded down to the nearest whole dollar, and then minus the applicable utility allowance, or (2) any Shelter Allowance.

"Income-Restricted Unit" means any Unit that the Owner is required to lease upon initial occupancy to an Eligible Household whose Annual Income does not exceed an income limit for the Unit that is required by this Agreement.

"Institutional Lender" has the meaning set forth in Section 8.03(e).

"Internal Revenue Code" means the Internal Revenue Code of 1986, as amended, and any regulations, rules, and procedures issued pursuant to such code.

"Law" means any applicable federal, state, or local law, code, ordinance, regulation, rule, ruling, or requirement in effect, including, but not limited to, executive orders, court

orders, and City Council resolutions, regardless of whether it was applicable or in effect on the date of this Agreement or became applicable or effective after such date.

"Legal Owner" has the meaning set forth in the preamble to this Agreement.

"Legal Rent" has the meaning set forth in Section 5.01(b).

"LIHTC" has the meaning set forth in the Recitals.

"LIHTC Building" means any "building" (within the meaning of Section 42 of the Internal Revenue Code) containing Units that are designated as low-income units pursuant to Section 42 of the Internal Revenue Code.

"Management Agreement" has the meaning set forth in Section 6.07.

"Managing Agent" has the meaning set forth in Section 6.07.

"Marketing Handbook" means the Agency's Marketing Handbook, as amended, or any successor document designated in writing by the Agency.

"Maximum Program Rent" has the meaning set forth in Section 5.01(b).

"MCI Increase" has the meaning set forth in Section 5.02(c)(i).

"Nominee Agreement" has the meaning set forth in the Recitals.

"Operating Reserve" has the meaning set forth in Section 7.02.

"Owner" has the meaning set forth in the preamble to this Agreement.

"Permanent Loan Conversion" means the date of the conversion of the HDC Financing from the construction phase to the permanent phase.

"Permitted Mortgage" has the meaning set forth in Section 8.03(d).

"Prohibited Person" means any individual or entity that is or has been subject to, or that has a principal that is or has been subject to, one or more of the following: (a) conviction, civil judgment, pending litigation, or active investigation for harassment, arson, fraud, bribery, grand larceny, any felony or crime of dishonesty, or any material violation of environmental or building safety Laws, (b) suspension or debarment by any government entity, (c) a finding of material tax arrears, tax foreclosure, or enforcement proceedings, or the sale of tax liens, or (d) negative findings by the City's Department of Investigation (or any successor).

"Project" has the meaning set forth in the Recitals.

"Property" has the meaning set forth in the Recitals.

"Property Transfer" has the meaning set forth in Section 8.01.

"Real Property Tax Benefits" has the meaning set forth in the Recitals.

"Records" has the meaning set forth in Section 6.04.

"Renewal Lease Adjustment" has the meaning set forth in Section 5.01(b).

"Rent Stabilization" means, collectively, the Rent Stabilization Law of 1969, the Emergency Tenant Protection Act of 1974, and the Rent Stabilization Code, all as amended, together with any successor Laws addressing substantially the same matters.

"Rental Assistance" means Section 8, similar rental subsidies provided by the City, or any other rental subsidy program approved in writing by the Agency.

"Rental Assistance Contract" means any contract providing project-based Rental Assistance to the Project.

"Rental Assistance Rent" has the meaning set forth in Section 5.01(b).

"Rental Assistance Unit" has the meaning set forth in Section 5.01(b).

"Replacement Reserve" has the meaning set forth in Section 7.01.

"Restriction Period" has the meaning set forth in Section 2.01(a).

"Section 8" means rental subsidies provided under Section 8 of the United States Housing Act of 1937, as amended (or any successor federal rental subsidy program).

"Shelter Allowance" means the monthly portion of any public assistance program approved in writing by the Agency and intended for housing expenses, as adjusted for Household size. Shelter Allowance is not Rental Assistance under this Agreement.

"State" means the State of New York.

"Superintendent Unit" means a Unit that is occupied by a resident superintendent or porter of the Project.

"Tenant" means, collectively, (a) one or more individuals occupying or entitled to occupy a Unit who is either a party to a lease or rental agreement for such Unit or is a statutory tenant pursuant to the Emergency Housing Rent Control Law, the City Rent and Rehabilitation Law, or Article 7-C of the Multiple Dwelling Law, and (b) the entire Household of such individuals.

"Unit" means a dwelling unit within the Project.

[Continues on next page]

ARTICLE 2

TERM OF RESTRICTIONS

2.01 Restriction Period.

- (a) **Length of Period.** The Owner shall comply, and shall cause the Project to comply, with this Agreement during the period that begins on the date of this Agreement and ends on the latest of the following dates ("**Restriction Period**"):
- (i) The date identified as the Agency Program Termination Date in Exhibit B.
 - (ii) The date on which (1) the Property and the Project are not subject to any mortgage or lien held by or on behalf of the City or HDC, and (2) the Owner does not owe any indebtedness to the City or HDC with respect to the Project.
 - (iii) The date on which the Real Property Tax Benefits expire by their stated term and not due to any early voluntary or involuntary termination, revocation, or suspension.
 - (iv) The date on which the Extended Use Period ends.
 - (v) The latest of (1) the date that is 15 years after the date on which 50% of the Units are first occupied, (2) the date on which no tax-exempt private activity bond or similar obligation with respect to the Project is outstanding, and (3) the date on which any assistance provided with respect to the Project under Section 8 terminates.
- (b) **Permanent Affordability.** This Agreement restricts all or a portion of the Units in perpetuity as permanently affordable Units (as set forth in Exhibit B, and not including any Units that are covered separately by an Inclusionary Housing regulatory agreement or restrictive declaration unless such Units are also designated as permanently affordable Units under this Agreement). If a court of competent jurisdiction, after the exhaustion of any appeals, orders that a perpetual term of this Agreement is unenforceable, then the Agency Program Termination Date for any Unit that is permanently affordable under this Agreement will mean the date that is 80 years from the date of this Agreement. The foregoing sentence and all provisions in this Agreement referring to the end of the Restriction Period do not apply to any such permanently affordable Units unless a court issues such an order.
- (c) **Project-Wide Requirements.** Except as may be specifically provided in this Agreement, if the Restriction Period ends on different dates for different Units (or does not end, in the case of any Unit that is permanently affordable under this Agreement), any requirement of this Agreement that is not explicitly tied to a specific Unit or class of Units applies until the latest date on which the Restriction Period ends for any Unit (or in perpetuity, if applicable). These requirements include, but are not limited to, those with respect to program compliance, non-

residential uses, project operations, reserves, ownership and financing, and compliance monitoring.

2.02 After the Restriction Period.

- (a) **Termination.** This Agreement terminates when the Restriction Period ends for all Units, except as provided in Section 2.02(b). No party may terminate this Agreement prior to the end of the Restriction Period without the prior written consent of the Agency.
- (b) **Surviving Provisions.** After the termination of this Agreement, or after the Restriction Period ends for any Unit prior to the termination of this Agreement, the Owner shall continue to comply, and shall cause the Project to comply, with the provisions of this Agreement that are specifically identified in this Agreement as applying after the Restriction Period, or as surviving the termination of this Agreement (or words of similar meaning). All such provisions survive the termination of this Agreement. The Agency may continue to enforce this Agreement after its termination with respect to (i) any surviving provision of this Agreement and (ii) any matter that occurred before the termination of this Agreement. In addition, the termination of this Agreement will not affect the Agency's ability to enforce any Law that the Agency would be able to enforce in the absence of this Agreement.
- (c) **Release.** After the termination of this Agreement, and upon the request of the Owner, the Agency shall provide the Owner with a release of this Agreement in recordable form. The Agency may refer to its surviving rights under this Agreement in any such release, but neither the release of this Agreement nor the failure to describe the survival of rights under this Agreement in any such release will limit the Agency's exercise of these rights as provided in Section 2.02(b).

2.03 Subordination to Financing.

If the holder of a mortgage securing HDC's senior loan to the Project completes a foreclosure of the mortgage or receives a deed to the Property in lieu of foreclosure, the Agency shall terminate this Agreement at the request of the holder of the mortgage if: (a) the HDC Financing is paid in full, and (b) within a reasonable period, the HDC Obligations are retired. HDC shall cause the HDC Obligations to be retired within a reasonable period pursuant to the resolution or indenture governing the HDC Obligations. If the Owner or a related entity or individual obtains an ownership interest in the Project after any such termination of this Agreement, but during the period that would have comprised the Restriction Period, this Agreement will be reinstated in full effect.

[Continues on next page]

ARTICLE 3

GENERAL REQUIREMENTS

3.01 Compliance with Law; Agreements.

The Owner shall comply, and shall cause the Project to comply, with the Law. The Owner shall also comply, and shall cause the Project to comply, with (a) any other agreement entered into by the Owner with the Agency or any other government agency with respect to the Project, (b) any restrictive covenant entered into by the Owner for the benefit of the Agency or any other government agency with respect to the Project, or (c) any permit issued by the Agency or any other government agency with respect to the Project.

3.02 More Restrictive Provisions Control.

If this Agreement conflicts with any Law or with any other agreement, restrictive covenant, or permit with, entered into for the benefit of, or issued by a government agency with respect to the Project, or if any provision of this Agreement conflicts with any other provision of this Agreement, the more restrictive provision, as determined by the Agency, controls.

3.03 Real Property Tax Benefits.

The Owner shall comply, and shall cause the Project to comply, with all applicable requirements of the Real Property Tax Benefits, including, but not limited to, the Law under which the Real Property Tax Benefits have been, or will be, granted, all related Laws, and any related agreements and restrictive covenants.

3.04 Rental Assistance.

The Owner shall comply, and shall cause the Project to comply, with all applicable requirements of any Rental Assistance to the Project, as administered by the government agency providing the Rental Assistance, including, but not limited to, all related Laws and any related agreements and restrictive covenants.

3.05 HDC Financing.

- (a) **Statutory Authority.** The Owner shall comply, and shall cause the Project to comply, with all applicable requirements of the statutory authority under which HDC is providing the HDC Financing, including, but not limited to, the New York City Housing Development Corporation Act, Article 12 of the Private Housing Finance Law, any rules, regulations, policies or procedures promulgated under the statute, and any other Laws related to the HDC Financing.
- (b) **Loan Documents.** The Owner shall also comply, and shall cause the Project to comply, with all documents evidencing, securing, or otherwise signed and delivered by the Owner to HDC in connection with the HDC Financing, including,

but not limited to, commitment letters, notes, and mortgages. This covenant does not independently obligate any party under a note or other agreement, however, if the party has not signed the agreement.

3.06 [intentionally deleted]

3.07 Low-Income Housing Tax Credits.

- (a) **Extended Low-Income Housing Commitment.** The Owner shall comply, and shall cause the Project to comply, with all applicable requirements of the Internal Revenue Code governing the LIHTC, any other Laws related to the LIHTC, and the Agency's LIHTC monitoring procedures. This Agreement serves as the "extended low-income housing commitment" required by Section 42(h)(6) of the Internal Revenue Code. If the Law requires additional or more restrictive terms, such terms are made a part of this Agreement and the Owner shall comply with such terms.
- (b) **Applicable Fraction.** The Owner shall ensure that the Applicable Fraction (as defined in Section 42(c)(1)(B) of the Internal Revenue Code) for each LIHTC Building for each taxable year in the Extended Use Period is not less than the Applicable Fraction specified in Exhibit B.
- (c) **No Evictions Except for Good Cause.** The Owner shall not evict or terminate the tenancy (other than for good cause) of any existing Tenant of any Unit that is designated as a low-income unit pursuant to Section 42 of the Internal Revenue Code.
- (d) **Increases in Gross Rent.** The Owner shall not increase the gross rent (as defined in the Internal Revenue Code) with respect to a Unit that is designated as a low-income unit pursuant to Section 42 of the Internal Revenue Code, except as may be otherwise permitted under the Internal Revenue Code.
- (e) **Effect of Early End to Extended Use Period.** The Owner shall comply with Section 3.07(c) and Section 3.07(d) both during the Extended Use Period and for a three-year period following any termination of the Extended Use Period (including, but not limited to, any early termination of this Agreement) pursuant to Section 42(h)(6)(E)(i) of the Internal Revenue Code.
- (f) **Enforcement by Individuals.** Any individual who meets the income limitation applicable to the LIHTC Building (whether prospective, present, or former occupants of the building) has the right to enforce in any State court the requirement and prohibitions of Section 42(h)(6)(B)(i) of the Internal Revenue Code. Such individuals are intended third-party beneficiaries of this Section 3.07.
- (g) **Transfers.** The Owner shall not dispose to any person of any portion of the LIHTC Building to which this Agreement applies unless all of the LIHTC Building to which this Agreement applies is disposed of to such person.

- (h) **Section 8 Status.** The Owner shall not refuse to lease to a holder of a voucher or certificate under Section 8 because of the status of the prospective Tenant as such a holder.
- (i) **Waiver of Right to Petition for a Qualified Contract.** The Owner waives any right to request that the Agency find a person to acquire the Owner's interest in the low-income portion (as defined in Section 42 of the Internal Revenue Code) of the LIHTC Building after the 14th year of the compliance period (as defined in Section 42(i)(1) of the Internal Revenue Code).
- (j) **Condition and Use of Units.** The Owner shall ensure that each Unit that is designated as a low-income unit pursuant to Section 42 of the Internal Revenue Code is suitable for occupancy and used other than on a transient basis (in each case as defined pursuant to the Internal Revenue Code).
- (k) **Annual Certifications.**
 - (i) **Tenant Certifications.** The Owner shall annually (i) obtain a certification of Annual Income, Household size, and student status from each Tenant residing in a Unit that is designated as a low-income unit pursuant to Section 42 of the Internal Revenue Code, along with supporting documentation, (ii) verify the Tenant's Annual Income in accordance with the Law, and (iii) determine whether the Tenant continues to qualify as an Eligible Household.
 - (ii) **LIHTC Building.** Notwithstanding Section 3.07(k)(i), if a LIHTC Building contains only Units that are designated as low-income units pursuant to Section 42 of the Internal Revenue Code (excluding any Superintendent Unit), then on an annual basis, the Owner shall obtain a certification of Household size and student status from each Tenant residing in the LIHTC Building, along with supporting documentation, but the Owner is not required to obtain a certification of Annual Income from the Tenant for LIHTC purposes.
 - (iii) **Owner Certification.** The Owner shall furnish to the Agency annually, or more frequently if required in writing by the Agency and if necessary to ensure compliance with this Agreement, a certification by the Owner that the Units that are designated as low-income units pursuant to Section 42 of the Internal Revenue Code are owned and operated in compliance with the Law and documenting the annual tenant certifications provided in accordance with this Section 3.07(k), along with any supporting documentation requested by the Agency. The Owner shall provide this certification as part of the annual submission to the Agency that is required by Section 9.01.
- (l) **Reporting of Non-Compliance to IRS.** Actions taken or authorized to be taken by the Agency after a Default are in addition to the Agency's obligations under the Internal Revenue Code to report acts of non-compliance to the IRS pursuant to the Agency's LIHTC monitoring procedures.

- (m) **Retention of LIHTC Records.** The Owner shall retain all Records relating to the rental or occupancy of each Unit that is designated as a low-income unit pursuant to Section 42 of the Internal Revenue Code for a minimum of six years after the end of the Extended Use Period.

3.08 Tax-Exempt Bonds or Obligations.

- (a) **Tax Exemption Requirements.** The Owner shall comply, and shall cause the Project to comply, with the applicable provisions of this Agreement, the Internal Revenue Code, and any other Laws in order to preserve the exclusion from gross income for purposes of federal income taxation of interest on the HDC Obligations.
- (b) **Changes to Project.** The Owner shall make no change in the amount of residential and non-residential space or in the number of Units, which in the opinion of HDC's bond counsel, would cause a violation of the certifications presented to HDC with respect to such space or Units and adversely affect the exclusion from gross income for purposes of federal income taxation of interest on the HDC Obligations
- (c) **Minimum Set-Aside.** The Owner shall not reduce the percentage of Units in the Project that meet the affordability requirements of Section 142 of the Internal Revenue Code below the amount required by the minimum set-aside test that the Owner has elected to meet with respect to the Project, unless the Owner receives the prior written consent of HDC.
- (d) **Annual Certification.** The Owner shall submit, or shall cause the operator of the Project to submit, to the Secretary of the Treasury, at such time and in such manner as required by the Secretary of the Treasury, an annual certification (IRS Form 8703) as to whether the Project continues to comply with the requirements of Section 142(d)(7) of the Internal Revenue Code. Any failure to submit this certification will not affect the exclusion from gross income for purposes of federal income taxation of interest on the HDC Obligations but will subject the Owner and such operator to a penalty pursuant to Section 6652(j) of the Internal Revenue Code.
- (e) **Purchase of HDC Obligations.** Neither the Owner (including, but not limited to, any person with a direct or indirect ownership interest in the Owner as a LIHTC investor or otherwise) nor any "related person" to the Owner, as defined in Section 144(a)(3) of the Internal Revenue Code, shall purchase HDC Obligations (other than "pledged bonds" or "bank bonds", each as defined in the resolution governing the HDC Obligations)) in an amount related to the amount of the HDC Financing funded by the HDC Obligations.
- (f) **Annual Tenant Certifications.** The Owner shall annually (i) obtain a certification of Annual Income, Household size, and student status from each Tenant residing in a Unit that is designated with affordability restrictions as part of

the qualified residential rental project under Section 142 of the Internal Revenue Code, along with supporting documentation, (ii) verify the Tenant's Annual Income in accordance with the Law, and (iii) determine whether the Tenant continues to qualify as an Eligible Household. The Owner shall furnish to the Agency annually, or more frequently if required in writing by the Agency, a certification by the Owner documenting the annual tenant certifications provided in accordance with this Section 3.08(f), along with any supporting documentation requested by the Agency. The Owner shall provide this certification as part of the annual submission to the Agency that is required by Section 9.01.

- (i) **LIHTC Building.** Notwithstanding subsection (f) above, if a LIHTC Building contains only Units that are designated with affordability restrictions as part of the qualified residential rental project under Section 142 of the Internal Revenue Code (excluding any Superintendent Unit), then on an annual basis, the Owner shall obtain a certification of Household size and student status from each Tenant residing in the LIHTC Building, along with supporting documentation, but the Owner is not required to obtain a certification of Annual Income from the Tenant for purposes of the HDC Obligations.

[Continues on next page]

ARTICLE 4
PROJECT OCCUPANCY

4.01 Occupancy Restrictions.

- (a) **Income Limits.** The Owner shall lease each Income-Restricted Unit to an Eligible Household whose Annual Income upon initial occupancy does not exceed the income limit for the Unit that is required by Exhibit B. The Owner shall distribute the Income-Restricted Units by apartment size as set forth in Exhibit B. The Owner shall designate each Income-Restricted Unit by income limit and provide a certified schedule of unit designations to the Agency upon request, except as may be provided in Exhibit B. If this Agreement requires tiers of income limits, no Income-Restricted Unit may count for more than one tier.

- (b) **Accessibility Set-Asides.**
 - (i) **Mobility Disabilities.** The Owner shall ensure that not less than 5% of the Units, or one Unit, whichever is greater, is accessible to and set aside for Households that include an individual with a mobility disability, to the extent applicable and unless the Project may be exempted from this requirement under the Law. The Owner shall designate each such Unit and provide a certified schedule of unit designations to the Agency upon request.

 - (ii) **Hearing and Vision Disabilities.** The Owner shall ensure that not less than an additional 2% of the Units, or one Unit, whichever is greater, is accessible to and set aside for Households that include an individual with a hearing or vision disability, to the extent applicable and unless the Project may be exempted from this requirement under the Law. The Owner shall designate each such Unit and provide a certified schedule of unit designations to the Agency upon request.

- (c) **Homeless Housing.**
 - (i) **Referral Requirement.** The Owner shall lease no fewer than the number of Income-Restricted Units set forth in Exhibit B as "**Homeless Units**" to Eligible Households: (1) who are referred by HPD or an alternate referral source approved by HPD, and (2) who prior to initial occupancy of a Unit lived in emergency shelter facilities operated by or on behalf of the City or who are otherwise in need of emergency shelter as determined by the City. If required by the Agency, the Owner shall (x) distribute the Homeless Units by apartment size as set forth in Exhibit B, and (y) designate the Homeless Units and provide a certified schedule of unit designations to the Agency upon request. In addition, the Owner shall enter into a lease meeting the requirements of this Agreement with each

Tenant residing in a Homeless Unit and shall include each such Tenant on the Project's rent roll.

- (ii) **Statutory Minimum (Title 28, Ch. 26 of the Ad. Code).** Notwithstanding anything to the contrary in this Agreement, Section 26-2802 of the Administrative Code requires the Owner to lease not less than 15% of the Income-Restricted Units as Homeless Units.

4.02 Changes to Project.

The Owner shall not change the amount of residential and non-residential space in the Project (except for de minimis changes during construction) or the number or distribution of Units without the prior written consent of the Agency, except in the case of an involuntary change caused by unforeseen events such as fire or other casualty, seizure, requisition, or condemnation. The Owner shall notify the Agency promptly of any such involuntary change.

4.03 Integration of Units.

The Owner shall not segregate or physically isolate the Income-Restricted Units from any other Units in the Project. The Owner shall reasonably disperse Income-Restricted Units at each income limit throughout the Project. The Agency reserves the right to require the Owner to obtain the Agency's prior written consent for any distribution, designation, or "stacking" plan for the Project.

4.04 Primary Residence.

- (a) **In General.** The Owner shall offer each vacant Income-Restricted Unit for occupancy, and shall ensure that each Income-Restricted Unit is actually occupied, only (i) as a primary residence, as defined by Rent Stabilization, (ii) pursuant to a one- or two-year lease, and (iii) by one or more individuals who are otherwise eligible to occupy the Unit pursuant to this Agreement.
- (b) **No Transient Uses.** The Owner shall not cause or permit the lease, sublease, assignment, use, or occupancy of any Unit or the Project (i) on a transient basis or (ii) as a hotel, motel, dormitory, fraternity or sorority house, rooming house, hospital, nursing home, sanitarium, rest home, or trailer park.
- (c) **Leasing to Entities.** The Owner shall not cause or permit the lease, sublease, assignment, use, or occupancy of any Income-Restricted Unit to or by a corporation, partnership, limited liability company, or other entity, unless it is approved in writing by the Agency and not prohibited by Law.
- (d) **Surrender of Other Housing.** The Owner shall not knowingly cause or permit the lease, sublease, or assignment of any Income-Restricted Unit to any Household that includes any individual who is an occupant of another home, dwelling unit, rooming unit, or other housing accommodation, unless the

individual simultaneously surrenders possession of, and all legal right to, the other home, dwelling unit, rooming unit, or other housing accommodation.

4.05 Lease-Up and Marketing.

- (a) **Rental to the General Public.** The Owner shall rent or make available for rental each Unit (excluding any Superintendent Unit) on a continuous basis and to the general public, subject to the requirements of this Agreement.
- (b) **Timely Rental of Units.** The Owner shall rent vacant Income-Restricted Units as soon as possible and shall not hold any Income-Restricted Unit off the market for a period that is longer than reasonably necessary to perform needed repairs, unless otherwise approved in writing by the Agency. The Owner shall notify the Agency if any Income-Restricted Unit has been vacant for four months or more.
- (c) **Marketing.** The Owner shall comply with the Marketing Handbook and all related Laws in the marketing and lease-up of each Income-Restricted Unit, including the re-rental of any Income-Restricted Unit that becomes vacant at a future date.

4.06 Qualification of Eligible Households.

- (a) **Determination of Eligibility.** Prior to the rental of any vacant Income-Restricted Unit, the Owner shall determine whether the prospective Tenant of the Unit is an Eligible Household. The Owner shall comply with all related procedures and standards set forth in the Marketing Handbook, including, but not limited to, by submitting the required Tenant eligibility documentation to the Agency for review and approval prior to any lease signing.
- (b) **Tenant's Failure to Certify; Fraud.** If a Tenant of an Income-Restricted Unit fails to provide the Owner with a certification or document that is required by this Agreement within 60 days of the Owner's request, or if any such Tenant provides false or fraudulent materials at any time (including, but not limited to, as part of the Tenant's initial application for the Unit), the Owner may, or at the written request of the Agency shall, to the extent permitted by Law, refuse to offer a renewal lease to the Tenant and commence legal action to evict the Tenant. If the Owner does not promptly commence legal action to evict the Tenant, or does not diligently pursue the legal action to the satisfaction of the Agency, then for so long as either remains the case, the Owner shall lease the next available vacant Unit of comparable or smaller size to an Eligible Household whose Annual Income upon initial occupancy does not exceed the income limit for the Unit that is occupied by the non-complying Tenant (or the income limit that would otherwise apply to the vacant Unit, if lower), prior to renting any other Unit of comparable or smaller size.

4.07 Leases of Units.

- (a) **Form of Lease.** In renting Units to Tenants, the Owner shall use a form of lease that is consistent with this Agreement and satisfactory to the Agency. The Owner

shall ensure that its leases of Units, including, but not limited to, the riders to such leases, comply with the Law.

- (b) **Subordination.** The Owner shall ensure that all leases of Units are expressly subordinate to this Agreement and to any Permitted Mortgage. The Owner shall not include in any lease of a Unit, or in any rider to such a lease, any provision that conflicts with this Agreement, nor shall the Owner enforce any such provision that may be included in such a lease or rider. To the extent permitted by Law, this Agreement controls if it conflicts with any other requirement of, or applicable to, the Owner's leases of Units.
- (c) **Agency Lease Rider.** If required by the Agency in writing, and to the extent permitted by Law, the Owner shall include one or more lease riders provided or approved by the Agency in each lease of an Income-Restricted Unit.

4.08 Subleases and Assignments.

- (a) **Subleasing Requirements.** The Agency may require the Owner to prohibit the sublease of any Income-Restricted Unit in accordance with Law. If the Agency permits subleasing with respect to any Income-Restricted Unit, prior to consenting to any such sublease, the Owner shall notify the Agency of the proposed sublease at least 30 days before the effective date of the sublease and shall qualify the proposed subtenant as an Eligible Household for the Unit pursuant to Section 4.06. The Owner shall not cause or permit the sublease of any Unit to or by any Household that is not eligible to occupy the Unit pursuant to this Agreement. The Owner shall ensure that no subtenant is required to pay a rent that exceeds the maximum amount that may be charged under the Law and this Agreement.
- (b) **No Assignments.** The Owner shall not consent to the assignment of any lease of an Income-Restricted Unit.

4.09 Right to Renewal Lease.

The Owner shall offer each Tenant in occupancy of an Income-Restricted Unit a renewal lease in accordance with, and subject to, the requirements of Rent Stabilization. The Owner shall not refuse to permit any such Tenant to remain in occupancy of the Unit because the Tenant's Annual Income, after initial occupancy of the Unit, exceeds the maximum permitted for initial occupancy of the Unit.

4.10 Evictions.

The Owner shall not seek to evict or terminate the tenancy of any Tenant of an Income-Restricted Unit for any reason that is not permitted by Rent Stabilization. The Owner shall comply with all Laws regarding the eviction or termination of a tenancy of any Tenant, including, but not limited to, any applicable requirements of Rent Stabilization.

4.11 Successors to Tenants.

Notwithstanding anything to the contrary in this Agreement, including, but not limited to, the definition of "Tenant", this Agreement does not require the Owner to provide a new lease to any successor to the tenancy of a Unit, unless doing so is required by Law.

4.12 Rental Assistance Status.

The Owner shall not refuse to lease a Unit to a recipient of Rental Assistance (including, but not limited to, a holder of a Rental Assistance voucher or certificate) because of the Rental Assistance.

4.13 Non-Discrimination.

- (a) **Compliance with Law.** The Owner and any lessees of all or part of the Property, or any Improvements, shall comply with all Laws prohibiting discrimination or segregation by reason of any of the following classes, whether actual or perceived: age; race; creed; religion; gender; gender identity; gender expression; sex; color; national origin; ancestry; sexual orientation; disability; marital status; partnership status; familial status; immigration status; citizenship status; lawful source of income (including, but not limited to, income derived from Social Security, or any form of federal, state, or local public government assistance or housing assistance, including, but not limited to, Rental Assistance); lawful occupation; uniformed service; the actual, potential, or future residence of children with such person or persons; status as a victim of domestic violence, stalking, or sex offenses; the presence of an emotional support animal; or any other class protected from discrimination in housing accommodations by Law in the sale, lease, or occupancy of the Property or any Improvements.
- (b) **Sale, Lease, and Occupancy Agreements.** The Owner and any lessees of all or part of the Property, or any Improvements, shall not effect or sign any agreement, lease, conveyance, or other instrument whereby the sale, lease, or occupancy of all or part of the Property, or any Improvements, is restricted upon the basis of any class described in Section 4.13(a).
- (c) **Survival.** The Owner and any lessees of all or part of the Property, or any Improvements, shall comply with Sections 4.13(a) and (b) both during and after the Restriction Period.

4.14 Conversion to Co-Op or Condo.

During the Restriction Period, the Owner shall not convert the Project to cooperative or condominium ownership of Units unless otherwise agreed to in writing by the Agency. The foregoing prohibition does not apply to any commercial condominium regime that is contemplated by this Agreement. After the Restriction Period, if the Owner converts the Project to cooperative or condominium ownership of Units, the Owner shall do so pursuant to a non-eviction plan with respect to Units and in compliance with all related Laws.

4.15 Next Available Unit Rule.

The Owner has elected to meet the average income test of Section 42(g)(1)(C) of the Internal Revenue Code, which makes the LIHTC Building subject to the next available unit rule of Section 42(g)(2)(D)(iii) of the Internal Revenue Code. The Project has also received tax-exempt bond financing and is subject to the next available unit rule of Sections 142(d)(3)(B)-(C) of the Internal Revenue Code. Accordingly, if the Annual Income of a Tenant of a Unit that is designated as a low-income unit pursuant to Section 42 of the Internal Revenue Code exceeds 140% of the income limit that applies to the Unit for purposes of the next available unit rule (i.e., the income limit that is required by Section 42(g)(2)(D)(iii) of the Internal Revenue Code), the Owner shall lease the next available vacant Unit in the LIHTC Building that is of comparable or smaller size to a Tenant whose Annual Income does not exceed the income limit that is required by the Internal Revenue Code (and subject to the rent restrictions that are required under the Internal Revenue Code and this Agreement).

4.16 Non-Residential Space.

- (a) **Agency Consent.** The Owner shall obtain the prior written consent of the Agency for any lease, sublease, license, or occupancy agreement affecting any non-residential portion of the Project. The Owner shall also obtain the prior written consent of the Agency for any amendment of such an agreement, if the amendment changes the permitted use or otherwise alters a material term.
- (b) **Non-Residential Leasing Guidelines.** Without limiting the conditions that the Agency may impose to provide a consent under Section 4.16(a), the Owner shall ensure that any lease, sublease, license, or occupancy agreement affecting any non-residential portion of the Project that is presented to the Agency for consent complies with any non-residential leasing guidelines that have been issued by the Agency.
- (c) **Prohibited Uses.** The Owner shall not permit the Property or the Project to be used for (i) any use that would violate the applicable zoning or certificate of occupancy; (ii) any use that the Agency reasonably determines may create a nuisance or hazard to the Tenants or a deleterious effect on their quiet enjoyment of their Units, the common areas of the Property, and the areas adjacent to the Property; or (iii) a store with a principal business of selling alcoholic beverages for consumption off-premises.
- (d) **Arm's-Length Leases.** The Owner shall not lease any non-residential space in the Project to an affiliate or principal of the Owner, or lease or otherwise permit occupancy of any such space at less than the prevailing market rent in the Project's neighborhood for a term of 10 years or more (including renewal options), unless in each case the Owner has obtained the prior written consent of the Agency.

[Continues on next page]

ARTICLE 5
RESIDENTIAL RENTS

5.01 Rents Charged to Tenants.

(a) **In General.**

- (i) **Rent Limits.** The Owner shall lease each Income-Restricted Unit for a monthly rent that does not exceed the amount permitted by this Section 5.01 for the Unit. The Owner may lease an Income-Restricted Unit for less than the permitted amount if doing so does not endanger the financial viability of the Project.
- (ii) **Determining Rents.** This Agreement incorporates multiple limits on the rent for each Income-Restricted Unit, including (1) the legal regulated rent under Rent Stabilization, (2) a programmatic rent limit (usually based on a percentage of AMI and required by one or more subsidy programs), and (3) if applicable, a rent that is allowed by a Rental Assistance program. In entering into a lease of an Income-Restricted Unit, the Owner shall offer a rent that complies with each of the applicable limits, as reconciled in accordance with the rules given in this Agreement and any requirements of Law. Some of these rent limits may in practice equal the same amount at one or more points in time.

(b) **Certain Definitions.** In this Agreement:

- (i) **"Actual Rent"** means, with respect to any Unit, the monthly rent that the Owner may collect pursuant to its lease of the Unit and includes the rent required to be paid by the Tenant and any Rental Assistance, but not any applicable utility allowance.
- (ii) **"Legal Rent"** means, with respect to any Unit, the legal regulated rent for the Unit under Rent Stabilization, as may be adjusted pursuant to Rent Stabilization and Section 5.02(c).
- (iii) **"Maximum Program Rent"**, with respect to any Unit, has the meaning set forth in Exhibit B for the Unit. The Owner shall calculate the monthly rent limit for any percentage of AMI that is set forth as a Maximum Program Rent (or any other rent limit) on Exhibit B as 30% of the percentage of AMI, divided by 12, rounded down to the nearest whole dollar, and then minus the applicable utility allowance. To adjust AMI for family size in rent calculations, the Owner shall deem Units with no bedrooms to be occupied by one individual, and Units with one or more bedrooms to be occupied by 1.5 individuals per bedroom, regardless of the actual number of occupants.

- (iv) **“Renewal Lease Adjustment”** means the applicable rent adjustment pursuant to Rent Stabilization that has been approved by the New York City Rent Guidelines Board (or any successor) for a renewal lease of a dwelling unit.
 - (v) **“Rental Assistance Rent”** means, with respect to any Unit, the maximum monthly assistance payment for the Unit under the applicable Rental Assistance program before deducting any payment by the Tenant (i.e., the payment standard authorized by the government agency issuing a voucher (or similar right to subsidy), or the contract rent that is approved by the government agency administering a Rental Assistance Contract, as applicable).
 - (vi) **“Rental Assistance Unit”** means an Income-Restricted Unit that receives, or that is occupied by a Tenant who receives, Rental Assistance.
- (c) **Initial Rents.**
- (i) **General Rule.** Upon the initial lease after the date of this Agreement of an Income-Restricted Unit, the Owner shall lease the Unit for an Actual Rent that does not exceed the least of:
 - (1) the initial Legal Rent set forth in Exhibit B,
 - (2) the initial Actual Rent set forth in Exhibit B, and
 - (3) the Maximum Program Rent.
 - (ii) **Rental Assistance.** Notwithstanding subsection (i) above, and unless otherwise prohibited by Law, upon the initial lease after the date of this Agreement of an Income-Restricted Unit that is also a Rental Assistance Unit, the Owner may lease the Unit for an Actual Rent that does not exceed the least of:
 - (1) the initial Legal Rent set forth in Exhibit B,
 - (2) for any Unit that is covered by a Rental Assistance Contract, the initial Actual Rent set forth in Exhibit B, and
 - (3) the Rental Assistance Rent.
- (d) **Renewal Leases.**
- (i) **General Rule.** Upon the renewal of a lease of an Income-Restricted Unit, the Owner shall lease the Unit for an Actual Rent that does not exceed the least of:
 - (1) the Legal Rent,
 - (2) the Actual Rent in effect for the prior lease term adjusted by the Renewal Lease Adjustment, and
 - (3) the Maximum Program Rent.

- (ii) **Rental Assistance.** Notwithstanding subsection (i) above, and unless otherwise prohibited by Law (including, but not limited to, any applicable restriction on adjustments to preferential rents under Rent Stabilization), upon the renewal of a lease of an Income-Restricted Unit that is also a Rental Assistance Unit, the Owner may lease the Unit for an Actual Rent that does not exceed the lesser of:
 - (1) the Legal Rent, and
 - (2) the Rental Assistance Rent.
- (e) **Vacancy Leases.**
 - (i) **General Rule.** Upon the vacancy of an Income-Restricted Unit, the Owner shall lease the Unit for an Actual Rent that does not exceed the lesser of:
 - (1) the Legal Rent, and
 - (2) the Maximum Program Rent.
 - (ii) **Rental Assistance.** Notwithstanding subsection (i) above, and unless otherwise prohibited by Law, upon the vacancy of an Income-Restricted Unit that will become or remain a Rental Assistance Unit, the Owner may lease the Unit for an Actual Rent that does not exceed the lesser of:
 - (1) the Legal Rent, and
 - (2) the Rental Assistance Rent.
- (f) **Additional Rental Assistance Requirements.**
 - (i) **Tenant Rent Share Generally.** The Owner shall not charge or collect from the Tenant of any Rental Assistance Unit any tenant rent share or other portion of the rent that is required to be paid by the Tenant under the applicable Rental Assistance program exceeding (1) the amount that the Tenant is required to pay under the applicable Rental Assistance program, and (2) the amount that is allowed by Law (including, but not limited to, any Laws with respect to applicable subsidy programs).
 - (ii) **Tenant Rent Share Limited to Maximum Program Rent.** The Owner shall not charge or collect from the Tenant of any Rental Assistance Unit any tenant rent share or other portion of the rent that is required to be paid by the Tenant under the applicable Rental Assistance program that is greater than the Maximum Program Rent.

5.02 Rent Stabilization.

- (a) **Units Subject to Rent Stabilization.** All Income-Restricted Units are subject to Rent Stabilization both during and after the Restriction Period. The Owner shall register and operate the Project and all such Units in accordance with, and shall otherwise comply with, Rent Stabilization, including, but not limited to, all

procedures and guidelines of DHCR. This Agreement imposes additional restrictions limiting certain rights that the Owner may otherwise have under Rent Stabilization both during and, where specified, after the Restriction Period.

- (b) **No Exemptions.** Except as may be specifically set forth in this Agreement, the Owner shall not claim any exemption or exclusion from Rent Stabilization to which the Owner might be entitled with respect to any Unit that is subject to Rent Stabilization. This prohibition includes, but is not limited to, any exemption or exclusion from the rent limits, renewal lease requirements, registration requirements, or any other provision of Rent Stabilization due to the vacancy of a Unit where the rent exceeds a certain amount, the fact that the Tenant's income and rent exceed certain amounts, the nature of the Tenant or the Owner, or any other factor. This provision continues to apply to Income-Restricted Units after the Restriction Period until any such Unit becomes vacant (unless the vacancy results from a breach of the warranty of habitability, harassment, constructive eviction, or any similar action caused by the Owner).
 - (i) **Exception for Superintendent Unit.** The Owner may claim any exemption that is permitted under Rent Stabilization for a Superintendent Unit.
- (c) **Permitted Rent Adjustments.**
 - (i) **Renewal Lease Adjustments Only.** Except for Renewal Lease Adjustments and any other exceptions set forth in this Section 5.02(c), the Owner shall not increase the Legal Rent or the Actual Rent for an Income-Restricted Unit for any other reason that may be allowed under Rent Stabilization, including, but not limited to, a vacancy lease increase, a major capital improvement increase ("**MCI Increase**"), or an individual apartment improvement increase. This provision continues to apply to Income-Restricted Units after the Restriction Period until any such Unit becomes vacant (unless the vacancy results from a breach of the warranty of habitability, harassment, constructive eviction, or any similar action caused by the Owner).
 - (ii) **Exception for Rental Assistance Units.** Upon the renewal of a lease of an Income-Restricted Unit that is and will remain a Rental Assistance Unit, the Owner may increase the Actual Rent for the Unit as may be allowed under Rent Stabilization but not to exceed the amount allowed by Section 5.01(d)(ii).
 - (iii) **Exception for Certain Vacancy Lease Increases.** Upon the vacancy of an Income-Restricted Unit, if the Legal Rent is less than the Maximum Program Rent, the Owner may claim any vacancy lease increase permitted under Rent Stabilization (which may be none), but not in any amount that increases the Legal Rent to more than the Maximum Program Rent.

- (iv) **Exception for Certain MCI Increases.** Beginning on the 30th anniversary of the date of this Agreement, and so long as (1) the Property and the Project are not subject to any mortgage or lien held by or on behalf of the City or the Agency, and (2) the Owner does not owe any indebtedness to the City or the Agency, the Owner may apply to DHCR for MCI Increases with respect to work that is performed after such date. Except as may be approved in writing by the Agency, the Owner shall not apply for any MCI Increase in connection with work that is funded or reimbursed from Agency loan proceeds or any reserve account required by this Agreement. If DHCR approves an MCI Increase, then upon the next renewal or vacancy lease of an Income-Restricted Unit, the Owner may increase the Legal Rent and the Actual Rent for the Unit by the lesser of (A) the approved MCI Increase and (B) an amount that increases the rent to the Maximum Program Rent.

- (d) **Registration.**
 - (i) **Initial Registrations.** The Owner shall complete the initial building registrations for any building in the Project and the initial apartment registration for each Unit that is subject to Rent Stabilization, all in accordance with Rent Stabilization, no later than 60 days following: (1) each building's receipt of a temporary or final certificate of occupancy, or (2) the date of this Agreement, if the building does not require a new certificate of occupancy. The Owner shall provide the Agency with satisfactory proof of all initial registrations promptly upon request.

 - (ii) **Annual Registrations.** On an annual basis in accordance with Rent Stabilization, the Owner shall complete the annual rent registrations for each Unit that is subject to Rent Stabilization. The Owner shall provide the Agency with satisfactory proof of all annual rent registrations promptly upon request.

 - (iii) **Registered Rents.** For each Unit that is subject to Rent Stabilization, the Owner shall register: (1) on any initial apartment registration, the initial Legal Rent for the Unit set forth in Exhibit B, and (2) on any annual rent registration, the Legal Rent then in effect for the Unit. If at the time of any registration of a Unit in accordance with Rent Stabilization, the Actual Rent for the Unit is less than the Legal Rent, the Owner shall register the Actual Rent then in effect as a preferential rent under Rent Stabilization (or shall register the Actual Rent as the Legal Rent if required by Law).

- (e) **Destabilization; Contractual Rent Regulation.**
 - (i) **Renewal and Vacancy Leases.** If any Unit that is subject to Rent Stabilization undergoes any set of facts that causes Rent Stabilization to no longer apply to the Unit during the Restriction Period, whether by expiration, legislative repeal, judicial invalidation, or any other reason ("**Destabilization**"), then the Owner shall offer renewal and vacancy leases for the Unit on the same terms as had been required by Rent

Stabilization at the time of Destabilization (subject to subsections (ii) and (iii) below), as if the Unit were still subject to and not exempted or excluded from any provision of Rent Stabilization (including, but not limited to, the exemptions or exclusions identified in Section 5.02(b)).

- (ii) **Legal Rent Index.** After Destabilization, HPD shall establish an index for determining adjustments to the Legal Rent upon the renewal of a lease or vacancy of a Unit. HPD shall base this index on inflation or on factors substantially equivalent to the factors considered in calculating adjustments to rents under Rent Stabilization at the time of Destabilization. HPD shall incorporate into the index, or separately establish, a method for determining and implementing MCI Increases, to the extent they are not prohibited under this Agreement. HPD shall publish the index in *The City Record* and shall provide a copy to the Owner upon request.
- (iii) **Rent Adjustments.** After Destabilization, where this Agreement permits or requires rent adjustments pursuant to Rent Stabilization (or similar language), the Owner shall adjust the applicable rent pursuant to the method established by HPD and described in subsection (ii) above.

5.03 Loss of Rental Assistance.

If (a) a Tenant receiving tenant-based or project-based Rental Assistance is occupying an Income-Restricted Unit, (b) the Actual Rent for the Tenant's Unit exceeds the amount that may be collected for a non-Rental Assistance Unit under Section 5.01, and (c) the Tenant loses the Rental Assistance at any time, then upon the loss of Rental Assistance, the Unit is no longer a Rental Assistance Unit and the Owner shall immediately revise the Tenant's rent to an amount that does not exceed the maximum amount that may be collected for the Unit as a non-Rental Assistance Unit under Section 5.01(d). The Owner shall not charge or collect from any such Tenant any amount that exceeds the amount permitted by this Section 5.03.

5.04 After the Restriction Period.

- (a) **Renewals for In-Place Tenants.** After the Restriction Period, upon each renewal of a lease of an Income-Restricted Unit to a Tenant who began occupancy before the end of the Restriction Period, the Owner shall lease the Unit for an Actual Rent that does not exceed the lesser of (i) the Legal Rent and (ii) the Actual Rent in effect for the prior lease term adjusted by the Renewal Lease Adjustment.
- (b) **Upon Vacancy.** Upon the vacancy after the Restriction Period of any Unit that is subject to Rent Stabilization, the Owner shall continue to comply with Rent Stabilization with respect to the Unit as described in Section 5.02.

- (c) **Reduction of Legal Rents.** Upon the first lease (renewal or vacancy) of a Unit after the end of the Restriction Period, if the Legal Rent for the Unit is higher than the Maximum Program Rent that had applied to the Unit during the Restriction Period, the Owner shall reduce the Legal Rent in the lease to an amount that does not exceed such Maximum Program Rent (as determined at the time of the effectiveness of the renewal or vacancy lease) plus, with respect to any such renewal or vacancy lease, any other increases to the rent allowed by Rent Stabilization. The Owner shall register this reduced Legal Rent as the new Legal Rent for the Unit under Rent Stabilization on the first registration date following the effective date of the lease. If, at such time, this Agreement requires the Owner to offer an Actual Rent for the Unit that is lower than the reduced Legal Rent, the Owner shall register any such Actual Rent as a preferential rent under Rent Stabilization (or shall register the Actual Rent as the Legal Rent if required by Law). If a Unit remains a Rental Assistance Unit at the end of the Restriction Period, this provision applies only upon the first lease of the Unit after the end of the Restriction Period in connection with which the Unit is no longer a Rental Assistance Unit.

[Continues on next page]

ARTICLE 6
PROJECT OPERATIONS

6.01 Standard of Care.

The Owner shall operate the Project in accordance with the Law and with generally accepted management practices for a reasonably prudent owner of property located in New York City containing buildings or improvements similar to the Project in type, size, use, and value. If a management practice that is required by this Agreement differs from any such generally accepted management practice, the Owner shall comply with the management practice that is required by this Agreement.

6.02 Maintenance of Project.

- (a) **Condition of Units.** The Owner shall ensure that each Unit is suitable for occupancy, is similarly constructed, and contains living, sleeping, eating, cooking, and sanitation facilities for an individual or family.
- (b) **Maintenance.** The Owner shall (i) maintain the Project in a proper, safe, sanitary, and healthful condition in compliance with all Laws, (ii) make all necessary repairs and replacements, and (iii) neither cause nor permit waste of the Improvements, the Equipment, or any other part of the Project.
- (c) **Correction of Violations.** The Owner shall cure all violations of the Housing Maintenance Code, Building Code, and other Laws regarding the occupancy, use, or physical condition of the Project, and the services provided to Tenants, within the period set by Law.
- (d) **Alterations.** The Owner shall not cause or permit any Improvement to be structurally altered, removed, or demolished without the prior written consent of the Agency. The Owner shall not cause or permit any Equipment to be removed at any time without the prior written consent of the Agency, unless the Equipment is actually replaced by an article that is substantially equal in value and suitability for the proper use of the Property or the Equipment is obsolete and not required for the proper use of the Property as contemplated by this Agreement. Any such replacement that is owned by the Owner must be owned free and clear of all security interests, liens, and encumbrances (except for any Permitted Mortgage).
- (e) **Restoration after Casualty.** The Owner shall promptly restore, in quality that is at least substantially equal to the original work, any part of the Property that may be damaged or destroyed by a casualty (including, but not limited to, any casualty for which insurance was not obtained or obtainable).
 - (i) **Availability of Insurance Proceeds.** If a casualty is covered by insurance that is required by this Agreement, the Owner's obligation to restore the Property following the casualty is contingent upon any loss payee under the insurance policy (who is permitted to be a loss payee by

this Agreement) providing the insurance proceeds to the Owner, or any portion of the proceeds that is sufficient to complete the restoration, whichever is less. If a loss payee provides insurance proceeds to the Owner, the Owner shall restore following a casualty even if the proceeds are not sufficient to complete the work.

- (ii) **Application of Proceeds to Indebtedness.** The Owner is not required to restore following a casualty if (1) a loss payee permitted under this Agreement does not allow the insurance proceeds to be used in such a manner, and (2) the insurance proceeds are sufficient to pay in full or material part, and are in fact used to pay in full or material part, the indebtedness due to the loss payee.

6.03 Taxes and Municipal Charges.

The Owner shall pay or cause to be paid all municipal charges with respect to the Project in a timely manner, including, but not limited to, taxes, water charges, sewer rents, and vault charges and license fees for the use of vaults, chutes, and similar areas adjoining the Property. The Owner shall pay or cause to be paid all such charges prior to the date that any fine, penalty, interest, or cost may be added to the charge or imposed by Law for nonpayment.

6.04 Records; Retention.

The Owner shall maintain complete, accurate, and current Records. "**Records**" means any physical or electronic books, records, files, accounts, reports, materials, documents, or information of or relating to the Owner or the Project, or the management, operations, assets, liabilities, or activities of the Owner or the Project, including, but not limited to, any required reports or other items specified in this Agreement and any journals, ledgers, account statements, checkbooks, vouchers, contracts, correspondence, stock books, or minute books. The Owner shall retain all Records for not less than six years following the end of the year in which the Record was produced, or for any longer period that may be required by Law. In addition, if any litigation, claim, or audit concerning this Agreement has begun before the end of such period, the Owner shall retain all Records until the completion of the litigation, claim, or audit.

6.05 Contracting.

- (a) **Service and Maintenance Contracts.** The Owner shall enter into any service and maintenance contracts with respect to the Project only with qualified vendors and at commercially reasonable and customary fees.
- (b) **Equal Opportunity.** The Owner shall use reasonable efforts to ensure that businesses owned by women and by members of traditionally disadvantaged minority groups are afforded equal opportunity to participate in any development and construction contracts entered into in connection with the Project.

6.06 HPD Building Registration.

The Owner shall register the Property with HPD pursuant to Article 2 of Subchapter 4 of the Housing Maintenance Code.

6.07 Property Management.

- (a) **Managing Agent.** The Owner shall obtain the prior written consent of the Agency before retaining, terminating, or making any changes to any managing agent of all or any portion of the Project, or any sub-agent (collectively and individually, "**Managing Agent**").
- (b) **Management Agreement.** The Owner shall obtain the prior written consent of the Agency before entering into, terminating, or making any changes (other than exercising a renewal option in an Agency-approved agreement) to any agreement between the Owner and a Managing Agent with respect to the Project ("**Management Agreement**"). The Owner shall ensure that the Management Agreement satisfies the following requirements: (i) the Owner must be able to terminate the Management Agreement without cause and without penalty upon not more than 30 days' notice; (ii) the term of the Management Agreement must be for not less than one year, unless approved in writing by the Agency; (iii) the management fee must not exceed the amount set forth in Exhibit B; and (iv) the Managing Agent must procure and maintain a fidelity bond or insurance for the benefit of the Owner in accordance with subsection (c) below.
- (c) **Fidelity Bond.** The Owner shall ensure that the Managing Agent maintains a blanket position fidelity bond or insurance covering all employees and officers of the Managing Agent performing work related to the Project. The fidelity bond or insurance must have a limit of not less than three months' gross rent for the Project, unless otherwise approved in writing by the Agency, and must be issued by an insurer meeting the requirements of Section 6.08(n). The Owner shall furnish evidence of the fidelity bond or insurance to the Agency upon request.
- (d) **Removal of Managing Agent.** If the Agency provides a written demand to the Owner to replace a Managing Agent, the Owner shall immediately give notice of termination under the Management Agreement, and shall fully end any services provided by the Managing Agent on or before the date that is 30 days after the Owner's receipt of the Agency's demand. If the Owner cannot with due diligence fully end any service provided by the Managing Agent during such 30-day period, the Agency may grant an extension of such period as long as the Owner is diligently pursuing the termination to the satisfaction of the Agency. In addition, the Owner shall promptly arrange for new management of the Project and obtain the required approvals of the Agency. The Agency may demand that the Owner replace the Managing Agent for any reason and without penalty, including, without limitation, because the Project is not being operated in compliance with this Agreement or because the Managing Agent is not operating other housing in compliance with the Law or applicable agreements. The Agency may, but is not required to, provide a period for the Owner or the Managing Agent to cure any reasons for such a demand.

6.08 Insurance.

- (a) **Obligation to Insure.** The Owner shall maintain or cause to be maintained, for the benefit of itself, the City, and HDC, the insurance policies that are required by this Agreement. The Owner is solely responsible for paying, or causing to be paid, all premiums, deductibles, self-insured retentions, and other amounts due with respect to each insurance policy required by this Agreement, whether or not the City or HDC is an additional insured. The Owner shall comply, and shall ensure that the Project complies, with all such policies. The Owner shall not cause or permit any act or failure to act that would adversely affect any required insurance policies.

- (b) **Commercial General Liability (Owner).** The Owner shall maintain or cause to be maintained commercial general liability insurance with respect to the Project with a per-location limit of not less than \$1 million per occurrence and \$2 million in the aggregate. This insurance must cover the Owner as named insured and all additional insureds against claims for property damage, bodily injury, and death occurring on, in, or about the Property, or arising out of the operation of the Project.
 - (i) **Scope of Coverage.** The Owner's liability insurance must be at least as broad as the coverage provided by the most recently issued ISO Form CG 00 01 and must be issued on an occurrence rather than a claims-made basis. This insurance must also include: (1) contractual liability coverage, with defense provided in addition to policy limits for indemnities of the named insured; (2) independent contractors liability coverage; (3) broad-form property damage liability coverage; (4) a waiver of subrogation against all additional insureds; (5) a separation of insureds provision; and (6) personal and advertising injury liability coverage. During any period of substantial construction at the Project, the insurance must include owners and contractors protective liability coverage, including products and completed operations coverage to apply for two years following the completion of the work.

 - (ii) **Prohibited Exclusions.** The Owner's liability insurance must not exclude coverage relating to the emission of asbestos, lead, mold, or pollutants, and must not be subject to any other exclusion, except as required by Law or approved in writing by the Agency.

 - (iii) **Umbrella or Excess Coverage.** In addition to the base limit required by Section 6.08(b), on and after the Permanent Loan Conversion, the Owner shall maintain or cause to be maintained umbrella or excess commercial general liability insurance with respect to the Project with a limit of not less than the amount that is determined as follows: if the Project contains 100 or fewer Units, \$10 million; or if the Project contains more than 100 Units, \$10 million plus \$45,000 per Unit for each Unit over 100.

- (c) **Commercial Property.** The Owner shall maintain or cause to be maintained commercial property insurance written on the special causes of loss form and protecting the Owner as named insured and all additional insureds from risks to the Improvements and the Equipment, with a limit that is not less than the full insurable value of such property on an agreed-value basis. This insurance must include replacement cost and waiver of subrogation endorsements in favor of the additional insureds. The amount of the coverage must be sufficient to prevent the application of any co-insurance clause.
- (i) **Builder's Risk.** During any period of substantial construction at the Project, the Agency may require the Owner to maintain, or to cause its construction contractor to maintain, builder's risk insurance on a completed value, non-reporting form. During any such period, the Owner shall maintain this insurance, or cause it to be maintained, in addition to or, with the written consent of the Agency, in lieu of any other commercial property insurance. The insurance must cover losses on or damage to construction work and the storage and transport of materials, equipment, and supplies of any kind to be used in or incidental to the construction of the Project. The insurance must include a soft costs endorsement for actual losses sustained, with no monthly limit. Any builder's risk policy must permit the insured to occupy the Property prior to completion.
- (ii) **Boiler and Machinery.** The Owner's property insurance must include boiler and machinery coverage in an amount satisfactory to the Agency and covering all boilers, machinery, air conditioning systems, pressure vessels, and similar equipment commonly covered under a broad-form boiler and machinery policy.
- (iii) **Business Income.** The Owner's property insurance must include business income insurance in an amount sufficient to pay the total anticipated rental income for the Project for one year, or any longer period if required in writing by the Agency, for actual losses sustained with no monthly limit. This coverage is not required prior to completion of the initial construction of the Project.
- (iv) **Prohibited Exclusions.** If the aggregate principal amount of the HDC Financing is \$40 million or more at any time during the permanent phase of the Project's financing, the Owner's property insurance must include terrorism insurance in an amount that satisfies State requirements. The Owner shall obtain the prior written consent of the Agency for any other exclusion of coverage from the Owner's property insurance policy.
- (d) **Flood.** If any portion of the Project is located in a federal "special flood hazard area", the Owner shall maintain or cause to be maintained flood insurance covering the Owner as named insured and all additional insureds for each building in the Project and its contents in an amount equal to the lesser of (i) the maximum amount available per building under the national flood insurance program and (ii) the full replacement cost of the Improvements and the Equipment. If flood insurance is required, the Agency strongly recommends

private flood insurance in addition to, or in place of, the federal coverage, but it is not required.

- (e) **Commercial Automobile Liability.** If vehicles are used in connection with the Project, the Owner shall maintain or cause to be maintained commercial automobile liability insurance with respect to the Project, with bodily injury and property damage limits of not less than \$2 million per occurrence, combined single limit. This insurance must cover the Owner as named insured and all additional insureds against liability arising out of the ownership, maintenance, or use of any owned, non-owned, or hired vehicles. The coverage must be at least as broad as the most recently issued ISO Form CA 00 01. The insurance must also include a waiver of subrogation against all parties named as additional insured. If any vehicles transport hazardous materials, the insurance must include pollution liability broadened coverage for covered autos (ISO Form CA 99 48) and proof of MCS-90.
- (f) **Commercial General Liability and Commercial Automobile Liability (Construction Contractor).** During any period of substantial construction at the Project, the Owner shall cause its construction contractor to maintain commercial general liability insurance and commercial automobile liability insurance satisfactory to the Agency. The contractor's insurance must include owners and contractors protective liability coverage, including products and completed operations coverage to apply for two years following the completion of the work. Any such policy must name the Owner as an additional insured.
- (g) **Workers' Compensation and Disability Benefits.** If the Owner has employees, the Owner shall maintain or cause to be maintained workers' compensation and disability benefits insurance as required by Law. In addition, the Owner shall ensure that its contractors (including any construction contractor and Managing Agent) maintain such coverage as applicable.
- (h) **Employer's Liability.** If the Owner has employees, the Owner shall maintain or cause to be maintained employer's liability insurance with a limit of not less than \$500,000 per occurrence, annual aggregate, combined single limit for bodily injury, personal injury, or property damage. This insurance must cover the Owner as named insured and all additional insureds if an employee is not eligible for, or is able to reject, statutory workers' compensation benefits, and the employee or other authorized person elects to sue for an injury or death deemed to have been sustained in the performance of duties on the Project. The insurance must also include a waiver of subrogation against all parties named as additional insured. In addition, the Owner shall ensure that its contractors (including any construction contractor and Managing Agent) maintain such coverage as applicable.
- (i) **Other Insurance.** The Owner shall maintain or cause to be maintained insurance against other risks, in any amount that the Agency may reasonably require, if such insurance is then commonly carried by reasonably prudent owners of property located in New York City containing buildings or improvements similar to the Project in type, size, use, and value.

- (j) **Deductibles.** All deductibles must not exceed the amount that would be carried by a reasonably prudent owner of property located in New York City containing buildings or improvements similar to the Project in type, size, use, and value.
 - (i) **Maximum Liability Policy Deductibles.** On and after the Permanent Loan Conversion, the Owner shall ensure that all commercial general liability deductibles with respect to the Project do not exceed: \$25,000 for up to \$3 million of coverage; and \$50,000 for more than \$3 million in coverage, in each case per occurrence.
- (k) **City as Additional Insured.**
 - (i) **Liability Policies.** The Owner shall ensure that each liability insurance policy required by this Agreement names "The City of New York, together with its officials and employees, and each of their successors and assigns, as their interests may appear" as an additional insured, with coverage at least as broad as the most recently issued ISO Forms CG 20 10 and CG 20 26.
 - (ii) **Property Policies.** The Owner shall ensure that each property insurance policy required by this Agreement (including any flood or builder's risk policy) contains a standard mortgagee, loss payee, or additional insured clause, as applicable, naming "The City of New York, together with its officials and employees, and each of their successors and assigns, as their interests may appear" as an additional insured, and as a loss payee. If required by a senior lender to the Project that has been approved in writing by the Agency, the Owner may name the senior lender or its servicing agent as the sole loss payee.
 - (iii) **Contractor Policies.** If the Owner requires any contractor to maintain insurance and requires the contractor to list the Owner as an additional insured, the Owner shall ensure that the policy also lists "The City of New York, together with its officials and employees, and each of their successors and assigns, as their interests may appear" as an additional insured as described in this subsection (k).
- (l) **HDC as Additional Insured.**
 - (i) **Liability Policies.** The Owner shall ensure that each liability insurance policy required by this Agreement names "New York City Housing Development Corporation, its successors and assigns, as their interests may appear" as an additional insured, with coverage at least as broad as the most recently issued ISO Forms CG 20 10 and CG 20 26.
 - (ii) **Property Policies.** The Owner shall ensure that each property insurance policy required by this Agreement (including any flood or builder's risk policy) contains standard mortgagee and loss payee clauses naming "New York City Housing Development Corporation, its successors and

assigns, as their interests may appear" as a mortgagee (for so long as HDC is a mortgagee), and on and after the Permanent Loan Conversion, as the sole loss payee (for so long as HDC is a mortgagee).

- (m) **Evidence of Insurance.** Upon the Agency's request, the Owner shall provide the Agency with the following evidence of each insurance policy required by this Agreement: (i) a certificate of insurance satisfactory to the Agency accompanied by a completed certification of insurance broker or agent; (ii) any additional insured endorsements; and (iii) proof of payment of the policy's premium. With respect to workers' compensation and disability benefits insurance, the Owner shall provide the Agency with evidence of coverage or an exemption in a form acceptable to the New York State Workers' Compensation Board. ACORD forms are not acceptable proof of such insurance. Upon the Agency's request, the Owner shall provide the Agency with a copy of any insurance policy, including all declarations and endorsements, certified by an authorized representative of the issuing insurance carrier. The Agency's acceptance of a certificate or a policy does not excuse the Owner from maintaining or causing to be maintained the insurance required by this Agreement or from any liability arising from its failure to do so.
- (n) **Standard for Insurers.** The Owner shall obtain each insurance policy required by this Agreement from an insurer of recognized competence who is acceptable to the Agency and who is licensed to issue policies in New York State. Each insurer must also have an A.M. Best rating of not less than "A" / "Class XV".
- (o) **General Requirements for Policies.** The Owner shall ensure that each insurance policy required by this Agreement is satisfactory to the Agency and provides that: (i) the insurance is primary and non-contributory; (ii) the policy may not be cancelled, terminated, modified, or amended by the insurer or its authorized agent on less than 30 days' prior written notice to the Agency (or 10 days' for non-payment of premium); (iii) notice of any claim to the insurer by either the Agency or the Owner is sufficient notice under the policy; (iv) notice of any claim by the Agency is sufficient if given to the insurer or its authorized agent not more than 60 days after the later of the date that notice of the claim is delivered to the Owner, or the date that a notice of claim regarding such claim is filed with the Comptroller of the City; (v) no act or omission of the Owner will invalidate the policy as to the additional insureds, and no act or omission of the additional insureds will invalidate the policy as to the Owner; (vi) the insurer shall defend the additional insureds under any and all circumstances relating to or arising out of this Agreement; (vii) the insurer may not refuse to defend on the grounds of negligence, negligence per se, or contributory negligence; and (viii) the presence of employees or agents of the additional insureds on the Property will not invalidate the policy as far as the additional insureds are concerned.
- (p) **Monetary Limits.** The minimum monetary limits that are required by the Agency for any insurance policy required by this Agreement are the greater of (i) the minimum limits set forth in this Agreement and (ii) the limits that are actually provided to the Owner as named insured under the insurance policy. The Agency may increase the monetary limits for insurance policies required by this

Agreement on one or more occasions to reflect the insurance coverage that would be carried by a reasonably prudent owner of property located in New York City containing buildings or improvements similar to the Project in type, size, use, and value.

- (q) **Notice of Events.** Whenever notice of an event is required under an insurance policy required by this Agreement, the Owner shall provide the insurer with timely notice of the event on behalf of all additional insureds, even where the Owner may not be covered for the loss. The notice from the Owner to the insurer must state that the notice is being given on behalf of the additional insureds, and shall contain, to the extent known, (i) the policy number, (ii) the name of the named insured, (iii) the date and location of the event, (iv) the identity of the individuals or things injured, damaged, or lost, (v) the title of the claim or suit, if applicable, and (vi) the address, block, and lot of the Property. The Owner shall simultaneously send a copy of such notice to the Agency. If the Owner fails to comply with these requirements, the Owner shall indemnify the additional insureds that are required by this Agreement for all losses, judgments, settlements, and expenses, including reasonable attorneys' fees, arising from an insurer's disclaimer of coverage citing late notice.
- (r) **No Release.** Maintaining insurance as required by this Agreement does not relieve the Owner of any other obligation under this Agreement or any other agreement by which the Owner is bound or preclude the Agency from exercising any rights under the Law, this Agreement, or any other agreement.
- (s) **Release of Claims.** The Owner waives all rights against the City, HDC, and each of their officials and employees, with respect to any losses that are or would be covered under an insurance policy required by this Agreement (whether or not the policy is actually procured or claims are paid under the policy) or any other insurance applicable to the operations of the Owner or its contractors.
- (t) **Right to Obtain Insurance.** After written notice to the Owner and not less than 10 business days to cure, the Agency may arrange to obtain any insurance that is required by this Agreement if the Owner fails to do so. The Owner shall reimburse the Agency upon demand for any amounts paid by the Agency or any agent to obtain such insurance, with interest at the Default Rate from the date of payment to the date of reimbursement by the Owner. Any arrangement to obtain insurance by the Agency will not waive a violation of this Agreement by the Owner or any rights of the Agency under the Law, this Agreement, or any other agreement.
- (u) **Financing Requirements.** The Owner shall comply with any insurance requirements that may be imposed in connection with the financing of the Project, including, but not limited to, any greater monetary coverage limits that may be contained in any related mortgage or financing agreement.

6.09 Utilities.

- (a) **Building Benchmarking.** The Owner shall comply with the requirements of HPD's building benchmarking protocol. Upon the issuance of a temporary certificate of occupancy for any space in the Project, or as of the date of this Agreement if the Project already has a certificate of occupancy, the Owner shall contract, at the Owner's expense, with a qualified benchmarking software provider on the HDC-approved list to collect utility performance information with respect to the Project, including monthly and annual data on heating, electric, and water usage, in accordance with HPD's building benchmarking protocol. HPD may require the Owner to replace the qualified benchmarking software provider if the provider is no longer on the HDC-approved list.
- (b) **Utility Performance Reporting.** No later than May 1 of each year, the Owner shall ensure that the qualified software provider retained by the Owner inputs the utility performance information for the Project for the immediately preceding year into the U.S. Environmental Protection Agency's ENERGY STAR Portfolio Manager system, or such other system as may be designated in writing by the Agency. The Owner shall ensure that the utility performance information is made available to the Agency through an account located on such system. The Agency may also receive the utility performance information directly from the qualified benchmarking software provider, and the Owner consents to the sharing of such information with the Agency.
- (c) [intentionally deleted]
- (d) **Broadband Access.** The Owner shall make available to each Income-Restricted Unit wireless broadband internet service and, upon request by a Tenant of an Income-Restricted Unit, wired broadband internet service with a wired connection point in the living room of such Tenant's Unit, each at no cost to the Tenant. The Owner shall comply with HPD guidelines regarding the level of broadband internet service and its operation and maintenance, including but not limited to fees, service speed, enhancements and repairs. If requested by the Agency, the Owner shall enter into a broadband access lease rider, in a form approved by the Agency, with each Tenant of an Income-Restricted Unit.

6.10 Mechanics and Tax Liens.

The Owner shall keep the Project and the Property free from any liens, charges, and encumbrances (except as otherwise permitted by this Agreement), including, but not limited to, mechanics and tax liens. If any such liens are filed against the Project or the Property, the Owner shall deliver a copy of the lien to the Agency no later than 30 days after filing, shall cause the lien to be discharged by payment, bonding, or otherwise to the satisfaction of the Agency, and shall promptly deliver proof of such discharge to the Agency.

6.11 Loans by Owner.

The Owner shall not make loans for any purpose (whether secured or unsecured and whether repayable or forgivable) without the prior written consent of the Agency.

6.12 Reasonable Accommodations.

The Owner shall comply with all obligations under the Law to provide reasonable accommodations to individuals with disabilities.

6.13 Equal Access to Amenities.

The Owner shall ensure that all common areas and amenities at the Project are open to all Tenants on an equal basis, except as may be required by Law.

6.14 Distribution of Information.

The Owner shall post in a prominent location at the Project, or otherwise ensure that all Tenants receive, any information that may be required to be posted at the Project or distributed to Tenants by the Agency or by Law.

6.15 Operation of Homeless Units.

- (a) **Approval of Social Services.** Prior to the initial marketing of the Homeless Units, the Owner shall submit to HPD (i) a social services plan detailing the services and furnishings to be provided to Tenants of Homeless Units, a budget, and the provider of such services; or (ii) if required in writing by HPD, a social services contract with an approved provider or a commitment to enter into such a contract. The Owner shall not begin the initial lease-up of the Homeless Units until HPD has approved the social services plan or contract in writing. Evidence satisfactory to the Agency of a services award from an Agency-approved source will satisfy the foregoing requirement.
- (b) **Provision of Social Services.** The Owner shall ensure that all social services required by subsection (a) above are provided on a continuous basis with respect to the Project subject to the availability of funding for such services. The Owner shall obtain the prior written consent of HPD before terminating or making any changes to an approved social services plan, or before terminating or making any changes (other than exercising any renewal options) to a contract with an approved provider with respect to the Project. The Owner shall provide HPD with notice of any default or material change with respect to a social services contract no later than 30 days after the date on which the Owner obtains evidence in writing that any such default or material change has occurred or may occur.
- (c) **Furnishings.** Prior to the initial rental of any Homeless Unit, the Owner shall furnish the Homeless Unit in a manner that is satisfactory to HPD or, if the funding for the furnishings is provided by another government agency, ensure that the Homeless Unit is furnished in a manner that is satisfactory to the government agency providing the funding for the furnishings.

6.18 Environmental Requirements.

The Owner shall comply, and shall ensure that the Project complies, with the environmental mitigation requirements annexed to this Agreement as Exhibit D and made a part of this Agreement.

6.19 Building Service Prevailing Wage.

The Owner is subject to Section 6-130 of the Administrative Code, which requires the Owner to pay a prevailing wage to building service employees at the Project in accordance with a schedule of wage and benefit rates published annually by the Comptroller of the City. The Owner shall comply with Section 6-130 of the Administrative Code and shall provide the City with all information that may be required, or that the City may reasonably request, in connection with the administration or enforcement of this law. The Owner shall not claim any exemption or exclusion from the prevailing wage requirements of Section 6-130 of the Administrative Code to which the Owner might be entitled without the Agency's prior written consent.

6.20 Building Service Prevailing Wage (City Rezoning).

- (a) **Prevailing Wage Requirement.** The Owner shall pay a prevailing wage, as defined in Section 6-130(a) of the Administrative Code, or shall ensure that such a prevailing wage is paid, to any building service employee, as defined in Section 6-130(a) of the Administrative Code ("**Building Service Employee**") who is employed in the Project, regardless of whether the Owner is the direct employer of such Building Service Employee. The Owner shall not discriminate or retaliate against any Building Service Employee who makes a claim for wages due as provided by this prevailing wage requirement.
- (b) **Administrative Requirements.** The Owner shall comply with the certification, record-keeping, and notice-posting requirements of Sections 6-130(c)(2), (3), and (4) of the Administrative Code.
- (c) **Enforcement.** The Mayor of the City or the Mayor's designee may enforce subsections (a) and (b) above pursuant to Sections 6-130(d)(2), (4), (6), and (8) of the Administrative Code. The parties to this Agreement incorporate these provisions of law, with respect to the role of the Mayor or the Mayor's designee, into this Agreement by reference. This includes the right of any aggrieved current or former Building Service Employee to file an administrative complaint, and remedies that may be sought by the City for failure to comply with an order, determination, or disposition issued by the Mayor, the Mayor's designee, or the Office of Administrative Trials and Hearings (or any successor) in accordance with the referenced provisions of the Administrative Code. Further, either the Mayor (or the Mayor's designee) or the affected employer may bring any action or special proceeding available under law to enforce, vacate, or modify the order, determination, or other disposition of the office, agency, or tribunal referenced in Section 6-130(d)(6) of the Administrative Code. In addition, the Comptroller of

the City has the authority to investigate prevailing wage violation complaints in accordance with Section 6-130(d)(3) of the Administrative Code, which is hereby incorporated by reference.

- (d) **Third-Party Beneficiaries.** Any aggrieved current or former Building Service Employee is a third-party beneficiary of this Section 6.20 and has the right to enforce its prevailing wage requirement, but only if the enforcement provisions of Sections 6-130(d)(2), (4), (6), and (8) of the Administrative Code are determined by a court of competent jurisdiction to be inapplicable to a violation of the prevailing wage requirement.

[Continues on next page]

ARTICLE 7

RESERVES

7.01 Replacement Reserve.

- (a) **Creation and Funding.** If required by Exhibit B, the Owner shall establish a replacement reserve account for the Project ("**Replacement Reserve**"), into which the Owner shall deposit funds as required by Exhibit B. The Owner shall segregate the Replacement Reserve from other funds of the Owner. Any interest earned on the Replacement Reserve must be added to the Replacement Reserve (net of taxes on such interest).
- (b) **Withdrawals.** The Owner must obtain the written consent of the Agency prior to any withdrawal from the Replacement Reserve. The Owner may request a withdrawal from the Replacement Reserve to pay for the cost of replacements and capital improvements to the Project and for extraordinary increases in maintenance and operating expenses beyond the control of the Owner, or otherwise as approved in writing by the Agency. In connection with a request for a withdrawal from the Replacement Reserve, the Owner shall provide any supporting documentation that may be required by the Agency, including, but not limited to, construction plans and bids from contractors.

7.02 Operating Reserve.

- (a) **Creation and Funding.** If required by Exhibit B, the Owner shall establish an operating reserve account for the Project ("**Operating Reserve**"), into which the Owner shall deposit funds as required by Exhibit B. The Owner shall segregate the Operating Reserve from other funds of the Owner. Any interest earned on the Operating Reserve must be added to the Operating Reserve (net of taxes on such interest).
- (b) **Withdrawals.** The Owner must obtain the written consent of the Agency prior to any withdrawal from the Operating Reserve. The Owner may request a withdrawal from the Operating Reserve to cover Project operating account deficits, or otherwise as approved in writing by the Agency. In connection with any request for a withdrawal from the Operating Reserve, the Owner shall provide any supporting documentation that may be required by the Agency, including, but not limited to, operating statements, documentation of unforeseeable circumstances, and bank statements.

7.03 Other Reserves.

- (a) **Creation and Funding.** The Owner shall establish any other reserve account for the Project that is identified in Exhibit B, into which the Owner shall deposit funds as may be required by Exhibit B. The Owner shall segregate each such reserve

from other funds of the Owner. Any interest earned on such a reserve must be added to the reserve (net of taxes on such interest).

- (b) **Withdrawals.** The Owner must obtain the written consent of the Agency prior to any withdrawal from any other reserve required by Exhibit B, unless Exhibit B specifically allows withdrawals from the reserve without the Agency's consent. The Owner may request a withdrawal from any such reserve for the purposes identified in Exhibit B, or otherwise as approved in writing by the Agency. In connection with any request for a withdrawal from any such reserve, the Owner shall provide any supporting documentation that may be required by the Agency.

7.04 Servicing of Reserves.

- (a) **Controlled Accounts.** Upon demand by the Agency, the Owner shall establish any reserve account that is required by this Agreement with the Agency or with an Agency-designated servicer in an account governed by a servicing agreement, deposit account control agreement, or similar agreement restricting withdrawals from the account without the authorization of the Agency, in each case on a form acceptable to the Agency. The Owner shall take such further actions as may be reasonably necessary to establish Agency control over the reserve account, including, but not limited to, the execution of a security agreement granting a security interest in the account to the Agency, if the Agency does not already have such an interest.
- (b) **Disclaimer.** The Owner shall make no claim against the Agency for any loss that arises out of a breach by a servicer of a servicing or other agreement with respect to a reserve account that is required by this Agreement, unless the breach is attributable to the gross negligence or willful misconduct of the Agency. Neither the Agency nor any servicer will have any liability for a loss of all or any portion of the funds in a reserve account by reason of the insolvency or failure of the institution with which the funds are held. Neither the Agency nor any servicer will be liable with respect to any action taken or omitted to be taken by it in good faith in the performance or enforcement of servicing duties with respect to a reserve account. The Agency and any servicer will be entitled to assume the genuineness of all signatures or other approvals believed by it in good faith to be genuine in complying with directions with respect to any reserve account.
- (c) **Fees.** For any reserve account that is established with the Agency or with an Agency-designated servicer, the Agency may withdraw (or permit the servicer to withdraw) funds from the account, at any time and on one or more occasions, to pay the reasonable account-related fees of the Agency or the servicer of the account, so long as the amount withdrawn each year does not exceed 1% of the average monthly balance of the account for the year. In addition, the Owner shall pay all bank fees and investment breakage fees that are due to third parties and incurred by the Agency or a servicer in connection with servicing any such account.

7.05 Replenishment of Reserves.

If the Owner withdraws funds from a reserve account that is required by this Agreement (excluding withdrawals from the Replacement Reserve), the Agency may require the Owner to replenish the amount withdrawn from the account. If the Owner withdraws funds from the Replacement Reserve, the Agency may require the Owner to replenish the amount withdrawn from the account if the Agency determines that replenishment is necessary to maintain the Agency's then-existing replacement reserve standard for a project containing buildings or improvements similar to the Project in type, size, use, value, and condition. The Owner shall make any such replenishment over the period that the Agency may reasonably require. The Agency shall not require the Owner to replenish the account at a rate that is faster than 1/12th of the amount to be replenished per month, however.

7.06 Reserves Remain with Project.

The Owner shall ensure that all reserve accounts that are required by this Agreement remain with the Project during the Restriction Period. Upon a Property Transfer of all or substantially all of the Project, or a Change in Ownership with respect to the Owner, the Owner shall not cause or permit the transfer of any funds in any such reserve account to, or the retention of any funds in any such reserve account by, any entity or individual that is not, after consummation of the Property Transfer or Change in Ownership, the Owner.

7.07 Disposition of Reserves.

Upon the end of the Restriction Period, the Owner shall use the entire outstanding balance in the reserve accounts that are required by this Agreement in the following order of priority, unless reordered or waived by the Agency in writing (to the extent permitted by Law): first, to pay any outstanding taxes, charges, or other amounts owed to the Agency or the City, other than any Agency financing for the Project; second, to pay all accrued unpaid interest on, and the unpaid principal balance of, any Agency financing for the Project, in that order; third, to perform necessary capital and maintenance work at the Project, as may be required by the Agency; fourth, to pay into a new replacement, operating, or other reserve for the Project, as may be required by the Agency; fifth, to repay loans, if any, made by the Owner or an affiliate of the Owner that were made for the purpose of funding Project operating account deficits or for any other Project purposes; and sixth, to be disbursed to the Owner for use in any manner consistent with its purposes and contractual obligations.

7.08 HDC Financing Requirements.

If HDC determines in writing that any provision of this Article 7 conflicts with a requirement of the HDC Financing, the conflicting requirement will not apply while the HDC Financing remains outstanding, or until HDC determines that the conflict has ended.

[Continues on next page]

ARTICLE 8

OWNERSHIP AND FINANCING

8.01 Property Transfers.

- (a) **Agency Consent Required.** Except as provided in this Section 8.01, the Owner shall not cause or permit any Property Transfer without the prior written consent of the Agency. "**Property Transfer**" means any sale, lease, sublease, license, conveyance, transfer, assignment, gift, encumbrance, or other disposition of, or the granting of an easement or profit with respect to, all or any portion of the Project or the Property or any estate in the Project or the Property. A Property Transfer may involve, without limitation, the transfer of a nominee legal ownership interest, beneficial ownership interest, or remainder or other future interest in the Property. Any Property Transfer requiring the Agency's consent that occurs without the Agency's written consent will be void. The Agency shall not unreasonably withhold its consent to a Property Transfer. The Owner shall obtain the Agency's consent to every Property Transfer where required by this Section 8.01, regardless of whether the Agency has consented to any prior Property Transfer.
- (b) **Conditions to Transfer.** Without limiting the conditions that the Agency may impose prior to providing a consent to any Property Transfer of all or substantially all of the Property, the Owner must ensure the following prior to any such Property Transfer:
- (i) **Assumption of this Agreement.** The transferee must assume the Owner's obligations under this Agreement, beginning on the date of the Property Transfer, in an agreement satisfactory to the Agency. The Owner shall ensure that any assumption agreement is recorded against the Property promptly following the related Property Transfer and shall pay all related fees and taxes.
 - (ii) **Estoppel.** The transferee must certify that the statements of fact in Article 11 remain true as of the date of the Property Transfer, except to the extent that any such statement refers to an earlier date (or, if a statement is not true as of the date of the Property Transfer, providing a detailed explanation of the matter).
 - (iii) **Reserves.** The transferee must provide satisfactory evidence that it will own any reserve accounts required by this Agreement in accordance with Section 7.06.
 - (iv) **Further Assurances.** The transferee must provide such further assurances and documents as the Agency may reasonably require in connection with the Property Transfer, including, but not limited to, an assumption of any Agency financing or other obligations of the Owner with respect to the Project.

- (c) **Exceptions to Consent Requirement.** The Agency's consent is not required for any leases of Units to Tenants, on the condition that the leases are consistent with this Agreement and do not contain an option to acquire all or any portion of the Project. In addition, the Agency's consent is not required for any non-residential lease, sublease, license, or occupancy agreement that is permitted by Section 4.16. The Agency consents to any Property Transfer approved in Exhibit B.
- (d) **Property Transfer Upon Foreclosure.** The Agency's consent is not required for any Property Transfer that occurs in connection with the foreclosure of a Permitted Mortgage or the delivery of a deed in lieu of foreclosure of a Permitted Mortgage. This exception is limited solely to the Property Transfer that occurs in connection with the foreclosure sale or deed in lieu of foreclosure of a Permitted Mortgage and does not apply to any subsequent Property Transfer.

8.02 Changes in Ownership.

- (a) **Agency Consent Required.** Except as provided in this Section 8.02, the Owner shall not cause or permit any Change in Ownership of the Owner (including, individually, any individual or entity that is a party to this Agreement and is included in the definition of Owner) without the prior written consent of the Agency. "**Change in Ownership**" means, with respect to any entity, any transfer of any direct or indirect ownership interest in the entity at any tier, including, but not limited to, sales or other transfers of ownership interests, admissions of new owners, substitutions of owners, withdrawals of owners (except by death), acquisitions of additional ownership interests, and changes to the membership interests in a not-for-profit corporation (but not changes to the directors of a not-for-profit corporation unless specifically provided in this Agreement). The Agency shall not unreasonably withhold its consent to a Change in Ownership.
- (b) **Notice of All Changes.** If a Change in Ownership is permitted without Agency consent under this Section 8.02, the Owner shall give the Agency notice of the Change in Ownership promptly after it occurs and shall certify in writing that the Change in Ownership is in compliance with this Agreement. The foregoing does not apply to any Change in Ownership that concerns solely the ownership interest of a shareholder in a publicly traded company.
- (c) **Death or Incapacity.** The Agency's consent is not required for any Change in Ownership of the Owner that concerns solely a transfer to an executor, administrator, or guardian of a deceased or incapacitated individual. Any subsequent Change in Ownership with respect to the interest of an executor, administrator, or guardian requires the Agency's consent.
- (d) **Transfers Among Existing Owners.** The Agency's consent is not required for any Change in Ownership of the Owner that concerns solely a transfer of a direct or indirect ownership interest in the Owner to any existing owner of a direct or indirect ownership interest in the Owner that has previously received the Agency's approval in writing, as long as the transfer does not (i) result in a

change to the present or contingent control over management or operations of the Owner or the Project, as determined by the Agency, or (ii) result in a change in the direct or indirect ownership interests of the Owner that would require the transferee to comply with the Agency's sponsor review procedures.

- (e) **LIHTC Investor.** The Agency's consent is not required for any Change in Ownership of the Owner that concerns solely a transfer of (i) a passive ownership interest in the LIHTC investor in the Beneficial Owner or (ii) such LIHTC investor's passive ownership interest in the Beneficial Owner, so long as (x) the LIHTC investor is a passive investor in the Beneficial Owner, and (y) the manager of the LIHTC investor, or any transferee of the LIHTC investor's passive ownership interest in the Beneficial Owner, is an affiliate of, and is and remains controlled by or under common control with, the LIHTC syndicator or investor parent entity identified in Exhibit B. In addition, any ownership interest in the Beneficial Owner of a special member or special limited partner may be transferred only together with a permitted transfer of the LIHTC investor's ownership interest in the Beneficial Owner, or of the interest of the manager of the LIHTC investor, and only to the same transferee or to a party that is an affiliate of, and is and remains controlled by or under common control with the transferee.
- (f) **Estate Planning.** The Agency shall consent to a Change in Ownership of the Owner that concerns solely a transfer of a direct or indirect ownership interest in the Owner for estate planning purposes to a trust on the following conditions: (i) the trust must have no present or contingent control over management or operations of the Owner or the Project and the only role of the trust must be to make or hold a monetary investment, each as determined by the Agency, (ii) the trust must exist for the benefit of an immediate family member of an individual with a direct or indirect ownership interest in the Owner, (iii) the Owner must obtain the Agency's prior written consent for each trustee and any beneficiary who is 18 years of age or older; and (iv) the Owner must obtain the Agency's prior written consent for any beneficiary who is younger than 18 years of age promptly following the date that the beneficiary reaches 18 years of age. If the Agency does not approve any such beneficiary, the Owner shall cause the trust to transfer its direct or indirect ownership interest in the Owner in accordance with this Section 8.02.

8.03 Financing.

- (a) **Agency Consent Required.** Except as provided in this Section 8.03, the Owner shall not incur, assume, or permit to exist any financing with respect to or encumbering all or any portion of the Project or the Property, or any direct or indirect ownership interest in the Owner, including but not limited to any mezzanine debt or preferred equity financing, without the prior written consent of the Agency, nor shall the Owner extend or renew any such existing financing on materially different terms without the prior written consent of the Agency.
- (b) **Mortgages and Other Encumbrances.** Except as provided in this Section 8.03, the Owner shall not permit any mortgage, lien, pledge, assignment, transfer,

encumbrance, grant of a participation interest in, or hypothecation of or on all or any portion of the Project or the Property, or of or on any direct or indirect ownership interest in the Owner (or the income, proceeds, or other economic benefits of any such ownership interest) without the prior written consent of the Agency. Any mortgage or other encumbrance that encumbers all or any portion of the Project or the Property without the Agency's written consent will be void.

- (c) **Exceptions to Consent Requirement.** The Agency's consent is not required for (i) any financing with respect to or encumbering solely any indirect ownership interest in the Owner, and any encumbrance of an indirect ownership interest in the Owner that secures solely such financing, where the exercise of any rights or remedies by the holder of such debt would not in any circumstance cause (1) a change in present or contingent control over management or operations of the Owner or the Project, or (2) a transfer of a direct or indirect ownership interest in the Owner in violation of this Agreement; or (ii) any financing that is provided to the Owner by its members or partners, as applicable, pursuant to the Owner's organizational documents, and any encumbrance of a direct or indirect ownership interest in the Owner that secures solely such financing.
- (d) **Permitted Mortgages.** The Agency consents to any mortgage or other encumbrance that is (i) recorded against the Property before the date of this Agreement or (ii) signed and delivered on or after the date of this Agreement with the prior written consent of the Agency (including but not limited to any mortgage signed and delivered to secure any Agency financing with respect to the Project), and the financing secured by any such mortgage or other encumbrance ("**Permitted Mortgage**").
- (e) **Approval of Future Financing.**
 - (i) **Notice to Agency.** The Owner shall provide the Agency with written notice of any proposed financing that requires the consent of the Agency not less than 60 days before the anticipated closing of the financing. The Owner shall provide the Agency with (1) a commitment or term sheet from the proposed lender, (2) the Project's financial statements for the previous 12 months, as certified by the Owner and showing the Project's net operating income for the period, (3) reasonably detailed projections of the Project's net operating income and debt service for the following 12 months assuming the Owner obtains the proposed financing, (4) a current appraisal of the Project prepared by an independent real estate appraiser not affiliated with the Owner, and (5) such further information as the Agency may reasonably request in connection with the proposed financing.
 - (ii) **Standard for Consent Where No Agency Financing.** If the Property and the Project are not subject to any mortgage or lien held by or on behalf of the City or HDC, and the Owner does not owe any mortgage indebtedness to the City or HDC with respect to the Project, the Agency shall consent to any proposed financing with respect to or encumbering all or any portion of the Project or the Property, or any direct or indirect

ownership interest in the Owner, and any related mortgage or other encumbrance, if the Agency confirms that (1) the proposed financing will be provided by HDC; the Community Preservation Corporation (or its affiliate); a City, State, or federal agency; Fannie Mae; Freddie Mac; a financial institution (including, but not limited to, a savings bank, commercial bank, life insurance company, public real estate investment company, or pension fund) with assets in excess of \$500 million and whose loans are subject to regulation by a State or federal agency; or another lender acceptable to the Agency ("**Institutional Lender**"); (2) after incurring the proposed financing, the debt service coverage ratio for the Project, taking into account all of the financing affecting the Project, will equal or exceed 1.15; (3) after incurring the proposed financing, the loan-to-value ratio for the Project, taking into account all of the financing affecting the Project, will not exceed 80%; and (4) the Agency has not declared a Default that has not been cured. If the proposed financing does not satisfy these requirements, the Agency may consent to the financing but is not required to do so.

8.04 Zoning; Development Rights.

The Owner shall not, without the prior written consent of the Agency, seek, initiate, join in, or consent to any zoning change, restrictive covenant, or other public or private action or agreement limiting, expanding, changing, or defining the permitted uses of the Property or any part of the Property, or the permitted size, shape, or configuration of any structure developed or to be developed on the Property or any part of the Property. This includes, but is not limited to, any zoning lot merger, zoning lot subdivision, zoning lot development agreement, special permit, large-scale residential development, large-scale general development, large-scale community facility development, rezoning, or zoning text amendment.

8.05 Legal Owner.

- (a) **Nominee Agreement.** Neither the Legal Owner nor the Beneficial Owner shall amend the Nominee Agreement, assign the Nominee Agreement, or enter into a new Nominee Agreement without the prior written consent of the Agency. The Legal Owner and the Beneficial Owner shall comply with the Nominee Agreement and shall copy the Agency on any notice of default under the Nominee Agreement. A default under the Nominee Agreement that remains uncured beyond any applicable cure period is a breach of this Agreement. If this Agreement conflicts with the Nominee Agreement, this Agreement controls.
- (b) **Right to Cure.** If there is a default under any City, State, or federal loan or regulatory document, including, but not limited to, any mortgage, regulatory agreement, or financing commitment, then notwithstanding any provision of the Nominee Agreement or any other agreement to the contrary, the Beneficial Owner shall permit the Legal Owner to enter the Project and take such other actions with respect to the Project as may be necessary to cure the default, unless the Beneficial Owner is acting diligently to cure the default.

8.06 Condominium.

- (a) **Agency Approval of Condominium Documents.** The Owner shall obtain the prior written consent of the Agency for any condominium declaration that covers all or any portion of the Project and for all related documents, including, but not limited to, the by-laws of the condominium. The Owner shall submit all such condominium documents to the Agency for review and approval prior to their signing and recording. After approval of any such condominium document by the Agency, the Owner shall not cause or permit the amendment of the document without the prior written consent of the Agency. Any such condominium document, including any amendment, that is entered into without the Agency's written consent will be void.
- (b) **Requirements for Condominium Documents.** The Owner shall ensure that any condominium documents covering all or any portion of the Project provide for the following to the satisfaction of the Agency: (i) limits on the payment of common charges by any condominium unit containing Income-Restricted Units, (ii) control of the condominium's board of managers by the condominium units subject to this Agreement, (iii) maintenance of insurance by the condominium and the appointment of an Agency-approved insurance trustee, (iv) Agency approval of the use of casualty and condemnation proceeds, (v) restrictions on transfers and the use of condominium units that are not subject to this Agreement, (vi) Agency approval of structural or other material work, (vii) Agency access to the condominium's records, (viii) Agency approval of amendments to the condominium documents, and (ix) the delivery of notices of default and other material reports under the condominium documents to the Agency. The Agency may impose additional requirements in connection with its approval of any such documents.
- (c) **Subordination; Memorandum of Regulatory Agreement.** Any condominium declaration that covers all or any portion of the Project is subordinate to this Agreement. Promptly following the establishment of a condominium, the Owner shall record a memorandum of this Agreement in accordance with Section 12.01(b).
- (d) **Transfers of Released Condominium Units.** The Owner shall not cause or permit, and shall ensure that any condominium documents that cover all or any portion of the Project do not permit, (i) a Property Transfer of any condominium unit that is a part of the same condominium that the Project is a part of, but that has been released from this Agreement, or (ii) a Change in Ownership of the owner of such a condominium unit, without the prior written consent of the Agency. Any such Property Transfer requiring the Agency's consent that occurs without the Agency's written consent will be void. The Agency shall consent to any such Property Transfer or Change in Ownership that is not to or for the benefit of a Prohibited Person. In addition, the Agency's consent is not required for: (i) any Property Transfer that concerns solely a non-residential lease, sublease, license, or occupancy agreement to an end user of the space in the ordinary course of business, or (ii) any Change in Ownership that concerns solely an individual or entity (1) that has no present or contingent control over

management or operations of the owner of such condominium unit or the Project, as determined by the Agency, and (2) the only role of which, as determined by the Agency, is to make a monetary investment.

- (e) **Obligations of Released Condominium Units.** The Agency shall not release a condominium unit from this Agreement unless a memorandum of this Agreement is recorded against the condominium unit's tax lot in accordance with Section 12.01(b) prior to the release of the condominium unit. After any release of a condominium unit from this Agreement, the owner of the condominium unit shall remain obligated to comply with this Section 8.06, Section 4.16(c) (relating to prohibited uses on the Property), and any provision of this Agreement that is related to administering or enforcing such obligations. These provisions of this Agreement will continue to bind the owner of any such condominium unit and run with the land with respect to the condominium unit.

[Continues on next page]

ARTICLE 9

COMPLIANCE MONITORING

9.01 Annual Submissions.

On an annual basis, effective upon the Project's receipt of a temporary or final certificate of occupancy, or as of the date of this Agreement, if the Project does not require a new certificate of occupancy, and no later than the date given for each item below (or such other date as the Agency may direct in writing), the Owner shall submit the following items to the Agency.

The Owner shall submit the items required under this Section 9.01 to HDC only, unless HPD requests otherwise in writing.

- (a) **Certificate of Compliance.** No later than April 1 of each year, a certificate signed by a principal or authorized officer of the Owner and certifying the following: (i) each Tenant of an Income-Restricted Unit who began occupancy during the prior year was an Eligible Household; (ii) each Tenant's Actual Rent does not exceed the amount permitted by Law and this Agreement; (iii) the Owner's statements of fact in Article 11 remain true as of the date of the certificate, except to the extent that any such statement refers to an earlier date (or, if a statement is not true as of the date of the certificate, providing a detailed explanation of the matter); and (iv) the Owner is not in material violation of this Agreement, nor to the knowledge of the Owner, has any event occurred that, with the giving of notice or passing of time, would make the Owner in material violation of this Agreement (or, if a material violation or any such event has occurred, providing a detailed explanation of the matter and any corrective actions taken or to be taken).
- (b) **Rent Roll.** No later than April 1 of each year, a certified rent roll for the Project that is satisfactory to the Agency and that specifies all information that the Agency or the Law may require with respect to each Unit. The Owner shall submit each such rent roll using an online system designated by the Agency or otherwise as directed by the Agency in writing.
- (c) **Financial Statements.** No later than April 1 of each year, annual financial statements with respect to the Owner and the Project. These financial statements must be satisfactory to the Agency and must include a balance sheet, a statement of income and expenses, a statement of cash flows, and all accompanying notes, schedules, findings, and other materials. The Owner shall provide single entity financial statements with respect to the Owner and the Project unless otherwise approved in writing by the Agency. The Owner shall cause the financial statements to be prepared on a calendar-year basis, unless otherwise approved in writing by the Agency, and in accordance with generally accepted accounting principles. The Owner shall further cause the financial statements to be audited by an independent auditor.

- (d) **Statement of Reserves.** No later than April 1 of each year, a certified statement of the Project's reserve accounts that is satisfactory to the Agency. This statement must include the name of the bank or other financial institution that holds each reserve account, the current balance in each reserve account, each contribution and withdrawal from the reserve account during the prior year, supporting documentation for any calculations that are required to determine contribution amounts (including, but not limited to, calculations of amounts to be contributed from net cash flow, if required by Exhibit B), current bank statements, and any other reserve account information that the Agency may reasonably request.
- (e) **Proof of Insurance.** If requested in writing by the Agency, no later than April 1 of each year, satisfactory evidence of each insurance policy required by Section 6.08, as further described in Section 6.08(m).
- (f) **Utility Performance.** No later than May 1 of each year, the utility performance information for the Project as required by Section 6.09(b).
- (g) **Other Submissions.** Any other Records or certification that may be required to be submitted to the Agency by Law, no later than the date that is required by Law.
- (h) **LIHTC Certification.** No later than March 1 of each year, the certification required by Section 3.07(k).
- (i) **Tax-Exempt Obligation Certification.** No later than April 1 of each year, the certification required by Section 3.08(d).
- (j) **Tax-Exempt Obligation Certification.** No later than April 1 of each year, the certification required by Section 3.08(f).

9.02 Late Fees.

If the Owner is late in submitting any item that is required by Section 9.01, the Agency may charge the Owner a late fee of \$250 per item to cover the administrative costs associated with a late submission. The Agency may increase this amount to account for inflation by adding 3%, compounding annually, on each anniversary of the date of this Agreement. Prior to assessing any such fee, the Agency shall notify the Owner that the submission is late and shall provide the Owner with not less than 10 business days to cure.

9.03 Testimony and Documents.

Upon 10 days' written notice from the Agency, and at a time and place specified by the Agency, the Owner, including any of its members, partners, principals, officers, directors, employees, and agents, (a) shall submit to an oral examination under oath by authorized representatives of the Agency regarding any matter related to the Project; and (b) shall

produce for examination, review, or audit by the Agency any Records that the Agency may request, in form and manner satisfactory to the Agency.

9.04 Access to Property.

The Owner shall provide all representatives of the Agency or the City with access to the Property at such times and for such purposes as the Agency or the City deems necessary to implement this Agreement. The Agency may, without limitation, (a) enter the Property (including, but not limited to, all Improvements, Equipment, grounds, and offices) at any time to conduct unannounced site visits or to enforce its right to cure a Default pursuant to Section 10.02(d), and (b) examine any Records during business hours at the offices of the Owner or any of its agents, including but not limited to, the Managing Agent.

9.05 Reports of Non-Compliance.

The Owner shall notify the Agency promptly if the Owner discovers any material non-compliance with this Agreement.

9.06 Reports of Legal Actions.

If any legal action or proceeding is initiated by or against the Owner in connection with or relating to the Project, the Property, this Agreement, or any other document related to the Project, other than landlord-tenant matters and other customary matters that arise in the ordinary course of business, the Owner shall report the initiation of the legal action or proceeding to the Agency in writing no later than 10 days after the Owner initiates or receives notice of the action or proceeding.

9.07 Interaction with Authorities.

The Owner shall notify the Agency of any interaction with City, State, or federal agencies or entities regarding the Property or the Project, other than the timely payment of taxes or fees, or other customary matters that arise in the ordinary course of business. If the Owner fails to give the Agency notice of any such interaction, the Owner waives any defense or claim that the Owner might otherwise have based upon the City's knowledge of the matters addressed in the interaction.

9.08 Disclosure of Ownership.

The Owner shall furnish to the Agency, no later than five business days after any written request by the Agency, the names of the officers, directors, shareholders, members, or partners of the Owner and any entity that owns a direct or indirect interest at any tier in any party to this Agreement (except for any shareholders in a publicly traded company). The Owner shall provide any information that the Agency may reasonably request with respect to these individuals and entities.

9.09 Additional Information.

The Owner shall promptly submit to the Agency such other information as the Agency shall reasonably request on one or more occasions regarding the Project or the Owner.

9.10 HDC Monitoring Fees.

- (a) **LIHTC Monitoring Fee.** Pursuant to the Internal Revenue Code, HDC is entitled to a reasonable fee for monitoring the Project's LIHTC compliance. During the LIHTC compliance period, the Beneficial Owner shall pay to HDC an annual LIHTC monitoring fee that is equal to the sum of (i) an annual fee of \$100 per building in the Project, not subject to an annual cap; and (ii) 0.75% of the maximum annual tax credit rent for the Units that are designated as low-income units pursuant to Section 42 of the Internal Revenue Code, subject to an annual cap of \$12,500, if there are 150 or fewer such Units in the Project, or \$17,500, if there are more than 150 such Units in the Project. If the HDC Financing is paid in full prior to the end of the LIHTC compliance period, the Beneficial Owner shall pay to HDC an amount that is equal to the present value (based on the Daily Treasury Yield Curve Rates, as published by the U.S. Department of the Treasury) of the LIHTC monitoring fee at the time of the prepayment for each year remaining in the LIHTC compliance period. After such a payment, no additional LIHTC monitoring fee shall be due.
- (b) **HDC Monitoring Fee (Prepayment in Full).** To compensate HDC for continued monitoring of the Project after a prepayment in full of HDC's senior loan to the Project, upon such a prepayment and on an annual basis thereafter, the Beneficial Owner shall pay to HDC an amount equal to \$50 per unit, subject to an annual cap of \$12,500, if there are 150 or fewer Units in the Project, or \$17,500, if there are more than 150 Units in the Project, such amount to be increased annually in accordance with any increase in the New York City Consumer Price Index. If the Beneficial Owner transfers its interest in the Project (subject to the requirements of this Agreement), HDC reserves the right, in its sole discretion, to charge a one-time monitoring fee or to revise the annual fee for continued monitoring.
- (c) **Compliance Escrow.** If the Project is not in compliance with this Agreement on the date that the Beneficial Owner gives notice of a prepayment to HDC, then unless the Beneficial Owner withdraws the notice until the Project is in compliance, the Beneficial Owner shall enter into a compliance escrow agreement with HDC and deposit \$20,000, such amount to be increased at the time in accordance with any increase in the New York City Consumer Price Index. This compliance escrow is in addition to the monitoring fee required by Section 9.10(b). HDC will apply this compliance escrow ratably to monitor compliance with this Agreement. Once the Project is restored to compliance, any balance of the compliance escrow will be refunded to the Beneficial Owner, without interest.

[Continues on next page]

ARTICLE 10
ENFORCEMENT

10.01 Defaults.

- (a) **Notice; Opportunity to Cure.** After any violation of this Agreement, the Agency may give notice of the violation to the Owner. If the Agency gives notice of a violation to the Owner, the Agency shall provide the Owner with a period of not less than 30 days to cure the violation, unless the Agency reasonably determines that (i) the violation cannot be cured; (ii) the violation resulted from the Owner's gross negligence or willful misconduct; or (iii) exigent circumstances require immediate action to protect the Project or any Tenant.
- (b) **Declaration of Default.** If a violation of this Agreement is continuing after notice to the Owner and the expiration of any cure period given in accordance with subsection (a) above (or, in the case of a violation that cannot with due diligence be cured by the Owner during a given cure period, if the Owner has failed to proceed promptly to cure the violation to the satisfaction of the Agency within such period or is not diligently pursuing the cure), the Agency may declare a default under this Agreement ("**Default**") by written notice to all parties to this Agreement.
- (c) **Copies of Notices.** The Agency shall send a copy of any notice of violation or Default to the holder of any Permitted Mortgage, at the address for notices given in the Permitted Mortgage as recorded against the Property, and to any other individual or entity to whom the Agency has agreed to provide such notices in Exhibit B. The failure to send any such copy, however, will not affect the effectiveness of the notice.
- (d) **Cures by Investors.** The Agency shall deem any cure of a violation of this Agreement or Default by one or more of the Owner's members, partners, or shareholders, as applicable, to be made by the Owner. The Agency shall accept or reject such cure on the same basis as it would if the cure had been made by the Owner.

10.02 Remedies.

After declaring a Default, the Agency may take one or more of the following actions:

- (a) **Specific Performance.** Seek a temporary or permanent injunction or an order for specific performance of this Agreement. The Agency may also seek this remedy if it determines that a violation of this Agreement is threatened.
- (b) **Extension of Restriction Period.** Record a document against the Property, executed solely by the Agency, to extend the Restriction Period by the period of non-compliance. The Agency may presume that the period of non-compliance is

the period running from the date of this Agreement until the date that the Agency declares a Default. The Owner may rebut this presumption.

- (c) **Prohibition on Doing Business.** Upon written notice from the Agency, prohibit the party responsible for the violation and any of its principals from doing business with the Agency, except for applying for any as-of-right statutory benefit, for such period as the Agency may determine.
- (d) **Cure by Agency.** Cure the violation and charge the party responsible for the violation for any fees and other expenses incurred to remedy the violation, plus interest at the Default Rate from the date of demand until paid. This remedy includes, but is not limited to, (i) the right to lease any un-leased or vacant Unit in compliance with this Agreement (in such event, the Agency shall use reasonable efforts to obtain the highest rent permitted by this Agreement); and (ii) the right to prohibit the occupancy of any unoccupied Unit in order to ensure compliance with this Agreement.
- (e) **Prohibition on Distributions.** Prohibit distributions to partners, members, or shareholders, as applicable, of the Owner until the Default is cured and take any action to seek restitution to the Project's account for any distributions made in violation of this Agreement.
- (f) **Cross-Default.** Declare a default under (i) any mortgage affecting the Project and held by the Agency, or (ii) any other agreement with the Agency or the City that is binding upon the Owner and that concerns the Project, and pursue any available remedies, including, but not limited to, a foreclosure of any mortgage affecting the Project and held by the Agency.
- (g) **Removal of Responsible Parties.** Require the removal of any officer, director, principal, partner, member, or shareholder, as applicable, that is responsible for the Default.
- (h) **Appointment of a Receiver.** Seek appointment of the Agency or a receiver to take possession of and operate the Project, collect all rents, and pay all necessary costs until the Default is cured and the Owner has given satisfactory evidence that it can operate the Project in compliance with this Agreement.
- (i) **Real Property Tax Benefits.** Pursue the suspension or revocation of any Real Property Tax Benefits in accordance with Law.
- (j) **Other Remedies.** Seek any other relief that may be appropriate or desirable at law or in equity.

10.03 All Rights Cumulative.

All rights and remedies of the Agency under (a) this Agreement, (b) any other document related to the Project, (c) the Law, or (d) any other source of authority, are cumulative and may be exercised alone or concurrently, at the Agency's option. The exercise or enforcement of any one right or remedy by the Agency is not a condition to or a bar of

the exercise or enforcement of any other right or remedy. The listing of rights and remedies of the Agency in this Agreement does not preclude the Agency's exercise or enforcement of any other right or remedy available to the Agency that is not listed in this Agreement.

10.04 Waivers of Agreement.

Any waiver of a provision of this Agreement must be in writing and must be signed by the waiving party. No other action or inaction by the Agency or the City at any time may be construed as a waiver of, or preclude the enforcement of, any rights or remedies of the Agency or the City. No waiver applies to any matter other than the specific matter in connection with which it is delivered, and which is stated in the waiver. No waiver may be construed as an amendment or modification of this Agreement.

10.05 No Distributions Upon Default.

Upon written notice from the Agency to the Owner of a Default, or of a material uncured default under any other agreement with the Agency or the City that is binding upon the Owner and that concerns the Project, the Owner shall not make or permit any distribution of any assets of, or any income of any kind from, the Project to its partners, members, or shareholders, as applicable, until the Agency has determined that the Default or default has been cured.

10.06 Prior Owner Defaults.

The Owner shall cure any Default or other violation of this Agreement caused by any prior owner and shall satisfy any related payment or indemnification obligation.

10.07 No Retaliation.

The Owner shall not retaliate against any existing or prospective Tenant, or any other user of the Project, who notifies the Agency of any alleged violation of this Agreement.

10.08 Waiver of Opposition.

To the extent permitted by Law, each party to this Agreement other than the Agency waives any rights that it may have, at law or in equity, to modify, set aside, extinguish, enjoin enforcement of, or seek relief from all or any part of this Agreement.

10.09 Third-Party Beneficiaries.

Except as otherwise stated in this Agreement, there are no third-party beneficiaries of this Agreement and this Agreement is enforceable solely by the parties to this Agreement. The parties to this Agreement may modify or terminate this Agreement in accordance with the requirements of this Agreement without the consent of any intended third-party beneficiary, unless this Agreement specifically provides otherwise.

10.10 Tenant Right to Enforce.

Each Tenant of an Income-Restricted Unit may enforce in any State court the requirement of this Agreement that the Owner lease the Unit for a monthly rent that does not exceed the Actual Rent required by Section 5.01. Any such Tenant is a third-party beneficiary of this Agreement solely for such purpose.

[Continues on next page]

ARTICLE 11
STATEMENTS OF FACT

11.01 In General.

Each party to this Agreement other than the Agency makes the statements of fact in this Article 11 as to itself and affirms that all of its statements of fact in this Agreement are and will remain accurate as stated. Each such party understands that the Agency is relying on the accuracy of the statements of fact in this Agreement even though the Agency may perform other due diligence, and that this accuracy is a material inducement to the Agency's agreement to allow the Owner and the Project to participate in the Agency's affordable housing program. All statements of fact made by any such party survive the signing of this Agreement. The Agency may pursue claims for misrepresentation and breach of warranty, in addition to any other available remedy, if statements of fact in this Agreement are inaccurate.

11.02 Organization.

The party is duly organized and validly existing, and is qualified to do business in New York State, with all necessary authority to carry out the transactions contemplated by this Agreement. The party has provided the Agency with true copies of its organizational documents that are in effect. There are no agreements with respect to ownership interests in the party, voting control of such interests, or any other right to such interests other than the documents that have been delivered to the Agency.

11.03 Not-for-Profit Corporations.

If the party or any parent of the party is a not-for-profit corporation, the party and any parent have complied with all Laws related to the organization and ongoing existence of a not-for-profit corporation. Any director or officer of the party or any parent of the party who resigned in anticipation of the party's participation in the Project has not re-assumed a role with the party without the Agency's prior written consent. If the party or any parent of the party has created a housing committee to exercise the powers and duties of its board of directors with respect to the Project, all applicable organizational documents comply with the Agency's requirements regarding the establishment and authority of the housing committee.

11.04 Due Authorization.

The party has duly authorized and signed this Agreement.

11.05 Valid and Binding Obligation.

This Agreement is a valid and binding obligation of the party, enforceable in accordance with its terms, except as may be limited by insolvency Laws or principles of equity.

11.06 No Conflicts.

The entry into and performance of this Agreement and the consummation of the transactions contemplated by this Agreement do not, and will not, (a) conflict with any Law or applicable order, (b) conflict with the party's organizational documents, or (c) constitute a breach or default under any material agreement of the party. If such a conflict arises with any Law or applicable order that does not exist as of the date the party is making this statement, the foregoing statement will remain true as long as the party discloses the conflict to the Agency in writing promptly after the Law or applicable order takes effect and the party provides a detailed explanation of the matter and any corrective actions taken or to be taken.

11.07 Obtaining of Approvals.

The party has obtained all approvals necessary to enter into this Agreement, record this Agreement against the Property, and consummate the transactions contemplated by this Agreement, including, but not limited to, any required approvals of lenders or other government agencies. This includes, but is not limited to, all necessary approvals from the City's Department of Buildings (or any successor) and any environmental agency with jurisdiction, where applicable. All such approvals are in force and have not been revoked, suspended, forfeited, or modified in a materially adverse manner, nor to the party's knowledge, has any such action been threatened. This statement excludes any approvals that are customarily received after the date the party is making this statement.

11.08 Litigation.

Except as previously disclosed to the Agency in writing, or as promptly disclosed to the Agency in writing after the date the party is making this statement, no litigation, proceeding, or investigation is pending or, to the party's knowledge, threatened (a) that would have a material adverse effect on the party's ability to perform its obligations under this Agreement or (b) that was initiated by any governmental authority and that the party is a subject of (or to the party's knowledge, that any entity or individual that owns a direct or indirect interest in the party at any tier, or any individual that is a principal, officer, or director of the party or any such direct or indirect owner of the party is a subject of).

11.09 Bankruptcy.

The party is not subject to an order with respect to the party in any case under bankruptcy or insolvency Laws. The party is not subject to a voluntary or involuntary bankruptcy or insolvency proceeding. The party has not made an assignment for the benefit of creditors. The party has not sought the appointment of a trustee or receiver with respect to all or substantially all of the party's assets. The party has not admitted in writing an inability to pay debts as they become due. No event of attachment or judicial seizure of all or substantially all of the party's assets has occurred. No event has occurred that, with the passing of time, would make the party insolvent or make any of the foregoing statements untrue. The party has adequate capital for the reasonably

foreseeable obligations of a business of its size and character and given its contemplated operations.

11.10 Accuracy of Information.

All information that the party has provided or caused to be provided to the Agency regarding the party or the Project remains complete and correct in all material respects (and with respect to any financial statements or other reports expressly made as of a particular date, such financial statements or reports remain complete and correct in all material respects as of such date), except as disclosed in writing to the Agency. This includes, but is not limited to, (a) all information contained in sponsor review disclosure statements and related documents that have been submitted to the Agency, and (b) all information with respect to existing and projected financial matters, property information, architectural and engineering matters, building conditions, insurance, and ownership matters (including, but not limited to, information with respect to the party, any entity or individual that owns a direct or indirect interest in the party at any tier, or any individual that is a principal, officer, or director of the party or any such direct or indirect owner of the party). The party has not failed to disclose any material information with respect to the Owner or the Project to the Agency. No information that the party has provided to the Agency contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

11.11 Rent Roll.

If the Project has existing Tenants or non-residential tenants, the Owner has provided the Agency with a complete and correct rent roll for the Project meeting the requirements of Section 9.01.

11.12 Title to Property.

The party owns its interest in the Property free and clear of any encumbrances, except for (a) any matters that are set forth as exceptions to a title policy that has been delivered to the Agency, (b) any Permitted Mortgage, and (c) any minor defects in title that do not interfere with the party's ability to perform its obligations under this Agreement. The party has not received notice of any pending or contemplated condemnation affecting the Property or any sale or disposition in lieu of condemnation, and is not and could not be obligated under any right of first refusal, option, or other contractual right to sell, transfer, or otherwise dispose of the Property or any interest in the Property, except in each case as previously disclosed to the Agency in writing or as promptly disclosed to the Agency in writing after the date the party is making this statement.

11.13 Flood Zone Status.

Except as previously disclosed to the Agency in a survey or other written certification acceptable to the Agency, no portion of the Property is in an area that has been identified by the federal government as a "special flood hazard area".

11.14 Utilities and Public Streets.

The Property is served by all utilities that are required for, and has all access to public streets that are required by, its present and any contemplated uses.

11.15 Property Condition.

Except as previously disclosed to the Agency in writing, or as promptly disclosed to the Agency in writing after the date the party is making this statement, the Property, including, but not limited to, all Improvements, is (a) free from damage caused by fire or other casualty, (b) in good condition in all material respects, and (c) to the knowledge of the party after due inquiry, has no structural or other material defects or damages, whether latent or otherwise.

11.16 Taxes.

The party has filed or caused to be filed all federal, state, and local tax returns required to have been filed by the party, and has paid or caused to be paid all taxes due by the party, except for (a) any taxes that are being contested in good faith by appropriate proceedings and for which the party has set aside adequate reserves and (b) any taxes that would be covered by a pending exemption or abatement application that the party has a reasonable expectation will be granted. This includes, but is not limited to, real property transfer taxes and mortgage recording taxes. The party knows of no basis for any additional assessment of taxes or related liabilities for prior years.

11.17 Insurance.

The party maintains or has caused to be maintained the insurance that is required by this Agreement and any additional insurance that is carried by reasonably prudent owners of property located in New York City containing buildings or improvements similar to the Project in type, size, use, and value. The party has provided the Agency with a complete description of all insurance maintained by or on behalf of the party with respect to the Project. All such insurance is in full effect, and all premiums that are required to be paid have been paid.

11.18 Reserves.

The party has created and fully funded all reserve accounts that are required to be created and funded by the party under this Agreement and at the time the party is making this statement. With respect to each such reserve account, the party has provided the Agency with the name of the financial institution that holds the account and with any other account information that the Agency has requested in writing.

11.19 Zoning and Building Codes.

Except for violations of record and any other matters that have been previously disclosed to the Agency in writing, the Property and the Project, and their present and any contemplated uses, are in full compliance with all Laws regarding zoning and land

use matters, Building Code matters, Housing Maintenance Code matters, accessibility matters, and similar requirements.

11.20 Environmental Laws.

Except with respect to matters that have been previously disclosed to the Agency in an environmental site assessment or other report delivered to the Agency, or that, individually or in the aggregate, could not be expected to result in a material adverse effect on the Project, the Owner, any Tenant, or any other tenant or user of the Project, (a) the Property and its present and any contemplated uses are in full compliance with all Laws regarding environmental matters, including, but not limited to, hazardous or toxic substances; and (b) the party does not know of any basis for liability with respect to any environmental Law, and has not (i) failed to comply with any applicable environmental Law or to obtain, maintain, or comply with any permit, license, or other approval required under any environmental Law, (ii) become subject to any liability under any environmental Law, or (iii) received notice of any claim with respect to any environmental Law.

11.21 Financing.

The party has disclosed to the Agency all financing with respect to or encumbering all or any portion of the Project or the Property, or any direct or indirect ownership interest in the Owner, including but not limited to any mezzanine debt or preferred equity financing, except for any financing that would not require the Agency's consent under Section 8.03(c). The party has disclosed to the Agency any present or anticipated mortgage, lien, pledge, assignment, transfer, encumbrance, grant of a participation interest in, or hypothecation of or on all or any portion of the Project or the Property, or of or on any direct or indirect ownership interest in the Owner (or the income, proceeds, or other economic benefits of any such ownership interest), except for any such mortgage or other encumbrance that would not require the Agency's consent under Section 8.03(c).

11.22 Law and Agreements.

The party has complied in all material respects with all Laws, and except for violations of record or as disclosed to the Agency in writing, the party has not received any written notice of its violation of any Laws. To the party's knowledge, and except as disclosed to the Agency in writing, the party is not in default of any order of any court or government authority. This Agreement and any other agreement between the party and the Agency is in force, and the party is not in default of this Agreement or any such other agreement, nor to the knowledge of the party, has any event occurred that, with the giving of notice or passing of time, would make the party in default of this Agreement or any such other agreement, except as disclosed to the Agency in writing.

11.23 Agency and City Personnel.

To the party's knowledge, no official, employee, agent, or representative of the Agency or the City (a) has participated in any decision relating to the Project or any agreement arising out of or through this Agreement or any other document related to the Project

that affects such person's personal interest or the interest of any entity or association in which the person is directly or indirectly interested, or which otherwise violates the provisions of Chapter 68 of the City Charter; (b) has received any payment or other consideration (other than from the Agency or the City) for the making of this Agreement or any other document or decision related to the Project; or (c) has any interest, directly or indirectly, in the Project, the Property, or the proceeds of either.

11.24 Conflicts of Interest.

No individual or entity having any interest or role in the party or in any entity that owns a direct or indirect interest in the party at any tier, or that is employed, retained, or contracted by the party or any such direct or indirect owner of the party, (a) is or has been employed, retained, or contracted by the Agency or the City in connection with any matter pertaining to the Project, or (b) has or will have any interest in or activity with the party or any such direct or indirect owner of the party that constitutes a conflict of interest pursuant to the provisions of Chapter 68 of the City Charter.

11.25 Lobbying.

The party, each entity or individual that owns a direct or indirect interest in the party at any tier, and any individual that is a principal, officer, or director of the party or any such direct or indirect owner of the party, are in compliance with Article 1-A of the Legislative Law.

11.26 Sponsor Loans.

Any loan that is made to the Owner by an affiliate of the Owner, including but not limited to any deferred developer fee loan, is subordinate to all Agency financing with respect to the Project. The lender of any such loan has agreed to refrain from enforcing any remedies under the loan documents without the prior written consent of the Agency.

11.27 Sponsor Loans (LIHTC Basis).

With respect to any loan that is made to the Owner by an affiliate of the Owner, including but not limited to any deferred developer fee loan, and that is included in the eligible basis of the Project for LIHTC purposes, (a) the applicable note is negotiable, repayable, and if not secured by a mortgage affecting the Project, recourse to the Owner, (b) the Owner intends to repay the loan in accordance with the applicable note and any other loan documents, (c) there are no formal or informal understandings or arrangements with the lender that the loan will be forgiven, and (d) the Owner will not request that the lender forgive the loan in the future.

[Continues on next page]

ARTICLE 12
MISCELLANEOUS

12.01 Recording.

- (a) **Recording of Agreement.** The Owner shall record this Agreement against the Property in the land records for the county in which the Property is located immediately following the date of this Agreement. The Owner shall pay all required fees and taxes in connection with the recording of this Agreement and any memorandum, amendment, or other modification of this Agreement, without any exemption or deduction that might otherwise be available solely because the Agency is a party.

- (b) **Recording of Memorandum.** Promptly following an apportionment (by condominium or otherwise), merger, or other event creating or assigning a tax lot to be occupied by all or any portion of the Project, the Owner shall record a memorandum of this Agreement against each tax lot that is occupied by all or any portion of the Project (unless this Agreement is already recorded against the tax lot) in the land records for the county in which the Property is located. The Owner shall use a memorandum in the form of Exhibit C, which is annexed to this Agreement and made a part of this Agreement, or another form satisfactory to the Agency. The memorandum must specifically identify the recording information for this Agreement and any amendments or other modifications of this Agreement that occurred prior to the date of the memorandum. The Owner shall provide the Agency with proof that the memorandum has been recorded against the appropriate tax lots promptly following the apportionment, merger, or other event.

12.02 Successors.

All provisions of this Agreement are covenants that run with the land, which inure to the benefit of the City and HDC, and which bind and are enforceable against, to the fullest extent permitted by Law, any other party to this Agreement and each such other party's successors, assigns, heirs, grantees, and lessees. All references in this Agreement to a party, entity, or individual include the successors and permitted assigns of such party, entity, or individual. Successors to HPD and HDC include any body, agency, or instrumentality of the City or the State that succeeds to the powers, duties, or functions of either HPD or HDC, respectively.

12.03 Notices.

- (a) **Method.** Each notice given or required to be given under this Agreement must be in writing and (i) sent by certified or priority mail, postage prepaid, (ii) delivered in person or by a nationally recognized overnight courier, with receipt acknowledged, or (iii) sent by electronic means with notice of receipt from an authorized officer, official, or principal of the party.

- (b) **Addresses.** Each notice given to a party to this Agreement by mail or personal delivery must be sent to the address for the party that is stated in the preamble to this Agreement, unless the party has given notice of a change in address. Each notice given to a party by electronic means must be sent to an authorized officer, official, or principal of the party. Any party to this Agreement that changes its address shall notify each other party to this Agreement in the manner for delivering notices that is provided in this section.
- (c) **Effectiveness.** Each notice delivered by certified or priority mail will be deemed to have been given upon the third business day following the date upon which the notice is deposited in the U.S. mail, postage prepaid. Each notice delivered in person or by a nationally recognized overnight courier, with receipt acknowledged, will be deemed given upon actual delivery, as evidenced by a signed receipt. Notwithstanding the foregoing, any notice of a change in address will only be deemed to have been given when actually received by the other party.
- (d) **Copies.** The Agency will send a copy of any notice that is given to a party to the party's counsel or investor, if an address for one is provided in Exhibit B. The Agency's failure to send any copy of a notice to a non-party individual or entity to whom the Agency has agreed in writing to provide such copies will not affect the effectiveness of the notice under this Agreement.
- (e) **Waiver of Notices Not Expressly Stated.** No party to this Agreement is entitled to any notice from the Agency with respect to this Agreement unless this Agreement expressly provides for the giving of notice by the Agency to the party. Each party to this Agreement other than the Agency waives any right to receive any notice from the Agency with respect to any matter for which this Agreement does not expressly provide for the giving of notice by the Agency to the party.
- (f) **Notices to HPD.** Any notice given to HPD must be sent to the attention of the Deputy Commissioner for Asset and Property Management, with copies to the Deputy Commissioner for Development and the General Counsel.
- (g) **Notices to HDC.** Any notice given to HDC must be sent to the attention of the Senior Vice President for Portfolio Management, with copies to the Senior Vice President for Development and the General Counsel.

12.04 Agency Approvals.

- (a) **Sole Discretion.** Except as otherwise specified in this Agreement, any determination, consent, or approval by the City or HDC pursuant to this Agreement is in the sole discretion of the City or HDC, as applicable.
- (b) **HPD Authorized Officials.** Except as otherwise specifically provided in this Agreement, any approval by HPD pursuant to this Agreement must be made in writing (which may be sent by electronic means) by (i) HPD's Commissioner or a Deputy Commissioner, Associate Commissioner, or Assistant Commissioner in HPD's Office of Asset and Property Management or Office of Development or

their respective successor offices, or (ii) an HPD employee designated in writing by one of these HPD officials to grant the approval.

- (c) **HDC Authorized Officials.** Except as otherwise specifically provided in this Agreement, any approval by HDC pursuant to this Agreement must be made in writing (which may be sent by electronic means) by (i) HDC's President, Executive Vice President, or Senior Vice President, or (ii) an HDC employee designated in writing by one of these HDC officials to grant the approval.

12.05 Amendments.

No amendment or other modification to this Agreement is valid unless it is in recordable form and signed by all parties to this Agreement. The Owner shall record any such amendment against each tax lot that is occupied by all or any portion of the Project, in the land records for the county in which the Property is located and immediately following the date of the amendment. The parties to any amendment other than the Agency shall include in the amendment a certification that the statements of fact in Article 11 remain true as of the date of the amendment, except to the extent any such statements specifically refer to an earlier date (or, if a statement is not true as of the date of the amendment, providing a detailed explanation of the matter), and that the statements of fact in Sections 11.02-11.07 are also true as they relate to the signing and delivery of the amendment.

12.06 Severability.

If any provision of this Agreement is found to be void, voidable, or otherwise unenforceable, the provision will be deemed severed from this Agreement and of no further effect, and the remaining provisions of this Agreement will continue in effect to accomplish the intent of this Agreement to the fullest extent possible.

12.07 Claims Against Officials.

No party to this Agreement shall make any claim whatsoever against any official, agent, or employee of the City or HDC for, or on account of, anything done or omitted to be done in connection with this Agreement or any other document related to the Project.

12.08 Cooperation.

The Owner shall diligently render to the City and HDC, without additional compensation, any assistance that the City or HDC may reasonably require if (a) an action is brought against the City or HDC that relates in any way to the Project, the Property, this Agreement, or any other document related to the Project, and (b) neither the City nor HDC, on one hand, and the Owner, on the other hand, are adverse parties in the action.

12.09 Forum Selection.

- (a) **Choice of Law.** This Agreement and all other documents related to the Project are deemed to be executed in New York City and New York State, regardless of

the domicile of the Owner, and are governed by and should be construed in accordance with the laws of the State.

- (b) **Consent to Jurisdiction and Venue.** Any claim asserted by or against the City or HDC and arising under this Agreement or related to the Project or any other document concerning the Project must be heard and determined either in a federal court located in New York City or in a State court located in New York County. To realize this intent of the parties, the parties agree as follows:
- (i) If the City or HDC initiates any action against a party to this Agreement in federal court or State court, service of process may be made on the party either in person, wherever the party may be found, or by registered mail addressed to the party at its notice address under this Agreement, or to such other address as the party may provide to the City or HDC in writing.
 - (ii) With respect to any action between the City or HDC and a party to this Agreement in State court, the party expressly waives and relinquishes any rights it might otherwise have (1) to move to dismiss on grounds of forum non conveniens, (2) to remove to federal court, and (3) to move for a change of venue to a State court outside New York County.
 - (iii) With respect to any action between the City or HDC and a party to this Agreement in federal court, the party expressly waives and relinquishes any right it might otherwise have to move to transfer the action to a federal court outside New York City.
 - (iv) If a party to this Agreement other than the City or HDC commences any action against the City or HDC in a court located other than in New York City, upon request of the City or HDC, the party shall either consent to a transfer of the action to a court of competent jurisdiction located in New York City or, if the court where the action is initially brought will not or cannot transfer the action, the party shall consent to dismiss such action without prejudice and may thereafter reinstitute the action in a federal court located in New York City or in a State court located in New York County.

12.10 Indemnity.

To the fullest extent permitted by Law, the Owner shall absolutely and unconditionally defend, indemnify, and hold harmless the City, HDC, and each of their officials, employees, and agents from and against any and all claims, losses, damages, costs, or liabilities that arise out of or by reason of this Agreement, the Project, or the Property (including, but not limited to, in any proceeding or action brought or taken by the City, HDC, or the Owner). The Owner shall pay all reasonable fees and other expenses of the indemnified parties in connection with any such matter, including, but not limited to, the fees of attorneys and experts. The Owner shall pay any such amount regardless of whether a legal action is finally decided by a court. The Owner shall not be obligated to indemnify an indemnified party under this Section 12.10 to the extent that a claim, loss,

damage, cost, or liability arises from the negligence or intentional tortious act of the indemnified party. This Section 12.10 applies during and after the Restriction Period.

12.11 Provisions Required by Law.

Any provision required by Law to be inserted into this Agreement is deemed to be incorporated into this Agreement. This Agreement is to be read and enforced as though each such provision is included in this Agreement. If, through mistake, change in Law, or otherwise, any such provision is not inserted, or is incorrectly inserted into this Agreement, then, upon the written request of any party, all parties shall deem this Agreement to have been amended to make such insertion or correction so as to comply strictly with the Law.

12.12 Further Assurances.

The Owner shall, at the Owner's expense, promptly execute and deliver any further documents, and take any further action, as may be reasonably requested by the Agency to ensure that the Owner and the Project comply with this Agreement.

12.13 Duplicate Originals.

This Agreement may be executed in counterparts, and together the counterparts constitute a single instrument. An executed signature page to one counterpart may be attached to another identical counterpart (excepting the signature pages) without impairing the legal effect of the signatures. Any counterpart containing the signatures of all parties to this Agreement is sufficient proof of this Agreement.

12.14 Interpretation.

- (a) **Incorporation of Recitals and Exhibits.** The recitals and all exhibits annexed to this Agreement are made a part of this Agreement for all purposes.
- (b) **As Amended.** Any reference in this Agreement to an agreement (including, but not limited to, this Agreement), document, law, regulation, requirement, or similar text means the text as may be amended, supplemented, replaced, or otherwise modified from time to time, unless the context expressly requires otherwise.
- (c) **Agreement References.** References in this Agreement to articles, sections, exhibits, or similar refer to provisions in this Agreement unless stated otherwise.
- (d) **Headings.** The titles or headings of the articles and sections of this Agreement are for reference only and are to be disregarded in construing or interpreting the provisions of this Agreement.

12.15 Joint and Several Obligations.

Each provision of this Agreement that applies in any way to the Owner (including, but not limited to, any obligation of the Owner or any waiver of rights by the Owner) applies in full measure, individually, to each party to this Agreement that is included in the

definition of "Owner". Each representation, warranty, or other statement of fact made by the Owner, any such party to this Agreement, any entity or individual that owns a direct or indirect interest in the party at any tier, any individual that is a principal, officer, or director of the party or any such direct or indirect owner, or any of their respective agents or representatives, either in this Agreement or in connection with the Project, is the responsibility of every party to this Agreement included in the definition of "Owner".

12.16 No Merger.

Every provision contained in any other document related to the Owner or the Project survives this Agreement and remains in effect, and no such provision is merged with this Agreement, even though this Agreement may recite any such provision.

12.17 Other Consents.

The Owner shall obtain all consents that may be required for any matter (including, but not limited to, Property Transfers, Changes in Ownership, financing, and zoning and development rights matters), under any other agreement that is applicable to the Property, including but not limited to any financing documents. The requirements of this Agreement are in addition to, and do not supersede, any other agreement between the Owner and the Agency and applicable to the Project or the Property that may require the Owner to obtain consent prior to any such event.

12.18 Relationship of Parties.

Nothing in this Agreement creates any association, partnership, joint venture, or relationship of principal and agent or master and servant between the Agency, on the one hand, and any other parties to this Agreement (or any affiliates), on the other hand, or provides any non-Agency party with the express or implied right to create any such duty or obligation on behalf of the Agency.

12.19 Asset Management by HDC.

Each provision of this Agreement that applies in any way to the Agency inures to the benefit of, and may be enforced in full measure by, HDC and HPD individually. Where this Agreement requires a consent from the Agency, or any similar matter, the determination will be made solely by HDC, unless (a) HPD's intention to make the determination in addition to HDC is expressly stated in this Agreement, or (b) HPD has given prior written notice to the Owner of its intention to make the determination in addition to HDC.

[Continues on next page]

ARTICLE 13
INVESTIGATIONS

13.01 Definitions.

- (a) The terms "**license**" and "**permit**," as used in this Article 13, mean a license, permit, franchise, or concession not granted as a matter of right.
- (b) The term "**person**," as used in this Article 13, means any natural person doing business alone or associated with another person or entity as a partner, director, officer, principal, or employee.
- (c) The term "**entity**," as used in this Article 13, means any firm, partnership, corporation, association, or person that receives money, benefits, licenses, leases, or permits from or through the City or otherwise transacts business with the City.
- (d) The term "**member**," as used in this Article 13, means any person associated with another person or entity as a partner, director, officer, principal, or employee.

13.02 Cooperation.

The parties to this Agreement shall cooperate fully and faithfully with any investigation, audit, or inquiry conducted by a State or City governmental agency or authority that is empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath, or conducted by the Inspector General of a governmental agency that is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license that is the subject of the investigation, audit, or inquiry.

13.03 Refusal to Testify.

If (a) any person who has been advised that a statement made by the person, and any information from such statement, will not be used against the person in any subsequent criminal proceeding refuses to testify before a grand jury or other governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath concerning the award of or performance under any transaction, agreement, lease, permit, contract, or license entered into with the City, the State, or any political subdivision or public authority of the City or the State, or the Port Authority of New York and New Jersey, or any local development corporation within the City, or any public benefit corporation organized under the laws of the State, or (b) any person refuses to testify for a reason other than the assertion of a privilege against self-incrimination in an investigation, audit or inquiry conducted by a City or State governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to take testimony under oath, or by the Inspector General of the governmental agency that is a party in interest in, and is seeking testimony

concerning the award of, or performance under, any transaction, agreement, lease, permit, contract, or license entered into with the City, the State, or any political subdivision of the City or State or any local development corporation within the City, then, the commissioner or agency head whose agency is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license shall convene a hearing, upon not less than five days' written notice, to the parties involved to determine if any penalties should attach for the failure of a person to testify.

13.04 Adjournments.

If any non-governmental party to the hearing requests an adjournment, the commissioner or agency head who convened the hearing may, upon granting the adjournment, suspend any contract, lease, permit, or license pending the final determination, without the City incurring any penalty or damages for delay or otherwise.

13.05 Penalties.

The penalties that may attach after a final determination by the commissioner or agency head may include, but are not permitted to exceed:

- (a) **Disqualification.** The disqualification for a period not to exceed five years from the date of an adverse determination for any person, or any entity of which such person was a member at the time the testimony was sought, from submitting bids for, or transacting business with, or entering into or obtaining any contract, lease, permit, or license with or from the City; and/or
- (b) **Cancellation.** The cancellation or termination of any and all such existing City contracts, leases, permits, or licenses that the refusal to testify concerns and that have not been assigned as permitted under this Agreement, nor the proceeds of which pledged, to an unaffiliated and unrelated institutional lender for fair value prior to the issuance of the notice scheduling the hearing, without the City incurring any penalty or damages on account of such cancellation or termination; the City shall pay any money lawfully due for goods delivered, work done, rentals, or fees accrued prior to the cancellation or termination.

13.06 Factors.

The commissioner or agency head shall consider and address in reaching a determination and in assessing an appropriate penalty the factors in Sections 13.06(a) and 13.06(b). The commissioner or agency head may also consider, if relevant and appropriate, the criteria established in Sections 13.06(c) and 13.06(d) in addition to any other information which may be relevant and appropriate.

- (a) **Good Faith Efforts.** The party's good faith endeavors or lack thereof to cooperate fully and faithfully with any governmental investigation or audit, including, but not limited to, the discipline, discharge, or disassociation of any person failing to testify, the production of accurate and complete books and records, and the forthcoming testimony of all other members, agents, assignees, or fiduciaries whose testimony is sought.

- (b) **Relationship to the Entity.** The relationship of the person who refused to testify to any entity that is a party to the hearing, including, but not limited to, whether the person whose testimony is sought has an ownership interest in the entity and/or the degree of authority and responsibility the person has within the entity.
- (c) **Nexus.** The nexus of the testimony sought to the subject and its contracts, leases, permits, or licenses with the City.
- (d) **Effect of a Penalty.** The effect a penalty may have on an unaffiliated and unrelated party or entity that has a significant interest in an entity subject to penalties under Section 13.05, provided that the party or entity has given actual notice to the Commissioner or agency head upon the acquisition of the interest, or at the hearing called for in Section 13.03 gives notice and proves that such interest was previously acquired. Under either circumstance, the party or entity shall present evidence at the hearing demonstrating the potential adverse impact a penalty would have on such person or entity.

13.07 Warranties and Enforcement.

- (a) **City Employees.** The parties to this Agreement represent and warrant that to the best of their knowledge, (i) no officer, agent, employee, or representative of the City has received any payment or other consideration for the making of this Agreement or in connection with the performance of this Agreement, and (ii) no officer, agent, employee, or representative of the City has any interest, directly or indirectly, in this Agreement or the proceeds of this Agreement. The parties to this Agreement shall not hereafter make or pay any consideration as aforesaid and shall cooperate fully with the Commissioner of Investigation of the City and shall promptly report in writing any solicitation of money, goods, requests for future employment, or other benefit or thing of value, by or on behalf of any employee of the City or other person, firm, corporation, or entity for any purpose that may be related to the procurement or obtaining of this Agreement by the parties or affecting the performance of this Agreement.
- (b) **Enforcement.** In the event of a violation of Section 13.07(a), the Commissioner of HPD may convene a hearing pursuant to Section 13.03 and, upon such hearing, make a determination, in accordance with the considerations set forth in Section 13.06, as to whether or not a violation has occurred. The penalties imposed may include but are not permitted to exceed the penalties set forth in Section 13.05(a).

[Signatures follow]

The parties are signing this Agreement as of the date stated in the preamble to this Agreement.

1510 BROADWAY LLC,
a New York limited liability company

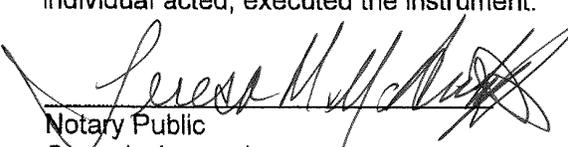
By: 1510 Broadway Managers LLC,
a New York limited liability company,
its Managing Member

By: MacQuesten Broadway Partners LLC,
a New York limited liability company,
its Managing Member

By: 
Name: Rella Fogliano
Title: Manager

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

On the 15th day of June, 2022, before me, the undersigned, a notary public in and for said state, personally appeared **RELLA FOGLIANO**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

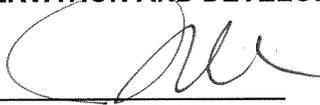

Notary Public

Commission expires:

TERESA M MCAULIFFE
Notary Public - State of New York
NO. 01MC6065626
Qualified in Westchester County
My Commission Expires Oct 22, 2025

THE CITY OF NEW YORK

By: DEPARTMENT OF HOUSING
PRESERVATION AND DEVELOPMENT

By: 
Name: Brendan McBride
Title: Associate Commissioner

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On the 14th day of June, 2022, before me, the undersigned, a notary public in and for said state, personally appeared **Brendan McBride**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.



Notary Public
Commission expires:

TOMMY WU
Notary Public, State of New York
No. 02WU6241603
Qualified in Kings County
Commission Expires May 23, 2023

APPROVED AS TO FORM
BY STANDARD TYPE OF CLASS
FOR USE UNTIL November 18, 2022:

By: /s/ Isabel Galis-Menendez
Acting Corporation Counsel

**1510 BROADWAY HOUSING DEVELOPMENT
FUND COMPANY, INC.**

By: 
Name: Sherry D. Roberts
Title: Secretary/Treasurer

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On the 14th day of June, 2022, before me, the undersigned, a notary public in and for said state, personally appeared **SHERRY D. ROBERTS**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.



Notary Public
Commission expires:

JONATHAN S. WONG
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 02WO6400213
Qualified in New York County
Commission Expires : 11/12/2023

EXHIBIT A

PROPERTY DESCRIPTION

All those certain plots, pieces, and parcels of land, with the buildings and improvements thereon erected, situate, lying, and being in the City and State of New York, designated on the Tax Map of the City of New York:

Borough: Brooklyn

Block: 1489

Lot: 11

Address: 1510 Broadway, Brooklyn, New York 11221

EXHIBIT B
PROJECT DETAILS

Project

| | | |
|---|--|----|
| Name | 1510 Broadway | |
| Agency Program | ELLA | |
| Address | 1510 Broadway Brooklyn, New York, 11221 | |
| Borough, Block, and Lot | Brooklyn Block 1489, Lot 11 | |
| Building Identification Number | 3039905 | |
| Sponsor | MacQuesten Development, LLC | |
| Number of Units (excluding Superintendent Units) | 107 | |
| | Studio | 9 |
| | 1-Bedroom | 45 |
| | 2-Bedroom | 40 |
| | 3-Bedroom | 13 |
| Superintendent Units | 1 two-bedroom Unit | |
| Summary of Occupancy Restrictions (See individual tables that follow in Exhibit B for apartment-size distributions, rent limits, and other restrictions.) | 10 40% of AMI Units (Homeless Our Space) 7 40% of AMI Units (Homeless Our Space-Permanently Affordable) 1 30% of AMI Unit 9 30% of AMI Units (MIH) 13 50% of AMI Units 14 50% of AMI Units (MIH) 3 60% of AMI Units 5 60% of AMI Units (MIH) 35 80% of AMI Units 10 80% of AMI Units (Permanently Affordable) 107 LIHTC Units | |
| Non-Residential Space | Approximately 9,970 gross square feet of commercial space | |

| | |
|--|---|
| <p>Initial Managing Agent</p> <p>(Acknowledged by the Agency as of the date of this Agreement only. Any change to the Managing Agent requires Agency consent per Section 6.07. The Agency may also require a replacement per Section 6.07.)</p> | <p>Spring Leasing and Management LLC Sharon Smith 77 Cuttermill Road Great Neck, NY 11021 Phone: 516-665-0015</p> |
| <p>Management Fee Limit</p> | <p>6.5% of the Project's net rent collection, which includes all amounts actually collected with respect to the Units as rent, rental subsidies, or other payments.</p> |
| <p>LIHTC Syndicator or Investor Parent Entity</p> | <p>CREA LLC</p> |
| <p>Applicable Fraction</p> | <p>100%</p> |
| <p>Minimum Set-Aside (HDC Obligations)</p> | <p>25% at 60% of AMI</p> |

Restriction Period

| | |
|--|--|
| <p>Agency Program Termination Date</p> <p>(This Agreement may remain in effect beyond this date; see Section 2.01.)</p> | <p>60 years from the Permanent Loan Conversion.</p> |
| <p>Extended Use Period</p> <p>(This Agreement may remain in effect beyond this date; see Section 2.01.)</p> | <p>60 years from the beginning of the compliance period (as defined in Section 42(i)(1) of the Internal Revenue Code), or any earlier date on which the Extended Use Period terminates upon a foreclosure or deed in lieu of foreclosure pursuant to Section 42 of the Internal Revenue Code</p> |

30% of AMI Units

| Income Limit | | 30% of AMI | |
|-----------------------------|------------------------|----------------------------|----------------------------|
| Maximum Program Rent | | 30% of AMI | |
| Other Restrictions | | N/A | |
| Unit Size | Number of Units | Initial Legal Rent | Initial Actual Rent |
| Studio | 0 | \$1,916 (100% of 2022 AMI) | \$454 (27% of 2022 AMI) |
| 1-Bedroom | 1 | \$2,404 (100% of 2022 AMI) | \$577 (27% of 2022 AMI) |
| 2-Bedroom | 0 | \$2,872 (100% of 2022 AMI) | \$680 (27% of 2022 AMI) |
| 3-Bedroom | 0 | \$3,308 (100% of 2022 AMI) | \$774 (27% of 2022 AMI) |
| Total | 1 | | |

30% of AMI Units (Mandatory Inclusionary Housing)

| Income Limit | | 30% of AMI | |
|-----------------------------|------------------------|--------------------------------|----------------------------|
| Maximum Program Rent | | 30% of AMI | |
| Other Restrictions | | Mandatory Inclusionary Housing | |
| Unit Size | Number of Units | Initial Legal Rent | Initial Actual Rent |
| Studio | 2 | \$514 (30% of 2022 AMI) | \$454 (27% of 2022 AMI) |
| 1-Bedroom | 3 | \$652 (30% of 2022 AMI) | \$577 (27% of 2022 AMI) |
| 2-Bedroom | 3 | \$770 (30% of 2022 AMI) | \$680 (27% of 2022 AMI) |
| 3-Bedroom | 1 | \$878 (30% of 2022 AMI) | \$774 (27% of 2022 AMI) |
| Total | 9 | | |

50% of AMI Units

| Income Limit | | 50% of AMI | |
|-----------------------------|------------------------|----------------------------|----------------------------|
| Maximum Program Rent | | 50% of AMI | |
| Other Restrictions | | N/A | |
| Unit Size | Number of Units | Initial Legal Rent | Initial Actual Rent |
| Studio | 1 | \$1,916 (100% of 2022 AMI) | \$855 (47% of 2022 AMI) |
| 1-Bedroom | 7 | \$2,404 (100% of 2022 AMI) | \$1,078 (47% of 2022 AMI) |
| 2-Bedroom | 3 | \$2,872 (100% of 2022 AMI) | \$1,281 (47% of 2022 AMI) |
| 3-Bedroom | 02 | \$3,306 (100% of 2022 AMI) | \$1,468 (47% of 2022 AMI) |
| Total | 13 | | |

50% of AMI Units (Mandatory Inclusionary Housing)

| Income Limit | | 50% of AMI | |
|-----------------------------|------------------------|--------------------------------|----------------------------|
| Maximum Program Rent | | 50% of AMI | |
| Other Restrictions | | Mandatory Inclusionary Housing | |
| Unit Size | Number of Units | Initial Legal Rent | Initial Actual Rent |
| Studio | 1 | \$915 (50% of 2022 AMI) | \$855 (47% of 2022 AMI) |
| 1-Bedroom | 5 | \$1,153 (50% of 2022 AMI) | \$1,078 (47% of 2022 AMI) |
| 2-Bedroom | 7 | \$1,371 (50% of 2022 AMI) | \$1,281 (47% of 2022 AMI) |
| 3-Bedroom | 1 | \$1,572 (50% of 2022 AMI) | \$1,468 (47% of 2022 AMI) |
| Total | 14 | | |

60% of AMI Units

| Income Limit | | 60% of AMI | |
|-----------------------------|------------------------|----------------------------|----------------------------|
| Maximum Program Rent | | 60% of AMI | |
| Other Restrictions | | N/A | |
| Unit Size | Number of Units | Initial Legal Rent | Initial Actual Rent |
| Studio | 0 | \$1,916 (100% of 2022 AMI) | \$1,055 (57% of 2022 AMI) |
| 1-Bedroom | 1 | \$2,404 (100% of 2022 AMI) | \$1,328 (57% of 2022 AMI) |
| 2-Bedroom | 2 | \$2,872 (100% of 2022 AMI) | \$1,581 (57% of 2022 AMI) |
| 3-Bedroom | 0 | \$3,306 (100% of 2022 AMI) | \$1,815 (57% of 2022 AMI) |
| Total | 3 | | |

60% of AMI Units (Mandatory Inclusionary Housing)

| Income Limit | | 60% of AMI | |
|-----------------------------|------------------------|--------------------------------|----------------------------|
| Maximum Program Rent | | 60% of AMI | |
| Other Restrictions | | Mandatory Inclusionary Housing | |
| Unit Size | Number of Units | Initial Legal Rent | Initial Actual Rent |
| Studio | 0 | \$1,115 (60% of 2022 AMI) | \$1,055 (57% of 2022 AMI) |
| 1-Bedroom | 3 | \$1,403 (60% of 2022 AMI) | \$1,328 (57% of 2022 AMI) |
| 2-Bedroom | 1 | \$1,671 (60% of 2022 AMI) | \$1,581 (57% of 2022 AMI) |
| 3-Bedroom | 1 | \$1,920 (60% of 2022 AMI) | \$1,815 (57% of 2022 AMI) |
| Total | 5 | | |

80% of AMI Units

| Income Limit | | 80% of AMI | |
|-----------------------------|------------------------|----------------------------|----------------------------|
| Maximum Program Rent | | 80% of AMI | |
| Other Restrictions | | N/A | |
| Unit Size | Number of Units | Initial Legal Rent | Initial Actual Rent |
| Studio | 1 | \$1,916 (100% of 2022 AMI) | \$1,455 (77% of 2022 AMI) |
| 1-Bedroom | 15 | \$2,404 (100% of 2022 AMI) | \$1,828 (77% of 2022 AMI) |
| 2-Bedroom | 16 | \$2,872 (100% of 2022 AMI) | \$2,181 (77% of 2022 AMI) |
| 3-Bedroom | 3 | \$3,306 (100% of 2022 AMI) | \$2,508 (77% of 2022 AMI) |
| Total | 35 | | |

80% of AMI Units (Permanently Affordable)

| Income Limit | | 80% of AMI | |
|-----------------------------|------------------------|----------------------------|----------------------------|
| Maximum Program Rent | | 80% of AMI | |
| Other Restrictions | | Permanently Affordable | |
| Unit Size | Number of Units | Initial Legal Rent | Initial Actual Rent |
| Studio | 2 | \$1,916 (100% of 2022 AMI) | \$1,455 (77% of 2022 AMI) |
| 1-Bedroom | 3 | \$2,404 (100% of 2022 AMI) | \$1,828 (77% of 2022 AMI) |
| 2-Bedroom | 2 | \$2,872 (100% of 2022 AMI) | \$2,181 (77% of 2022 AMI) |
| 3-Bedroom | 3 | \$3,306 (100% of 2022 AMI) | \$2,508 (77% of 2022 AMI) |
| Total | 10 | | |

40% of AMI Units (Homeless Units) (Our Space)

| Income Limit | | 40% of AMI | |
|-----------------------------|------------------------|--|--|
| Maximum Program Rent | | 30% of AMI (and upon vacancy, the least of (i) 30% of AMI, (ii) the Income-Based Rent (but not less than the amount given below as the floor for the Income-Based Rent in the Initial Actual Rent for each apartment size), or (iii) if received by the Tenant, Shelter Allowance) | |
| Other Restrictions | | Homeless Units (Our Space Program) | |
| Unit Size | Number of Units | Initial Legal Rent | Initial Actual Rent |
| Studio | 0 | \$1,916 (100% of 2022 AMI) | Least of (i) 30% of AMI, (ii) the Income-Based Rent (but not less than \$215), or (iii) if received by the Tenant, the Shelter Allowance |
| 1-Bedroom | 5 | \$2,404 (100% of 2022 AMI) | Least of (i) 30% of AMI, (ii) the Income-Based Rent (but not less than \$283), or (iii) if received by the Tenant, the Shelter Allowance |
| 2-Bedroom | 4 | \$2,872 (100% of 2022 AMI) | Least of (i) 30% of AMI, (ii) the Income-Based Rent (but not less than \$425), or (iii) if received by the Tenant, the Shelter Allowance |
| 3-Bedroom | 1 | \$3,306 (100% of 2022 AMI) | Least of (i) 30% of AMI, (ii) the Income-Based Rent (but not less than \$512), or (iii) if received by the Tenant, the Shelter Allowance |
| Total | 10 | | |

40% of AMI Units (Homeless Units) (Our Space) (Permanently Affordable)

| Income Limit | | 40% of AMI | |
|-----------------------------|------------------------|--|--|
| Maximum Program Rent | | 30% of AMI (and upon vacancy, the least of (i) 30% of AMI, (ii) the Income-Based Rent (but not less than the amount given below as the floor for the Income-Based Rent in the Initial Actual Rent for each apartment size), or (iii) if received by the Tenant, Shelter Allowance) | |
| Other Restrictions | | Homeless Units (Our Space Program) (Permanently Affordable) | |
| Unit Size | Number of Units | Initial Legal Rent | Initial Actual Rent |
| Studio | 2 | \$1,916 (100% of 2022 AMI) | Least of (i) 30% of AMI, (ii) the Income-Based Rent (but not less than \$215), or (iii) if received by the Tenant, the Shelter Allowance |
| 1-Bedroom | 2 | \$2,404 (100% of 2022 AMI) | Least of (i) 30% of AMI, (ii) the Income-Based Rent (but not less than \$283), or (iii) if received by the Tenant, the Shelter Allowance |
| 2-Bedroom | 2 | \$2,872 (100% of 2022 AMI) | Least of (i) 30% of AMI, (ii) the Income-Based Rent (but not less than \$425), or (iii) if received by the Tenant, the Shelter Allowance |
| 3-Bedroom | 1 | \$3,306 (100% of 2022 AMI) | Least of (i) 30% of AMI, (ii) the Income-Based Rent (but not less than \$512), or (iii) if received by the Tenant, the Shelter Allowance |
| Total | 7 | | |

Other Rent Matters

| | |
|---------------------------|---|
| Utility Allowances | Tenant pays electric only, with an electric stove |
|---------------------------|---|

Reserves

| | |
|---|---|
| Replacement Reserve Contributions | Monthly payments of \$3,150 (\$350 per unit divided by 12) (the then-applicable monthly contribution will be increased each year by 3%, beginning on the first day of the first month following the Permanent Loan Conversion) |
| Initial Operating Reserve Contribution | \$899,771 at the Permanent Loan Conversion |
| Social Services Reserve | <p>\$176,500 at the Permanent Loan Conversion</p> <p>The Owner may deduct from this deposit any amount previously advanced to the Owner prior to the Permanent Loan Conversion and under the social services reserve line item in the Project's development budget in order to implement an Agency-approved social services plan and to furnish the Homeless Units. The Owner shall not take any deduction, however, for amounts advanced to implement the social services plan exceeding \$127,500 and amounts advanced to furnish Homeless Units exceeding \$49,000.</p> <p>Within 90 days of the first anniversary of the Permanent Conversion, and annually thereafter, the Owner shall deposit into the Social Services Reserve the amount by which the rent collected from the Homeless Units exceeds the amount of rent that would have been collected were monthly rents set at \$215 for a studio, \$283 for a 1-bedroom, \$425 for a 2-bedroom and \$512 for a 3-bedroom (as such amounts may be increased annually by 2%). If the Social Services Reserve balance exceeds \$15,000 per Homeless Unit, the Owner shall use such excess to repay the subordinate HPD Financing or HDC Financing, as directed by the Agency. The reserve statements required by Section 9.01(d) must include a certification of the calculations for determining the deposit required by this paragraph.</p> <p>The Owner may request a withdrawal from the Social Services Reserve to pay for the cost of implementing an Agency-approved social services plan, or otherwise as approved in writing by the Agency.</p> |
| Lease-Up Reserve | N/A |
| Our Space Rental Subsidy Fund | N/A |
| Servicer of Reserves | HDC |

Permitted Transfers and Mortgages

| | |
|---|--|
| <p>Permitted Property Transfers and Changes in Ownership</p> | <p>The Agency consents to the following Property Transfers or Changes in Ownership:</p> <p>Master Lease dated the date hereof between Borrower, as landlord and 1510 Broadway Commercial LLC, as tenant leasing approximately 9,970 gross square feet of commercial space.</p> |
| <p>Permitted Mortgages</p> | <p>The Agency consents to the following Permitted Mortgages:</p> <p>Those certain mortgages delivered by Owner to HDC in the aggregate principal amount of \$65,791,339 dated as of the date hereof.</p> |

Copies of Notices

| | |
|--|---|
| <p>Address for Counsel to Beneficial Owner</p> | <p>Cannon, Heyman & Weiss LLP 54 State Street, Suite 500 Albany, New York 12207 Attention: Eamon Kelleher, Esq.</p> |
| <p>Address for LIHTC Investor</p> | <p>CREA LLC 30 South Meridian Street, Suite 400 Indianapolis, Indiana 46204 Attention: Asset Manager</p> |
| <p>Address for Counsel to LIHTC Investor</p> | <p>Barnes & Thornburg LLP 41 S. High Street, Suite 3300 Columbus, OH 43215 Attention: Jordan Carr, Esq.</p> |
| <p>Address for Letter of Credit Provider (Copies to be delivered until the Permanent Loan Conversion)</p> | <p>The Bank of New York Mellon 240 Greenwich Street, 13th Floor New York, New York 10268 Attention: Clarence L. Burleigh</p> |
| <p>Address for Counsel to Letter of Credit Provider (Copies to be delivered until the Permanent Loan Conversion)</p> | <p>Emmet, Marvin & Martin 120 Broadway, 32nd Floor New York, New York 10271 Attention: Julian McQuiston, Esq.</p> |

EXHIBIT C

FORM OF MEMORANDUM OF REGULATORY AGREEMENT

This **MEMORANDUM OF REGULATORY AGREEMENT** is made as of _____, 20____, by: _____ ("Owner"), a _____ having an address at _____.

1. The Owner is owner of the premises located in _____ County, City and State of New York, known as and by the street address _____, and identified as Block _____, Lot _____ on the Tax Map of the City of New York ("**Property**"), as more particularly described in Exhibit A attached to this Memorandum and made a part of this Memorandum.
2. The Owner has agreed for and on behalf of itself, its successors, assigns, heirs, grantees, and lessees to comply with the Affordable Housing Regulatory Agreement ("**Regulatory Agreement**") dated as of _____, 20____, by and between the Owner and certain other parties to the Regulatory Agreement.
3. The Regulatory Agreement was recorded in the land records on _____, 20____, at _____.
4. The Regulatory Agreement runs with the land that constitutes the Property in accordance with the terms of the Regulatory Agreement.
5. The provisions of the Regulatory Agreement are incorporated by reference into this Memorandum. This Memorandum is intended to provide constructive notice of the Regulatory Agreement and in no way modifies or amends the Regulatory Agreement. If this Memorandum conflicts with the Regulatory Agreement, the terms of the Regulatory Agreement control.

This Memorandum has been signed as of the date first set forth above.

[Attach signature pages and Exhibit A to completed Memorandum.]

EXHIBIT D

[ENVIRONMENTAL REQUIREMENTS]

[Follows]



LOUISE CARROLL
Commissioner
ELIZABETH OAKLEY
Deputy Commissioner
RONA REODICA
Assistant Commissioner

Office of Development
Building & Land Development
Services
100 Gold Street
New York, N.Y. 10038

REVISED NEGATIVE DECLARATION
Supersedes Negative Declaration Dated October 7, 2019

Project Identification: 1510 Broadway
Location: 1510 Broadway, 17 Saratoga Avenue
(Block 1489, Lot 11; Block 1489, Lot 1)
CEQR No. 19HPD057K
SEQRA Classification: Unlisted

Name and Description of Proposed Action
1510 Broadway:

The proposal involves a request from HPD (the “Applicant”) on behalf of the project sponsor, MacQuesten Construction Management, LLC, for several actions (the “Proposed Actions”) subject to City Planning Commission (“CPC”) approval, including disposition of City-owned property to the project sponsor, designation of an Urban Development Action Area and approval of an Urban Development Action Area Project (“UDAAP”), acquisition of city-owned property, a zoning map amendment, and a zoning text amendment. These actions would facilitate the development of a new mixed-use affordable housing building (the “Proposed Development”) in the Ocean Hill neighborhood of Brooklyn, Community District 16. In addition to the above actions, the project sponsor would seek construction financing through HPD’s Extremely Low Income and Low Affordability (ELLA) Program at a later date.

The City-owned Development Site measures approximately 21,312 square feet (sf) in area and is comprised of one tax lot situated at 1510 Broadway, on the block bounded by Jefferson Avenue to the north, Broadway to the east, Hancock Street to the south, and Saratoga Avenue to the east (Block 1489, Lot 11). The Development Site is currently vacant. The project sponsor will set aside space along Broadway on the southeast corner of the Development Site for the MTA to install an elevator for the adjacent Halsey Street station on the J Train.

Under the proposal, the Development Site would be conveyed to the project sponsor and redeveloped with a new 8-story (approximately 85 ft. tall) mixed-use building containing approximately 107 units of affordable housing (plus one superintendent unit for a total of 108 units), as well as approximately 10,645 gross-square-feet (gsf) of commercial space on the ground floor.

According to the Environmental Assessment Statement, the Proposed Development would be implemented in a single phase and is expected to be completed and operational in 2021. Absent the requested funding, it is expected that the site would remain vacant.

The Proposed Project would be implemented in conformance with the following provisions in order to ensure that there are no significant adverse impacts. The provisions are as follows:

Hazardous Materials:

Several recognized environmental conditions (RECs) were identified in the March 2017 Phase I Environmental Site Assessments prepared for the Development Site (Block 1489, Lot 11). The Phase I ESA identified the following RECs:

- Historical usage of the site as a dry cleaner and unspecified manufacturing. These historical uses are likely to have been associated with the storage and / or use of hazardous substances and / or petroleum products.
- Historical development on the site of commercial and residential structures. The buildings on the site dating to before 1888 were demolished by 1985. Buried demolition debris associated with former buildings may be present at the site.
- Industrial, automotive, and dry cleaning uses were also noted in the surrounding area, including garages with gasoline tanks south/west adjacent to the site on the 1932 Sanborn map and approximately 75 feet south of the property and approximately 195 feet southwest of the property on the 1962 Sanborn map depiction. Potential auto repair was identified in the City Directories on the eastern-adjacent blocks from 1965 to 1985. Substations were identified on the south- and northwest-adjacent blocks from 1908 to 2006 and 1976 to 2007 maps, respectively. A chemical bleach bottling facility was noted approximately 250 feet south-southwest of the site on maps from 1965 to 1979. Nearby petroleum bulk storage, spills and RCRA hazardous waste generators with limited potential to affect the site's subsurface was identified in the regulatory database search.

The Development Site and proposed development have entered into the New York State Department of Environmental Conservation's (NYSDEC) Brownfield Cleanup Program (BCP). Contamination identified on the site above regulatory standards will be addressed under a RAP and CHASP to be prepared and implemented by the applicant, in accordance with the NYSDEC BCP.

To preclude the potential for significant adverse impacts related to hazardous materials on Lot 1, an (E) designation would be placed on this property in connection with the zoning map amendment to ensure there would be no significant adverse impacts associated with hazardous materials for Block 1489, Lot 1. The (E) designation in connection with the Proposed Actions indicates the presence of an environmental requirement which must be satisfied at OER prior to issuance of any building permits from the Department of Buildings. The (E) designation number is E-536. The hazardous materials text for the (E) designation [E-536] for Lot 1 is as follows:

Block 1489, Lot 1

An (E) designation would be placed on Block 1489, Lot 1 in connection with the zoning map amendment to ensure there would be no significant adverse impacts associated with hazardous materials. The (E) designation program is administered by the New York City Mayor's Office of Environmental Remediation (OER). The (E) designation mapped on



Block 1489, Lot 1 in connection with the Proposed Actions indicates the presence of an environmental requirement which must be satisfied at OER prior to issuance of any building permits from the Department of Buildings.

The hazardous materials text for the (E) designation to be placed on Block 1489, Lot 1 is as follows:

Task 1 – Sampling Protocol

Prior to construction, the Applicant submits to OER, for review and approval, a Phase II Investigation protocol, including a description of methods and a site map with all sampling locations clearly and precisely represented.

No sampling should begin until written approval of a protocol is received from OER. The number and location of sample sites should be selected to adequately characterize the site, the specific source of suspected contamination (i.e., petroleum based contamination and non-petroleum-based contamination), and the remainder of the site's condition. The characterization should be complete enough to determine what remediation strategy (if any) is necessary after review of the sampling data. Guidelines and criteria for selecting sampling locations and collecting samples are provided by OER upon request.

Task 2 – Remediation and Protocol

A written report with findings and a summary of the data must be submitted to OER after completion of the testing phase and laboratory analysis for review and approval. After receiving such results, a determination is made by OER if the results indicate that remediation is necessary. If OER determines that no remediation is necessary, written notice shall be given by OER.

With this (E) designation in place, no significant adverse impacts related to hazardous materials are expected.

Noise:

A noise assessment pursuant to CEQR requirements was conducted for the Proposed Development, with noise readings taken at the Development Site's frontages along Broadway, Saratoga Avenue, and at the intersection of Saratoga Avenue. According to the noise exposure guidelines in the 2014 CEQR Technical Manual, With-action L10 sound levels are considered "Marginally Unacceptable" on all facades because they are between 70 and 80 dBA.

Based on these results, the EAS concludes that the facade of the Proposed Development facing Broadway will require a minimum of 33 dBA of window-wall attenuation for residential uses, with commercial uses on the Broadway façade allowed to provide 5 dBA less window-wall attenuation than the residential requirements. A minimum of 31 dBA of window-wall attenuation at receptors on the Saratoga Avenue and Hancock Street will be



provided. In order to maintain a closed-window condition, an alternate means of ventilation must also be provided for all residential and community facility uses along the affected facades.

Prior to the disposition of the property, release of HPD financing, and start of construction, a letter demonstrating compliance with the window-wall attenuation/alternate means of ventilation requirements outlined above, signed and sealed by the project sponsor's architect of record, would be submitted to HPD's Environmental Planning unit for review and approval. Construction in accordance with these commitments would be required through the LDA and applicable funding agreements between HPD and the project sponsor to ensure no significant adverse impacts related to noise would occur.

To preclude the potential for significant adverse impacts related to noise on Lot 1, an (E) designation would be placed on this property in connection with the zoning map amendment to ensure there would be no significant adverse impacts associated with hazardous materials for Block 1489, Lot 1. The (E) designation in connection with the Proposed Actions indicates the presence of an environmental requirement which must be satisfied at OER prior to issuance of any building permits from the Department of Buildings. The (E) designation number is E-536. The noise text for the (E) designation [E-536] for Lot 1 is as follows:

Block 1489, Lot 1

In order to ensure an acceptable interior noise environment, all future uses must provide a closed window condition with minimum attenuation of 33 dB(A) window/wall attenuation on the Broadway-facing facade, and 31 dB(A) window/wall attenuation along the Hancock Street- and Saratoga Avenue-facing facades, in order to maintain an interior noise level of 45 dB(A). In order to maintain a closed-window condition, an alternate means of ventilation must also be provided. Alternate means of ventilation includes, but is not limited to, central air conditioning.

With this (E) designation in place, no significant adverse impacts related to hazardous materials are expected.

Statement of No Significant Effect:

Pursuant to the CEQR rules adopted on June 6, 1991, Executive Order 91, HPD has completed its technical review of the EAS dated February 27, 2019 and has determined that the proposed actions will have no significant effect on the quality of the environment.

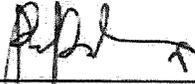
Supporting Statements:

The hazardous materials and noise measures described above would be implemented in connection with construction and/or the operation of the proposed project and would be required



through the Regulatory Agreement, Land Disposition Agreement, and applicable funding agreements between HPD and the project sponsor.

The EAS is on file with HPD and available for public review. This Negative Declaration has been prepared in accordance with Article 8 of the Environmental Conservation Law 6NYCRR Part 617.



Rona Reodica
Assistant Commissioner, Building and Land Development Services, HPD

November 21, 2019
Date

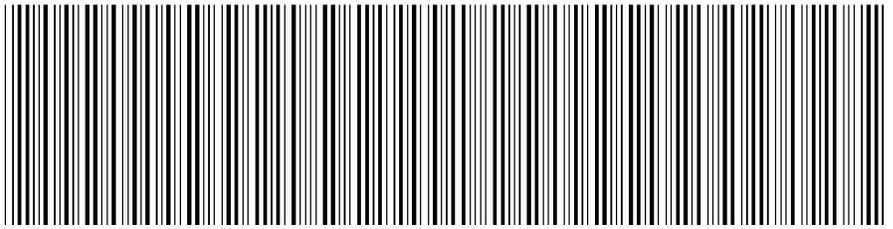
cc: E. Buchanan, L. Zeng, M. Juliana (HPD)
W. Engel, O Abinader, A. Howard (DCP)
Rella Fogliano, Joseph Apicella (MacQuesten)
J. Gallant, G. Martini (VHB)

NYC



**NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER**

This page is part of the instrument. The City Register will rely on the information provided by you on this page for purposes of indexing this instrument. The information on this page will control for indexing purposes in the event of any conflict with the rest of the document.



2022070500886002001EFC2F

RECORDING AND ENDORSEMENT COVER PAGE

PAGE 1 OF 67

Document ID: 2022070500886002

Document Date: 06-21-2022

Preparation Date: 07-06-2022

Document Type: SUNDRY AGREEMENT

Document Page Count: 65

PRESENTER:

71198863/1594782
STEWART TITLE INSURANCE COMPANY
711 WESTCHESTER AVENUE, SUITE 302
WHITE PLAINS, NY 10604
914-993-9393
NYMETRORECORDINGS@STEWART.COM

RETURN TO:

71198863/1594782
STEWART TITLE INSURANCE COMPANY
711 WESTCHESTER AVENUE, SUITE 302
WHITE PLAINS, NY 10604
914-993-9393
NYMETRORECORDINGS@STEWART.COM

PROPERTY DATA

| Borough | Block | Lot | Unit | Address |
|--|-------|-----|------------|---------------|
| BROOKLYN | 1489 | 11 | Entire Lot | 1510 BROADWAY |
| Property Type: COMMERCIAL REAL ESTATE | | | | |

CROSS REFERENCE DATA

CRFN _____ or DocumentID _____ or _____ Year _____ Reel _____ Page _____ or File Number _____

PARTIES

PARTY 1:

THE CITY OF NEW YORK
CITY HALL
NEW YORK, NY 10007

PARTY 2:

1510 BROADWAY LLC
C/O THE MACQUESTEN COMPANIES, 438 FIFTH
AVENUE, SUITE 100
PELHAM, NY 10803

Additional Parties Listed on Continuation Page

FEES AND TAXES

Mortgage :

Mortgage Amount: \$ 0.00

Taxable Mortgage Amount: \$ 0.00

Exemption:

TAXES: County (Basic): \$ 0.00

City (Additional): \$ 0.00

Spec (Additional): \$ 0.00

TASF: \$ 0.00

MTA: \$ 0.00

NYCTA: \$ 0.00

Additional MRT: \$ 0.00

TOTAL: \$ 0.00

Recording Fee: \$ 362.00

Affidavit Fee: \$ 0.00

Filing Fee:

\$ 0.00

NYC Real Property Transfer Tax:

\$ 0.00

NYS Real Estate Transfer Tax:

\$ 0.00

**RECORDED OR FILED IN THE OFFICE
OF THE CITY REGISTER OF THE**

CITY OF NEW YORK

Recorded/Filed 07-12-2022 12:05

City Register File No.(CRFN):

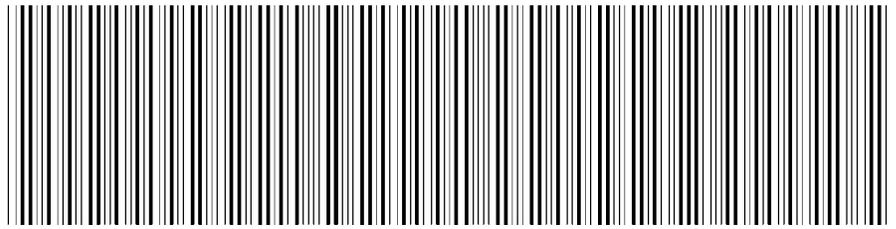
2022000275591



Annette McMill

City Register Official Signature

NYC DEPARTMENT OF FINANCE
OFFICE OF THE CITY REGISTER



2022070500886002001CFEAF

RECORDING AND ENDORSEMENT COVER PAGE (CONTINUATION)

PAGE 2 OF 67

Document ID: 2022070500886002

Document Date: 06-21-2022

Preparation Date: 07-06-2022

Document Type: SUNDRY AGREEMENT

PARTIES

PARTY 1:

1510 BROADWAY HOUSING DEVELOPMENT FUND
COMPANY, IN
C/O LOCAL DEVELOPMENT CORPORATION OF EAST
NEW YORK, 80 JAMAICA AVENUE

THIS LAND DISPOSITION AGREEMENT ("LDA"), entered into as of the 21st day of June, 2022, by and between **THE CITY OF NEW YORK**, a municipal corporation formed pursuant to the laws of the State of New York, having its principal office at City Hall, New York, New York, 10007 ("City"), acting by and through its **DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT**, having its principal office at 100 Gold Street, New York, New York 10038 ("HPD") **1510 BROADWAY HOUSING DEVELOPMENT FUND COMPANY, INC.**, a New York not-for-profit corporation formed pursuant to the Not-For-Profit Corporation Law and Article XI of the Private Housing Finance Law having its principal office at c/o Local Development Corporation of East New York, 80 Jamaica Avenue, 3rd Floor, Brooklyn, New York 11207 ("HDFC"), and **1510 BROADWAY LLC**, a New York limited liability company at c/o The MacQuesten Companies, 438 Fifth Avenue, Suite 100, Pelham, New York 10803 ("Beneficial Owner", and together with HDFC, "Sponsor").

WHEREAS, the City is the owner of certain real property, consisting of all those plots, pieces, or parcels of real property situated, lying, and being in the City and State of New York, as more particularly described in Exhibit A annexed hereto and made a part hereof ("Land"), and all buildings and improvements situated on the Land ("Improvements"); and

WHEREAS, the present condition of the Land and Improvements (collectively, "Disposition Area") tends to impair or arrest the sound growth and development of the municipality; and

WHEREAS, the City desires to encourage the redevelopment of deteriorated City-owned properties and to promote the development of affordable housing; and

WHEREAS, the Disposition Area is eligible to be conveyed pursuant to Article 16 of the General Municipal Law ("GML"); and

WHEREAS, in furtherance of the objectives of Article 16 of the GML, the City has undertaken a program for the clearance, replanning, reconstruction, and neighborhood rehabilitation of slum and blighted areas in the City; and

WHEREAS, in furtherance of such program, the City is undertaking an Urban Development Action Area Project for the development of the Disposition Area ("Project"), as such Project is more fully described in this LDA and the Regulatory Agreement ("Regulatory Agreement") between the City and Sponsor of even date herewith; and

WHEREAS, HPD has prepared the Project Summary ("Project Summary") annexed hereto as Exhibit B and made a part hereof for the redevelopment of the Disposition Area as an Urban Development Action Area Project pursuant to Section 694 of the GML; and

WHEREAS, HPD issued a request for proposals ("RFP") under its Building Opportunity: Growing the Capacity of M/WBE Affordable Housing Developers Program ("Program") for the development of the Disposition Area that, among other things, governed the selection criteria for designating a sponsor for the Disposition Area; and

WHEREAS, HPD has selected Sponsor pursuant to the RFP and has designated Sponsor as a qualified and eligible sponsor of the Project pursuant to Section 695 of the GML; and

WHEREAS, the parties contemplate that the Disposition Area will be developed with subsidy assistance pursuant to Article 16 of the GML and that Sponsor and the Project shall be subject thereby to the requirements of the GML and the Program; and

WHEREAS, on October 15, 2020, by Resolution No. 1465, a copy of which is annexed hereto as Exhibit C and made a part hereof, the Council, having held a public hearing following notice of the date, time, place, and purpose of such hearing, (i) found that the present status of the Disposition Area tends to impair or arrest the sound growth and development of the municipality and that the proposed Urban Development Action Area Project is consistent with the policy and purposes of Section 691 of the GML, (ii) designated the Disposition Area as an Urban Development Action Area pursuant to Section 693 of the GML, and (iii) approved the project as an Urban Development Action Area Project pursuant to Section 694 of the GML; and

WHEREAS, on December 2, 2021, by the document annexed hereto as Exhibit D and made a part hereof, the Mayor, having held a public hearing following notice of the date, time, place, and purpose of such hearing, (i) approved the designation of Sponsor as a qualified and eligible sponsor pursuant to Section 695 of the GML, (ii) approved the sale of the Disposition Area by the City to Sponsor pursuant to Section 695 of the GML, and (iii) approved this LDA; and

WHEREAS, Sponsor proposes to purchase the Disposition Area from the City upon the terms and conditions set forth in this LDA and to undertake the redevelopment of the Disposition Area in accordance with the Project Summary, which redevelopment shall accomplish the construction and development of the Project; and

WHEREAS, HDFC intends to enter into a declaration of interest and nominee agreement with the Beneficial Owner, effective as of the date hereof, with respect to the Project Area

NOW THEREFORE, the parties hereto, in consideration of the mutual promises and agreements contained herein, covenant and agree as follows:

ARTICLE I

CONVEYANCE

101. Purchase and Sale. The City shall sell and convey the Disposition Area to HDFC. HDFC shall purchase and receive conveyance of the Disposition Area from the City.
102. Purchase Price. The price for the sale of the Disposition Area from the City to HDFC is One Dollars (\$1) ("Disposition Price"). Upon delivery of the deed for the Disposition Area ("Deed"), HDFC shall pay the Disposition Price to the City and shall deliver one or more enforcement notes and mortgages to the City in the amount of **TWELVE MILLION NINE HUNDRED NINETY-NINE THOUSAND NINE HUNDRED NINETY-NINE DOLLARS AND ZERO CENTS (\$12,999.999.00)**, representing the difference between the Disposition Price and the appraised value of the Disposition Area, on terms and conditions satisfactory to HPD and in accordance with the terms of the Project.
103. Deed. The Deed shall include the covenants provided for in Section 13 of the Lien Law and shall be executed by HDFC (which execution shall be acknowledged).

104. Certain Conditions of Conveyance.

- A. "As Is" Condition. HDFC accepts the Disposition Area in its "as is" condition on the date ("Closing Date") of delivery of the Deed to HDFC ("Closing"). The City has not made any representations or warranties regarding the surface and subsurface condition of the Disposition Area and neither has nor had any obligation to undertake demolition, site clearance, or site preparation. The City neither represents nor warrants any facts regarding such conditions, including, but not limited to, that they will be suitable for the Project. Sponsor represents and warrants that it has inspected the Disposition Area and is fully familiar with its condition.
- B. Title. The Deed shall provide that the City conveys to Sponsor, and Sponsor accepts from the City, all right, title, and interest of the City in and to the Disposition Area, subject to, without limitation, the trust fund provisions of Section 13 of the Lien Law and all terms, covenants, and conditions of the Deed, this LDA, and the Regulatory Agreement.
- C. Additional Conditions. The Disposition Area shall also be sold and conveyed in accordance with the following:
1. Municipal Charges. The City shall be responsible for all taxes, assessments, and water and sewer rents accrued against the Disposition Area as of the day preceding the Closing Date ("Accrued Municipal Charges"). On or after the Closing Date, HPD shall (i) instruct the City's Department of Finance that such Accrued Municipal Charges are not to be collected or enforced against the Disposition Area and should be cleared from its records, and (ii) provide Sponsor with a copy of such instructions. Sponsor shall be responsible for all taxes, assessments, and water and sewer rents accruing against the Disposition Area on or after the Closing Date.
 2. Municipal Liens. The City shall endeavor to remove any municipal liens or encumbrances of record existing on the Closing Date. In the event that the City fails to remove any such municipal liens or encumbrances, the City shall not enforce such municipal liens or encumbrances against the real property and improvements comprising the Disposition Area, any authorized purchaser, or any authorized mortgagee financing the construction of the improvements upon the Disposition Area.
 3. Reserved.
 4. Transfer Taxes. Sponsor shall pay (i) the Real Property Transfer Tax imposed on the Deed pursuant to Chapter 21 of Title 11 of the Administrative Code, and (ii) the Real Estate Transfer Tax imposed on the Deed pursuant to Article 31 of the Tax Law. Sponsor shall not be entitled to any exemptions or deductions which might otherwise be available solely because the City is the grantor, unless such an exemption is specifically granted by the City in writing.

5. Recording. Sponsor shall cause all recordable documents between Sponsor and the City or any participating lender (including, without limitation, the Deed, this LDA, the Regulatory Agreement, the assignment of surplus money delivered pursuant to Section 402, any mortgage securing construction financing for the Project, and any modification, extension, consolidation, or other amendment of such mortgage) to be recorded against the Disposition Area in the Office of the City Register for the county in which the Disposition Area is located immediately following the Closing. Sponsor shall cause any building loan contract relating to the construction of the Project to be filed in the Office of the County Clerk for the county in which the Disposition Area is located immediately following the Closing. Sponsor shall pay all required fees and taxes in connection with such recording or filing, without any exemption or deduction which might otherwise be available solely because the City is the grantor.

6. Condemnation. In the event of the acquisition by the City, by condemnation or otherwise, of any part or portion of the Disposition Area lying within the bed of any street, avenue, parkway, expressway, park, public place, or catchbasin, as said street, avenue, parkway, expressway, park, public place, or catchbasin is shown on the current City Map, Sponsor and its heirs, successors, and assigns shall only be entitled as compensation for such acquisition by the City to the amount of One Dollar (\$1.00), and shall not be entitled to compensation for any buildings or structures erected thereon within the lines of the street, avenue, parkway, expressway, park, public place, or catchbasin so laid out and acquired. This covenant shall be binding upon and run with the land and shall endure until the City Map is changed so as to eliminate from within the lines of said street, avenue, parkway, expressway, park, public place, or catchbasin any part or portion of the Disposition Area.

7. Reservation of Easements. The City reserves for itself, and for the use of New York City Transit Authority ("NYCTA"), and each of their contractors, invitees, designees, successors and assigns an exclusive perpetual easement in, to, within, across, through and upon the portions of the Disposition Area described in Exhibit G and made a part hereof (the "Easement Area") for the purposes of constructing, installing, operating, maintaining, inspecting, repairing, altering and/or replacing an elevator (such elevator and related and appurtenant equipment and improvements, collectively, "Elevator Infrastructure") to serve the subway line at the Halsey Street station including passenger and employee use thereof (the "Easement"). Sponsor acknowledges that contemporaneously herewith, the Easement and the City's rights in and to the Easement and the Easement Area are being indentured by the City to NYCTA under that certain agreement of lease dated June 1, 1953 (as amended, supplemented, renewed and extended, the "Master Lease") pursuant to which NYCTA operates the New York City transit system (the "Subway"), for the purpose of constructing and installing the aforesaid

elevator Subway entrance and the Elevator Infrastructure. If requested by the City, Sponsor, on its own behalf and on behalf of its successors and assigns, agrees to provide non-exclusive access over, across and through portions of the Disposition Area which is necessary to access the Easement Area or Elevator Infrastructure for the stated purpose of the Easement, which access may be memorialized in a separate agreement, and during the term of the Master Lease such access from Sponsor may be pursuant to a certain Use and Access Agreement with, among others, NYCTA regarding construction of the Elevator Infrastructure and NYCTA's use of, and access to, the Easement and Easement Area, which Use and Access Agreement will be recorded with the Office of the Register of the City of New York, Kings County.

105. Financing

- A. Holder. As used in this LDA, "Holder" shall mean an entity which holds a recorded mortgage on the Disposition Area to secure construction or permanent financing of the Construction (as defined in Section 201) and which either has been approved in writing by HPD or is (i) the New York City Housing Development Corporation ("HDC"), (ii) the Community Preservation Corporation, (iii) a local, state, or federal agency, or (iv) a financial institution (including, but not limited to, a savings bank, commercial bank, life insurance company, public real estate investment company, or pension fund) with assets in excess of Five Hundred Million Dollars (\$500,000,000) whose loans are subject to regulation by a state or federal agency.
- B. Loan Documents. Sponsor will obtain mortgage loan financing to develop the Project from (i) HPD, (ii) one or more Holders, or (iii) HPD and one or more Holders. In connection with such financing, HDFC and/or Beneficial Owner and the lender will execute one or more notes, mortgages, and related agreements or instruments (collectively, "Loan Documents").

106. Project Documents. The Project shall be governed by this LDA, the Deed, the Regulatory Agreement, the Loan Documents, and any other agreement between Sponsor and the City (collectively, "Project Documents").

107. Mennonite Claims.

- A. Indemnification. The City shall indemnify, if necessary, Sponsor, Sponsor's successors and assigns, any Holders, subsequent mortgagees of the Disposition Area, and title insurance companies providing mortgagee or fee insurance against any claims of interest in the Disposition Area, or any portion thereof, by the holders of any mortgages of record against the Disposition Area, or any portion thereof, at the time the City acquired title.
- B. Defense. If any actions or proceedings are commenced to foreclose, enforce or compel payment of any claims of interest in the Disposition Area, or any portion thereof, by any former mortgagees of the Disposition Area, or any portion thereof, the City shall defend such actions or proceedings. Sponsor shall

cooperate fully in the defense of any such actions or proceedings at no cost to the City for such cooperation. If Sponsor is ordered by a court of competent jurisdiction, after the exhaustion of all appeals, to satisfy said claims, then the City shall pay the amounts which such court has so ordered to be paid to satisfy said claims in accordance with said Court's order.

- C. Limitation. Except as set forth herein, the indemnified parties shall have no further right, recourse, or remedy against the City or HPD with respect to any action or proceeding brought to foreclose, enforce, or compel payment of said claims.

ARTICLE II

SPONSOR'S OBLIGATIONS

201. Construction.

- A. Construction. Sponsor shall construct one multiple dwelling ("Multiple Dwelling") on the Disposition Area in accordance with the terms hereof. Construction of the Project ("Construction") shall commence within the time specified in the Loan Documents, but in no event later than two (2) months from the Closing Date ("Commencement Date"). Construction shall be in accordance with the plans and specifications previously approved for the Project by HPD ("Approved Plans") and shall proceed diligently to completion within the time specified in the Loan Documents ("Completion Deadline"). If a Holder extends such time for completion with written notice to HPD and Sponsor, the Completion Deadline shall be likewise extended; provided, however, that such extension shall not exceed eighteen (18) months from the time originally specified in the Loan Documents without the prior written consent of HPD and shall not exceed the time specified in any other agreement between HPD and Sponsor
- B. Completion. If requested by Sponsor in writing, HPD or its designee shall promptly issue a certificate of completion in recordable form ("Certificate of Completion") after (i) the City's Department of Buildings has issued a temporary or permanent Certificate of Occupancy for all of the improvements on the Disposition Area, and (ii) HPD has made a final inspection of the Project and has determined that Sponsor has fulfilled all of its Construction obligations.
1. Sponsor shall provide such documents as HPD shall reasonably require (including, but not limited to, the documents specified in Section 201.E) in support of any request for a Certificate of Completion.
 2. If HPD refuses or fails to issue a Certificate of Completion in accordance with the provisions of this Section 201.B, HPD shall provide Sponsor with a written statement indicating how Sponsor failed to complete Construction or what required documents Sponsor has failed to provide.
 3. On the date upon which HPD issues a Certificate of Completion ("Completion Date"), Construction of the Project shall be deemed to be completed.

- C. Force Majeure. Notwithstanding any provision of this LDA to the contrary, in the event of any delay or delays in the performance of Sponsor's Construction obligations, if such delay or delays are beyond the control and without the fault or negligence of Sponsor, and are caused by reason of (i) any acts, laws, rules, regulations, or orders of any governmental authority, (ii) acts of God or of the public enemy, or (iii) fires, floods, epidemics, quarantine restrictions, strikes or other labor disputes, freight embargoes, material shortage, or weather of unusual severity, then the Completion Deadline shall be extended for such period as HPD shall find in writing to be the period of such delay or delays, but in no event more than one (1) year without the prior written consent of HPD (collectively, "Force Majeure Delays"). Such extension or extensions shall not be unreasonably withheld or delayed, provided that, promptly after the beginning of such Force Majeure Delay(s), Sponsor notifies HPD in writing of the Force Majeure Delay(s) and the cause or causes thereof. Sponsor shall proceed in accordance with this LDA with those obligations the performance of which is not prevented by such Force Majeure Delay(s) unless HPD, in writing, shall excuse Sponsor from proceeding with all or part of such obligations.
 - D. Reports. Sponsor shall, if requested by HPD, submit a written narrative report on the progress of Construction to HPD within six (6) months after the Closing Date and every six (6) months thereafter until the Completion Date.
 - E. As Built Drawings. Sponsor shall, if requested by HPD, promptly submit "as built" drawings of the Project. The as built drawings shall show all Construction performed by Sponsor and shall indicate the locations, elevations, and sizes of all buildings and work as actually built and installed.
202. Non-Discrimination. Sponsor covenants and agrees, for and on behalf of itself, its successors and assigns, and every successor in interest to the Disposition Area, or any part thereof, to be bound by the following covenants, which shall be binding for the benefit of the City and enforceable by the City against Sponsor and its successors and assigns to the fullest extent permitted by law and equity:
- A. Sponsor, its successors and assigns, and any lessees of the Disposition Area or any improvements erected or to be erected thereon, or any part thereof, shall comply with all applicable federal, state, and local laws in effect from time to time prohibiting discrimination or segregation by reason of actual or perceived age, race, creed, religion, gender, gender identity or gender expression, sex, color, national origin, ancestry, sexual orientation, disability, marital status, status as a victim of domestic violence, stalking, and sex offenses, partnership status, presence of a service or emotional support animal, familial status, alienage status, citizenship status, lawful source of income (including income derived from social security, or any form of federal, state, or local public government assistance or housing assistance, including Section 8 vouchers), lawful occupation, military status, because children are, may be, or would be residing with such person or persons, or any other class protected from discrimination in housing accommodations by federal, state, or local law (collectively, "Prohibited

Distinctions") in the sale, lease, or occupancy of the Disposition Area or any improvements erected or to be erected thereon, or any part thereof.

- B. Sponsor, its successors and assigns, and any lessees of the Disposition Area or any improvements erected or to be erected thereon, or any part thereof, shall not effect or execute any agreement, lease, conveyance, or other instrument whereby the sale, lease, or occupancy of the Disposition Area or any improvements erected or to be erected thereon, or any part thereof, is restricted upon the basis of any Prohibited Distinction. Sponsor, its successors and assigns, and any lessees of the Disposition Area or any improvements erected or to be erected thereon, or any part thereof, shall comply with all applicable statutory and regulatory obligations to provide reasonable accommodations to individuals with disabilities.
- C. Sponsor, its successors and assigns, and any lessees of the Disposition Area or any improvements erected or to be erected thereon, or any part thereof, shall include the covenants of Section 202.A and Section 202.B in any agreement, lease, conveyance, or other instrument with respect to the sale, lease, or occupancy of the Disposition Area or any improvements erected or to be erected thereon, or any part thereof.

203. Labor, Contracting, And Reporting Requirements. The requirements of this Section 203 shall apply to the Construction.

- A. Construction Contract Rider. Sponsor shall include, or cause to be included, a rider in form and substance acceptable to HPD ("Construction Contract Rider") in the contract of every contractor or subcontractor furnishing labor or materials for the Construction of the Project.
- B. Transparency. The Project is subject to the requirements of Chapter 10 of Title 26 of the Administrative Code ("Transparency Act"). Sponsor shall comply with, and shall cause each contractor or subcontractor directly or indirectly employed in the Construction to comply with, the requirements of the Transparency Act.
 - 1. The Transparency Act requires collection of the information for the Project specified in Administrative Code §26-903 and listed in Exhibit E-2 annexed hereto and made a part hereof ("Project Information"). Sponsor shall submit the Project Information to HPD in such form and manner as HPD may require on or before the Closing Date and shall thereafter provide updated Project Information to HPD in such form and manner as HPD may require on or before (i) every January 30th and July 30th thereafter until the Completion Date, and (ii) the Completion Date.
 - 2. The Transparency Act requires collection of the wage reporting information for the Project specified in Administrative Code §26-904 ("Wage Information"). Sponsor shall cause each contractor or subcontractor directly or indirectly employed in the Construction to submit the Wage Information to Sponsor in such form and manner as HPD may require, at such times as are specified in the Transparency Act or in any

directive from HPD. Sponsor shall submit all Wage Information for the Project to HPD in such form and manner as HPD may require, at such times as are specified in the Transparency Act or in any directive from HPD. If HPD at any time permits the submission of any Wage Information directly from contractors or subcontractors to HPD, Sponsor shall remain responsible for ensuring that all Wage Information for the Project is submitted to HPD as required by the Transparency Act and this Section 203.B.

C. Executive Order No. 50. Sponsor shall comply with Executive Order No. 50, dated April 5, 1980, as amended ("Order"), and the implementing rules set forth in Title 66, Chapter 10 of the Rules of the City of New York ("Rules"). Pursuant to the Order and the Rules (collectively, "E.O. 50"), Sponsor shall comply with, and shall cause every contractor or subcontractor performing work on the Project to comply with, the applicable requirements of this Section 203.C.

1. This LDA is subject to the requirements of E.O. 50.
 - a. Sponsor shall not discriminate unlawfully against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, marital status, sexual orientation, or citizenship status with respect to any employment decision, including, but not limited to, recruitment, hiring, upgrading, demotion, downgrading, transfer, training, rates of pay or other forms of compensation, layoff, termination, and all other terms and conditions of employment.
 - b. Sponsor shall not discriminate unlawfully in the selection of contractors or subcontractors on the basis of the owners', partners', or shareholders' race, creed, color, national origin, sex, age, disability, marital status, sexual orientation, or citizenship status.
 - c. Sponsor shall state in all solicitations or advertisements for employees placed by or on behalf of Sponsor that all qualified applicants shall receive consideration for employment without unlawful discrimination based on race, creed, color, national origin, sex, age, disability, marital status, sexual orientation, or citizenship status, and that Sponsor is an equal employment opportunity employer.
 - d. Sponsor shall send to each labor organization or representative of workers with which Sponsor has a collective bargaining agreement, or other contract or memorandum of understanding, written notification of Sponsor's equal employment opportunity commitments under E.O. 50.
 - e. Before the Closing Date, Sponsor shall furnish all information and reports which are required by E.O. 50 and orders of the

Department of Small Business Services, Division of Labor Services ("DLS"), including, but not limited to, where applicable, an Employment Report.

- f. Sponsor shall permit DLS or its designee to have access to all relevant books, records, and accounts for the purposes of investigation to ascertain compliance with the Order, the Rules, or any DLS order.
2. Noncompliance with the non-discrimination clauses of this LDA or with the Order, the Rules, or any DLS order shall constitute a material breach of this LDA and noncompliance with E.O. 50. After a hearing held pursuant to the rules of DLS, DLS may direct HPD to declare Sponsor in default or impose an employment program. DLS may recommend to HPD that a person or entity that has repeatedly failed to comply with E.O. 50 be determined to be nonresponsible.
3. Sponsor shall include the provisions of Section 203.C.1 and Section 203.C.2 in every contract or purchase order with respect to the Project in excess of One Hundred Thousand Dollars (\$100,000), and shall cause such provisions to be included in every subcontract with respect to the Project in excess of One Hundred Thousand Dollars (\$100,000), unless exempted by E.O. 50, so that such provisions shall be binding upon each contractor, subcontractor, or vendor.
 - a. Sponsor shall take such action with respect to any contract, subcontract, or purchase order as may be directed by DLS as a means of enforcing such provisions, including sanctions for noncompliance.
 - b. A supplier of unfinished products needed to produce the item contracted for shall not be considered a contractor, subcontractor, or vendor for purposes of this Section 203.C.3.
 - c. Because the Construction Contract Rider incorporates the provisions of this Section 203.C, inclusion of the Construction Contract Rider in a contract, subcontract, or purchase order shall constitute compliance with the requirements of this Section 203.C.3 with respect to such contract, subcontract, or purchase order.
4. Sponsor shall not enter into any contract or modification thereof subject to E.O. 50 with a contractor that is not in compliance with the requirements of E.O. 50. A supplier of unfinished products needed to produce the item contracted for shall not be considered a contractor for purposes of this Section 203.C.4.
5. Nothing contained in this Section 203.C shall be construed to bar any religious or denominational institution or organization, or any organization

operated for charitable or educational purposes, that is operated, supervised, or controlled by or in connection with a religious organization, from lawfully limiting employment or lawfully giving preference to persons of the same religion or denomination, or from lawfully making such selection as is calculated by such organization to promote the religious principles for which it is established or maintained.

6. Any capitalized terms in this Section 203.C that are not defined in this LDA shall have the meanings ascribed to them by E.O. 50. For purposes of this Section 203.C, "Trainee" means an economically disadvantaged person who qualifies for and receives training in one of the construction trades pursuant to a program, other than an apprenticeship program, approved by DLS and, where required by law, the State Department of Labor and the United States Department of Labor, Bureau of Apprenticeship and Training.
7. If Sponsor performs any of the Construction work, other than architectural, engineering, or drafting work, on the Project rather than contracting such work to a different entity, Sponsor shall comply with this Section 203.C.7 with respect to the employees of Sponsor performing such work. Sponsor shall cause the provisions of this Section 203.C.7 to be incorporated into every contract or subcontract for Construction work on the Project in excess of One Hundred Twenty-Five Thousand Dollars (\$125,000), other than contracts or subcontracts for architectural, engineering, or drafting services, so that such provisions shall be binding upon the contractor or subcontractor. Because the Construction Contract Rider incorporates the provisions of this Section 203.C.7, inclusion of the Construction Contract Rider in a contract or subcontract shall constitute compliance with the requirements of this Section 203.C.7 with respect to such contract or subcontract.
 - a. Sponsor shall employ, and shall cause each contractor or subcontractor to employ, Trainees for training level jobs. Sponsor shall participate in, and shall cause each contractor or subcontractor to participate in, on-the-job training programs other than apprenticeship programs which are approved by DLS and where required by law, the U.S. Department of Labor, Bureau of Apprenticeship Training, or the State Department of Labor.
 - b. Sponsor shall make, and shall cause each contractor or subcontractor to make, a good faith effort to achieve the ratio of one (1) Trainee to four (4) journey-level employees of each trade on each Construction Project; provided, that the Trainee requirement shall not apply to contracts in the amount of One Hundred Twenty-Five Thousand Dollars (\$125,000) or less.
 - c. Sponsor or a contractor or subcontractor shall be considered to employ four (4) journey-level employees in a particular trade when Sponsor or such contractor or subcontractor employs any number

of journey-level employees in that craft whose aggregate work hours equal the number of hours four (4) full-time journey-level employees would have worked in a work week, as defined by the prevailing practice in the industry for the particular craft. For example, in a craft where there is a forty (40) hour work week, the employment of four (4) journey-level employees results in one hundred sixty (160) hours of employment (4×40). Hence, any number of journey-level employees which results in one hundred sixty (160) hours of work is considered for purposes of the training program to equal four (4) journey-level employees, i.e., three (3) journey-level employees who each work $53 \frac{1}{3}$ hours ($3 \times 53 \frac{1}{3} = 160$).

- d. The training requirement shall not apply to any trade in which the employment of four (4) or more journey-level employees and the Trainee shall be for less than four (4) consecutive weeks; provided, that four (4) weeks shall mean four (4) weeks of full-time work as defined by the prevailing practice in the industry for the particular craft, i.e., one hundred sixty (160) hours (4 weeks \times 40 hours), one hundred fifty (150) hours (4 weeks \times 37 $\frac{1}{2}$ hours), one hundred forty (140) hours (4 weeks \times 35 hours), etc.
- e. Sponsor shall attempt to provide, and shall cause each contractor or subcontractor to attempt to provide, continuous employment for Trainees after the completion of the Construction or the work under such contract or subcontract to enable the Trainees to complete their course of training.
- f. If Sponsor or any contractor or subcontractor is a union employer, Sponsor shall, or shall cause such contractor or subcontractor to, refer, recommend, and sponsor for union membership any of its Trainees who can perform the duties of a qualified journey-level employee or who have satisfactorily completed the training program. Such former Trainee shall be paid full journey-level wages and fringe benefits, whether or not union membership is granted after such referral, recommendation, or sponsorship, and Sponsor shall attempt, and shall cause each contractor or subcontractor to attempt, to continue the employment of such persons.
- g. In the event of a failure to provide training to the required number of Trainees for the required number of weeks, the compensation of Sponsor or the relevant contractor or subcontractor shall be decreased by an amount equal to the difference between the wages and fringe benefits paid to the Trainees and the wages and fringe benefits which would have been paid to the Trainees had the number and duration of the positions been as required, unless Sponsor or the relevant contractor or subcontractor can demonstrate that it made a good faith effort to provide training and

was unsuccessful. The wages and fringes deducted shall be whatever a first term Trainee would have received under the prevailing wage schedule in effect at the time the Trainees should have been employed.

- h. A good faith effort includes at least:
 - 1. documented efforts to secure Trainees from approved training programs; and
 - 2. documented outreach efforts to New York State Employment Service, Department of Employment, TAP Centers, and community and civil rights groups to identify candidates for training positions and sponsorship of those persons by Sponsor or a contractor or subcontractor for entrance into an approved training program; and
 - 3. if Sponsor or a contractor or subcontractor has been unable to secure Trainees through such efforts and outreach, written notification to DLS stating such inability and requesting the assistance of DLS in securing Trainees; provided, that neither the provisions of any collective bargaining agreement nor the refusal by a union with whom Sponsor or such contractor or subcontractor has a collective bargaining agreement to recognize the validity of the training program shall excuse Contractor's obligation to provide training pursuant to E.O. 50.
- i. To demonstrate the good faith effort of Sponsor or a contractor or subcontractor, Sponsor or such contractor or subcontractor may, at its option, supply documentation concerning its employment of Trainees on all of its construction sites, both City and non-City funded. DLS shall review this documentation as part of its analysis to determine whether Sponsor or such contractor or subcontractor made a good faith effort.
- j. Sponsor shall take such action with respect to any contract or subcontract as DLS may direct as a means of enforcing the provisions of this Section 203.C.7 included in the relevant contract or subcontract, including sanctions for noncompliance.
- k. Sponsor shall assist and cooperate with DLS in obtaining the compliance of contractors and subcontractors with the requirements of E.O. 50, and shall furnish DLS with information necessary for supervision of such compliance.

D. Hire NYC.

1. Program. The provisions of the City's HireNYC program ("HireNYC") shall apply to Sponsor, every contractor having a contract of \$500,000 or more to perform work on the Project ("Covered Contractor"), and every subcontractor having a subcontract of \$500,000 or more to perform work on the Project ("Covered Contractor"). Sponsor and the Covered Contractors and Covered Subcontractors (collectively, "Covered Parties" and individually, "Covered Party") may designate a project coordinator to act on their collective behalf with regard to HireNYC matters as further set forth in this Section 203.D.
 - a. Sponsor shall (i) comply with the requirements of HireNYC, (ii) cause every Covered Contractor or Covered Subcontractor to comply with the requirements of HireNYC, and (iii) cause the provisions of this Section 203.D to be included in every contract or subcontract with a Covered Contractor or Covered Subcontractor. Because the Construction Contract Rider incorporates the provisions of this Section 203.D, inclusion of the Construction Contract Rider in every contract or subcontract with a Covered Contractor or Covered Subcontractor shall constitute compliance with clause (iii) of the preceding sentence.
 - b. Sponsor shall, and shall cause every Covered Contractor or Covered Subcontractor to, (i) enroll in HireNYC, which is part of the Workforce1 program administered by the NYC Department of Small Business Services ("SBS"), (ii) disclose all any new entry to mid-level job opportunities created or anticipated to be created by the Project and located in New York City ("Covered Jobs"), and (iii) evaluate or interview qualified candidates referred by HireNYC for Covered Jobs. As used in this Section 203.D, "entry to mid-level jobs" shall mean jobs requiring no more than an associate degree, as indicated in the column headed "Typical Education Needed for Entry" of the "*Long Term Occupational Employment Prospects*" available from the State Department of Labor at www.labor.ny.gov/stats/2012-2022-NYS-Employment-Prospects.xls.
2. Enrollment. Sponsor shall enroll, and shall cause every Covered Contractor or Covered Subcontractor to enroll, in HireNYC through the HireNYC page on HPD's web site, which can be found at www1.nyc.gov/site/hpd/developers/hirenyc.page ("HPD Portal"). The HPD Portal will automatically direct a Covered Party to the HireNYC web page at <https://a801-worksource1.nyc.gov/emp> ("HireNYC Portal").
 - a. Sponsor shall enroll, and shall cause each Covered Contractor to enroll, within thirty (30) days after the Closing Date. Sponsor shall cause each Covered Subcontractor to enroll by the earlier of (i) fifteen (15) days after the full execution of its subcontract, or (ii) the start of work under its subcontract.

- b. Sponsor and any Covered Contractor shall engage with SBS to create a work plan for the Project detailing the planned subcontracting engagements and any Covered Jobs. The work plan shall include information such as projected start dates for Covered Subcontractors, the anticipated date of commencement of the hiring process for any Covered Jobs, and contact information for all Covered Parties.
 - c. Sponsor and any Covered Contractor may designate a project coordinator to act as the main contact for the Covered Parties with regard to HireNYC matters, manage the administrative enrollment requirements of Covered Subcontractors, and facilitate communication between the Covered Parties and SBS.
3. Recruitment Requirements. Once enrolled in HireNYC, Sponsor shall provide, and shall cause every Covered Contractor or Covered Subcontractor to provide, updated information to SBS regarding Covered Jobs as they become known.
- a. Sponsor shall, and shall cause every Covered Contractor or Covered Subcontractor (or the project coordinator acting on their respective behalf) to, request candidates through the HireNYC Portal to fill any Covered Jobs no less than three (3) weeks prior to the intended first day of employment for each new position, or as otherwise negotiated with SBS, whose consent shall not be unreasonably withheld. Sponsor shall, and shall cause every Covered Contractor or Covered Subcontractor (or the project coordinator acting on their respective behalf) to, provide updated information through the HireNYC Portal as set forth in this Section 203.D. If an employee is needed in an unexpected situation to keep the Project on schedule, Sponsor shall notify, and shall cause every Covered Contractor or Covered Subcontractor (or the project coordinator acting on their respective behalf) to notify, SBS of this need and if SBS is not able to refer a candidate within three (3) business days, such Covered Party may proceed without further consideration.
 - b. After enrollment and submission of relevant information by Covered Parties or the project coordinator through the HireNYC Portal, SBS will work directly with the hiring manager for each Covered Party to develop a recruitment strategy for Covered Jobs. HireNYC will screen applicants based on employer requirements and refer qualified applicants to the appropriate Covered Party for evaluation or interviews. Sponsor shall, and shall cause every Covered Contractor or Covered Subcontractor to, evaluate or interview referred applicants that such Covered Party believes are qualified. These requirements shall not limit the ability of any Covered Party to work with community partners who may also refer candidates for job opportunities, to assess the qualifications

of prospective workers, or to make final hiring and retention decisions. No provision of this Section 203.D shall be interpreted to require a Covered Party to employ any particular worker or to limit consideration to the prospective employees referred by HireNYC.

- c. This Section 203.D shall not apply to positions that a Covered Party intends to fill with employees employed pursuant to the job retention provision of Administrative Code §22-505 or to positions covered by Collective Bargaining Agreements or Project Labor Agreements. Covered Parties shall not be required to report such openings with HireNYC. However, Sponsor shall enroll, and shall cause every Covered Contractor or Covered Subcontractor to enroll, with the HireNYC system and, if such positions subsequently become open, the remaining provisions of this Section 203.D shall apply.
4. Reporting Requirements. After completing an evaluation or interview of a candidate referred by HireNYC, the Covered Party or project coordinator shall provide feedback to SBS via the HireNYC Portal to indicate which candidates were evaluated or interviewed and hired, if any. For any individual hired through HireNYC, the Covered Party or project coordinator shall provide the expected start date, wage, and hours expected to be worked. The Covered Party or project coordinator shall provide such information on a monthly basis through the HireNYC Portal for any candidates referred by HireNYC that are evaluated, interviewed, and/or hired in a particular month.
 - a. If a Covered Party does not have any Covered Jobs in any given year, the Covered Party or project coordinator shall provide an annual update to HireNYC to that effect. For this purpose, the reporting year shall run from the date of execution of this LDA with respect to Sponsor and the date of the contract with respect to any Covered Contractor or Covered Subcontractor, and each anniversary date thereafter.
 - b. Sponsor shall, and shall cause every Covered Contractor or Covered Subcontractor (or the project coordinator acting on their respective behalf) to, (i) report to the City all information reasonably requested by the City that is necessary for the City to comply with any reporting requirements imposed by law or rule, and (ii) comply with all reporting requirements imposed by law or rule, or as otherwise requested by the City.
 5. Audit Compliance. Sponsor shall, and shall cause every Covered Contractor or Covered Subcontractor to, (i) permit HPD to inspect any and all records concerning or relating to job openings or the hiring of individuals for Covered Jobs, (ii) retain all such records for one (1) year

from the date of contract completion, and (iii) permit an inspection by HPD within seven (7) business days of the request.

6. Other Hiring Requirements. Sponsor shall comply with, and shall cause every Covered Contractor or Covered Subcontractor to comply with, all federal, state, and/or local hiring requirements set forth elsewhere in this LDA or in any other Project Document.
 - E. HPD Monitoring. HPD may monitor compliance by Sponsor and any and all contractors or subcontractors furnishing labor or materials for the Construction of the Project with any applicable local, state, or federal laws and any agreement with the City or any other governmental agency or instrumentality.
 - F. MWBE Program. Sponsor shall comply with the requirements of the MWBE Program set forth in the rider attached as Exhibit F.
204. Access. Sponsor shall provide all representatives of the City with access to the Disposition Area at such times and for such purposes as the City deems necessary to effectuate this LDA, including, but not limited to, inspection of all work being performed in connection with the Construction. HPD may, without limitation (i) enter the Disposition Area at any time before the Completion Date to conduct unannounced site visits in order to, among other things, verify information furnished by Sponsor or any contractor or subcontractor, interview employees of Sponsor or any contractor or subcontractor, and inspect the quality of the Construction, and (ii) examine, during business hours at the offices of Sponsor or any contractor or subcontractor, any and all books, records, files, accounts, documents, and correspondence, whether in physical or electronic form, with respect to the Project, the Construction, any contract or subcontract, or compliance with any applicable laws or agreements, including, but not limited to, payroll records and daily work records.
 205. Project Signs. Sponsor shall, at its own cost and expense, erect and maintain a sign on the Disposition Area identifying HPD and the Project in lettering of such size and form as shall be approved by HPD. At HPD's option, HPD may provide a sign for Sponsor's use.
 206. Limitation on Use of Disposition Area. Prior to the Completion Date, Sponsor shall not rent, license, or permit temporary use of the Disposition Area for purposes unrelated to the Construction or the Project without the prior written consent of HPD.
 207. Tax Lot Subdivision. If any portion of the Disposition Area consists of a partial or tentative tax lot ("New Lot"), Sponsor shall promptly after Closing (i) cause the Tax Map of the City to be amended by subdividing the entire existing tax lot encompassing any such New Lot ("Prior Lot"), and (ii) cause a permanent tax lot number to be issued for any New Lot and every other portion of any Prior Lot. Sponsor shall promptly take all actions necessary to cause such tax lot subdivision and issuance of permanent tax lot numbers to be completed, including, but not limited to, (i) clearing accrued taxes, (ii) delivering copies of the recorded Deed and a survey of the Disposition Area showing the dimensions of any New Lot and any other tax lots to be formed from any portion of any Prior Lot to the City's Department of Finance, and (iii) amending any Certificate of Occupancy for the improvements on any New Lot or Prior Lot. Sponsor will forever

indemnify and hold the City, its agents, representatives, and employees harmless from any and all liabilities and claims for damages resulting from Sponsor's failure to complete the actions required by this Section 207.

208. Condominium. After the Closing Date, Sponsor shall subject the Disposition Area to a condominium regime pursuant to Article 9-B of the Real Property Law.
- A. Declaration of Condominium. Sponsor shall prepare a declaration of condominium establishing the Disposition Area as a multiple-unit condominium ("Declaration"). The Declaration and all related documents and filings shall be in form and substance acceptable to HPD. Sponsor shall cause such Declaration to be recorded against the Disposition Area in the Office of the City Register for the county in which the Disposition Area is located not later than three (3) months prior to the Completion Deadline.
- B. Condominium Units. The Declaration shall establish the following condominium units and associated common interests (each, a "Condominium Unit") or such different Condominium Units as Sponsor, with the prior written approval of HPD, shall determine.
1. Residential Condominium (60% of AMI and below). A Condominium Unit containing all of the dwelling units in the Multiple Dwelling, plus the superintendent's apartment and associated common interests ("60% Residential Condominium Unit").
 2. Residential Condominium (61% of AMI to 80% of AMI). A Condominium Unit containing all of the dwelling units in the Multiple Dwelling and associated common interests ("80% Residential Condominium Unit").
 3. Commercial Condominium. A Condominium Unit containing all of the commercial space in the Multiple Dwelling and associated common interests ("Commercial Condominium Unit").

After recording the Declaration and on or before the Completion Deadline, Sponsor' ownership in the Disposition Area shall automatically convert to and vest as ownership of the 60% Residential Condominium Unit, 80% Residential Condominium Unit and the Commercial Condominium Unit.

ARTICLE III

OWNERSHIP OF DISPOSITION AREA

301. Development By Sponsor. The development of the Disposition Area in accordance with this LDA is important to the City and to the general welfare of the community. Substantial assistance has been made available by and through the City and by law for the purpose of making such development possible. The City is conveying the Disposition Area to Sponsor and is executing and delivering this LDA and the other Project Documents to which the City is a party because of, and in reliance upon, the identity and qualifications of Sponsor and the principals of Sponsor. The City is relying

on Sponsor for the faithful performance of all obligations of Sponsor pursuant to this LDA. Sponsor shall redevelop the Disposition Area in accordance with this LDA and the other Project Documents and shall not hold the Disposition Area for speculation.

302. Certain Definitions. As used in this Article III, the terms "person" and "entity" include any individual, corporation, partnership, limited liability company ("LLC"), or joint venture. Any reference in this Article III to Sponsor shall apply with equal force and effect to each and every entity comprising Sponsor, whether that entity is an individual, corporation, partnership, LLC, or joint venture, as though that entity were Sponsor, and each such person or entity must comply with the provisions herein concerning partnership agreements, shareholder agreements, limited liability agreements, and operating agreements.
303. Sponsor's Certification Pursuant to Section 695 of the GML. Sponsor hereby represents, warrants, and certifies, pursuant to Section 695 of the GML, that Sponsor is neither a former owner in fee nor the spouse of a former owner in fee of all or any part of the Disposition Area, or of any property acquired by the City through real property tax or other lien enforcement proceedings, nor is Sponsor a business entity substantially controlled by such a former owner, nor is Sponsor a successor in interest to any such former owner. This LDA and the Deed shall be voidable by the City in accordance with Section 695 of the GML if such representation, warranty, and certification by Sponsor is false in whole or in part, or if Sponsor otherwise violates or has violated Section 695 of the GML.
304. Accuracy of Disclosures. Sponsor previously submitted disclosure statements to HPD with respect to, *inter alia*, the ownership and operation of Sponsor ("Disclosure Statements"). Sponsor covenants and represents that (i) all of the information set forth in Sponsor's Disclosure Statements (including, but not limited to, the identity and role of any officers, the identity and percentage of ownership interest of any shareholders, and the identity, percentage of ownership interest, and role of any general partners or members) was accurate on the date of submission of the Disclosure Statements, and (ii) except as Sponsor has disclosed to HPD in writing, all of the information set forth in Sponsor's Disclosure Statements remains accurate as of the date of this LDA.
305. Organizational Documents.
- A. For purposes of this Section 305 and Section 306, the following terms shall have the meanings set forth below:
- "Controlling Entity" shall mean any entity that has any role, whether directly or indirectly, in controlling or directing the operations of Sponsor.
- "Organizational Document" shall mean (i) the shareholders' agreement of any Project Entity that is a corporation, (ii) the partnership agreement or limited partnership agreement of any Project Entity that is a partnership, or (iii) the limited liability agreement or operating agreement of any Project Entity that is an LLC.

"Project Entity" shall mean Sponsor or any Controlling Entity, as the case may be.

- B. The Organizational Document of each Project Entity shall provide that, and Sponsor represents and warrants that all such Organizational Documents do provide that, prior to the Completion Date:
1. There shall not be any voluntary dissolution of such Project Entity without the prior written consent of HPD;
 2. There shall not be any voluntary merger or consolidation such Project Entity with any other entity without the prior written consent of HPD;
 3. Such Project Entity is subject to the terms covenants, conditions, and provisions of this LDA;
 4. No assignment, mortgage, or transfer of any interest in the Disposition Area or in this LDA or any other Project Document shall take place without the prior written consent of HPD; and
 5. The provisions of the Organizational Documents required by this Section 305 shall not be amended without the prior written consent of HPD.
 6. If the Project Entity is a corporation:
 - a. The number of currently issued and outstanding shares of the Project Entity shall not be increased by more than ten percent (10%) without the prior written consent of HPD;
 - b. No more than ten percent (10%) of the issued and outstanding shares of the Project Entity shall be assigned, transferred, pledged, conveyed, or sold without the prior written consent of HPD;
 - c. No more than one third (1/3) of the Project Entity's directors shall be changed or removed without the prior written consent of HPD; and
 - d. No more than one third (1/3) of the Project Entity's officers shall be changed or removed without the prior written consent of HPD.
 7. If the Project Entity is a partnership:
 - a. The present general partners of the Project Entity shall not have any authority or right to withdraw from the Project Entity, and neither the Project Entity nor any of its general partners shall have any authority or right to cause or permit the withdrawal of any of the present general partners of the Project Entity without the prior written consent of HPD;

- b. Neither the Project Entity nor any of its general partners shall have any authority or right to cause or permit the substitution of a new person or entity for any of the present general partners of the Project Entity, or to cause any other person or entity to become a general partner of the Project Entity, without the prior written consent of HPD; and
 - c. No distribution of the capital of the Project Entity shall be made to any general or limited partner of the Project Entity and, upon dissolution of the Project Entity, no distribution shall be made to any person or entity which is not bound by this LDA; provided, however, that nothing contained in this Section 305.B.7 shall preclude the Project Entity from paying any debts or fees owed by it to any general partner of the Project Entity.
- 8. If the Project Entity is an LLC:
 - a. The present managing member(s) of the Project Entity shall not have any authority or right to withdraw from the Project Entity, and neither the Project Entity nor any of its managing member(s) shall have any authority or right to cause or permit the withdrawal of any of the present managing member(s) of the Project Entity without the prior written consent of HPD;
 - b. Neither the Project Entity nor any of its managing member(s) shall have any authority or right to cause or permit the substitution of a new person or entity for any of the present managing member(s) of the Project Entity, or to cause any other person or entity to become a managing member of the Project Entity, without the prior written consent of HPD; and
 - c. No distribution of the capital of the Project Entity shall be made to any member of the Project Entity and, upon dissolution of the Project Entity, no distribution shall be made to any person or entity which is not bound by this LDA; provided, however, that nothing contained in this Section 305.B.8 shall preclude the Project Entity from paying any debts or fees owed by it to any managing member of the Project Entity.
- C. At the Closing, Sponsor shall furnish HPD with an attorney's opinion in form and substance acceptable to HPD stating that (i) the Organizational Documents of Sponsor and of each Controlling Entity comply with the requirements of this Section 305, (ii) Sponsor has all requisite power and authority to enter into this LDA and the other Project Documents, and (iii) Sponsor is duly organized, validly existing, and in good standing under the laws of the State of New York.
- D. At the Closing and at such other time or times as HPD may request prior to the Completion Date, Sponsor shall deliver to HPD a sworn statement setting forth,

(i) the general partners of each Project Entity that is a partnership and the extent of their respective ownership interests in such Project Entity, (ii) the shareholders, directors, and officers of each Project Entity that is a corporation and the number and percentage of shares owned by each such shareholder, and (iii) the managing members of each Project Entity that is an LLC, and the extent of their respective ownership interests in such Project Entity.

306. Prohibition Against Transfers.

- A. Prior to the Completion Date, Sponsor shall not cause or permit, or suffer to be caused or permitted, any of the following (collectively, "Prohibited Transfers") without the prior written consent of HPD:
1. Any total or partial sale, disposition, transfer, assignment, conveyance, mortgage, lease, trust, power, or transfer in any other mode or form of, or with respect to, this LDA, any other Project Document, or the Disposition Area (or any direct or indirect interest in any part of the real property therein);
 2. Any contract or agreement which would result in any total or partial sale, disposition, transfer, assignment, conveyance, mortgage, lease, trust, power, or transfer in any other mode or form of, or with respect to, this LDA, any other Project Document, or the Disposition Area (or any direct or indirect interest in any part of the real property therein);
 3. Where Section 305 requires the inclusion of a provision in an Organizational Document, any failure to include such provision in such document;
 4. Any act or transaction involving or resulting in a material change in the management of Sponsor which is prohibited by the provisions of an Organizational Document described in Section 305;
 5. Any act or transaction involving or resulting in a material change in the identity of the parties in control of Sponsor, or their respective degrees of control of Sponsor, which is prohibited by the provisions of any Organizational Document described in Section 305; or
 6. Any act in violation any other provision required by Section 305.
- B. Notwithstanding anything to the contrary in this Section 306, Sponsor may execute the Loan Documents required by a Holder, or a collateral assignment of this LDA to a Holder without the assignment of Sponsor's obligations hereunder, and the execution of such documents shall not constitute a Prohibited Transfer.

ARTICLE IV

REVESTING

401. Revesting.

A. Default. Until the issuance and recording of a Certificate of Completion for the entire Project pursuant to Section 201.B, the occurrence of any of the following shall constitute an event of default ("Default"):

1. Failure to commence Construction on or before the Commencement Date;
2. Failure to perform the Construction in accordance with the Approved Plans;
3. Abandonment or substantial suspension of Construction before the Completion Deadline;
4. Failure to both (i) complete ninety five percent (95%) of the value of Construction on or before the Completion Deadline in accordance with the Approved Plans, as such percentage and compliance are determined by HPD, and (ii) obtain a temporary or permanent Certificate of Occupancy on or before the Completion Deadline for all of the improvements on the Disposition Area;
5. Any Prohibited Transfer without the prior written consent of HPD; and
6. Any default or event of default under a nominee agreement which remains uncured beyond the applicable cure period.

B. Cure.

1. Upon the occurrence of any Default, HPD shall give written notice of such Default ("Default Notice") to Sponsor and to any Holder which has previously requested such Default Notice in writing.
2. Sponsor and any Holder shall be permitted thirty (30) days from the date of any Default Notice ("Cure Period") to cure such Default to the satisfaction of HPD ("Cure").
3. If HPD, in its sole discretion, determines in writing that the nature of the Default makes it impossible to complete a Cure within the Cure Period, the Default Notice shall state such determination and shall specify such longer period ("Extended Cure Period") to effectuate a Cure as HPD, in its sole discretion, shall determine; provided, however, that such Extended Cure Period shall end not later than ninety (90) days after the Completion Deadline. Sponsor or any Holder shall be permitted to commence the Cure of such Default and to thereafter diligently and continuously pursue the Cure of such Default during the Extended Cure Period until such Default shall be completely Cured.

4. Any Default which is Cured within the Cure Period or, if applicable, any Extended Cure Period, shall be deemed to be a Cured Default ("Cured Default"). Any Default which is not Cured within the Cure Period or, if applicable, any Extended Cure Period, shall be deemed to be an uncured Default ("Uncured Default").
 5. If, after the issuance of a Default Notice, such Default is Cured within the Cure Period or, if applicable, any Extended Cure Period, HPD shall issue, within thirty (30) days after receipt of a written request therefor by Sponsor or any Holder, a written notice ("Cure Notice") (i) certifying that such Default is a Cured Default, (ii) certifying that such Cured Default will not result in an exercise of the City's rights pursuant to this Section 401, and (iii) reserving the right of the City to exercise its rights pursuant to this Section 401 for any other or future Default; provided, however, that the failure to explicitly reserve any right in the Cure Notice shall not result in the waiver of any such right.
 6. In the event of any Uncured Default, the City may, at its sole option, exercise the City's rights pursuant to Section 401.C.
- C. Revesting. If any Uncured Default shall occur prior to the issuance of a Certificate of Completion for the entire Project pursuant to Section 201.B, the City may, subject to the laws of the State of New York, re-enter and take possession of the Disposition Area and terminate and re-vest in the City the estate conveyed to Sponsor, in which event all right, title, and interest of Sponsor in and to the Disposition Area shall revert to the City. Upon the issuance of a Certificate of Completion for the entire Project pursuant to Section 201.B, the City's rights pursuant to this Section 401 shall terminate.
- D. Subordination.
1. Notwithstanding the provisions of this Section 401, any revesting of title in the City pursuant to the terms of this LDA or the Deed shall be subject to and limited by, and shall not defeat, render invalid, or limit in any way (i) the lien of any mortgage ("Mortgage") held by a Holder which is authorized by this LDA, or (ii) any rights or interests provided in this LDA for the protection of the Holder of such Mortgage.
 2. Upon the request of Sponsor, the City shall deliver to the Holder an instrument in recordable form, whereby the City's rights and interests and Sponsor's covenants under this LDA and the Deed (except for the provisions of Section 202 and any provisions which would control by operation of law even in the absence of this LDA and the Deed) are subordinated to the lien of the Mortgage in the event that Sponsor ceases to hold title to the Disposition Area as a result of the Holder's exercise of a remedy for Sponsor's default under the Loan Documents.
 3. If, after the issuance of any Default Notice, any Holder shall Cure the Default before the expiration of the Cure Period (or, if applicable, any

Extended Cure Period), such Holder may add the cost of Curing such Default to the Mortgage debt and to the lien of its Mortgage.

402. Assignment of Surplus Money. If title to the Disposition Area is revested in the City pursuant to this Article IV, and HPD thereafter determines to sell all or any portion of the Disposition Area, the proceeds thereof, if any, shall be retained by HPD. Sponsor hereby assigns to HPD any surplus money paid into a court as the result of any foreclosure of any lien on any portion of the Disposition Area prior to the issuance of the Certificate of Completion. Sponsor shall execute an assignment of surplus money in recordable form if the City, in its sole discretion, determines that such a document is necessary in order to effectuate such assignment.
403. Other Remedies. As provided in Section 607.D, and notwithstanding any provisions of this Article IV to the contrary, the remedies of the City pursuant to this Article IV shall not be exclusive. With respect to any Default, the remedies of the City pursuant to this Article IV shall be in addition to and concurrent with all other defenses, rights, and remedies which the City has, will have, or may have pursuant to this LDA or any other Project Document or under law, equity, or otherwise. With respect to any violation of this LDA or any other Project Document which is not a Default, the City shall retain each and every defense, right, and remedy which the City has, will have, or may have pursuant to this LDA, the Deed, or any other agreement between the City and Sponsor or under law, equity, or otherwise.

ARTICLE V

INVESTIGATIONS

501. Definitions.
- A. The terms "license" and "permit," as used in this Article V, shall be defined as a license, permit, franchise, or concession not granted as a matter of right.
 - B. The term "person," as used in this Article V, shall be defined as any natural person doing business alone or associated with another person or entity as a partner, director, officer, principal, or employee.
 - C. The term "entity," as used in this Article V, shall be defined as any firm, partnership, corporation, association, or person that receives money, benefits, licenses, leases, or permits from or through the City or otherwise transacts business with the City.
 - D. The term "member," as used in this Article V, shall be defined as any person associated with another person or entity as a partner, director, officer, principal, or employee.
502. Cooperation. The parties to this LDA shall cooperate fully and faithfully with any investigation, audit, or inquiry conducted by a State of New York ("State") or City governmental agency or authority that is empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath, or conducted by the

Inspector General of a governmental agency that is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license that is the subject of the investigation, audit, or inquiry.

503. Refusal to Testify. If (i) any person who has been advised that his or her statement, and any information from such statement, will not be used against him or her in any subsequent criminal proceeding refuses to testify before a grand jury or other governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath concerning the award of or performance under any transaction, agreement, lease, permit, contract, or license entered into with the City, the State, or any political subdivision or public authority thereof, or the Port Authority of New York and New Jersey, or any local development corporation within the City, or any public benefit corporation organized under the laws of the State of New York, or (ii) any person refuses to testify for a reason other than the assertion of his or her privilege against self-incrimination in an investigation, audit or inquiry conducted by a City or State governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to take testimony under oath, or by the Inspector General of the governmental agency that is a party in interest in, and is seeking testimony concerning the award of, or performance under, any transaction, agreement, lease, permit, contract, or license entered into with the City, the State, or any political subdivision thereof or any local development corporation within the City, then, the commissioner or agency head whose agency is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license shall convene a hearing, upon not less than five (5) days written notice, to the parties involved to determine if any penalties should attach for the failure of a person to testify.
504. Adjournments. If any non-governmental party to the hearing requests an adjournment, the Commissioner or agency head who convened the hearing may, upon granting the adjournment, suspend any contract, lease, permit, or license pending the final determination, without the City incurring any penalty or damages for delay or otherwise.
505. Penalties. The penalties which may attach after a final determination by the Commissioner or agency head may include, but shall not exceed:
- A. The disqualification for a period not to exceed five (5) years from the date of an adverse determination for any person, or any entity of which such person was a member at the time the testimony was sought, from submitting bids for, or transacting business with, or entering into or obtaining any contract, lease, permit, or license with or from the City; and/or
 - B. The cancellation or termination of any and all such existing City contracts, leases, permits, or licenses that the refusal to testify concerns and that have not been assigned as permitted under this LDA, nor the proceeds of which pledged, to an unaffiliated and unrelated institutional lender for fair value prior to the issuance of the notice scheduling the hearing, without the City incurring any penalty or damages on account of such cancellation or termination; money lawfully due for goods delivered, work done, rentals, or fees accrued prior to the cancellation or termination shall be paid by the City.

506. Factors. The Commissioner or agency head shall consider and address in reaching his or her determination and in assessing an appropriate penalty the factors in Sections 506.A and 506.B. The Commissioner or agency head may also consider, if relevant and appropriate, the criteria established in Sections 506.C and 506.D in addition to any other information which may be relevant and appropriate.

- A. Good Faith Efforts. The party's good faith endeavors or lack thereof to cooperate fully and faithfully with any governmental investigation or audit, including, but not limited to, the discipline, discharge, or disassociation of any person failing to testify, the production of accurate and complete books and records, and the forthcoming testimony of all other members, agents, assignees, or fiduciaries whose testimony is sought.
- B. Relationship to the Entity. The relationship of the person who refused to testify to any entity that is a party to the hearing, including, but not limited to, whether the person whose testimony is sought has an ownership interest in the entity and/or the degree of authority and responsibility the person has within the entity.
- C. Nexus. The nexus of the testimony sought to the subject and its contracts, leases, permits, or licenses with the City.
- D. Effect of a Penalty. The effect a penalty may have on an unaffiliated and unrelated party or entity that has a significant interest in an entity subject to penalties under Section 505, provided that the party or entity has given actual notice to the Commissioner or agency head upon the acquisition of the interest, or at the hearing called for in Section 503 gives notice and proves that such interest was previously acquired. Under either circumstance, the party or entity must present evidence at the hearing demonstrating the potential adverse impact a penalty will have on such person or entity.

507. Warranties and Enforcement.

- A. The parties to this LDA represent and warrant that to the best of their knowledge, (1) no officer, agent, employee, or representative of the City has received any payment or other consideration for the making of this LDA or in connection with the performance thereof, and (2) no officer, agent, employee, or representative of the City has any interest, directly or indirectly, in this LDA or the proceeds thereof. The parties to this LDA agree that they shall not hereafter make or pay any consideration as aforesaid and that they will cooperate fully with the Commissioner of Investigation of the City and will promptly report in writing any solicitation of money, goods, requests for future employment, or other benefit or thing of value, by or on behalf of any employee of the City or other person, firm, corporation, or entity for any purpose which may be related to the procurement or obtaining of this LDA by the parties or affecting the performance of this LDA.
- B. In the event of a violation of Section 507.A, the Commissioner of HPD may convene a hearing pursuant to Section 503 and, upon such hearing, make a determination, in accordance with the considerations set forth in Section 506, as

to whether or not a violation has occurred. The penalties imposed may include but shall not exceed the penalties set forth in Section 505.A.

ARTICLE VI

MISCELLANEOUS PROVISIONS

601. Covenants Running With Land. The agreements and covenants set forth in this LDA shall run with the land and shall be binding to the fullest extent permitted by law and equity. Such covenants shall inure to the benefit of the City and shall bind and be enforceable against Sponsor and its successors and assigns.
602. Binding Effect. This LDA shall inure to the benefit of and be binding upon any successor of any party hereto, but this provision shall not operate to permit any assignment or other voluntary transfer of any rights created hereunder except in such manner as may be expressly permitted by this LDA.
603. Sponsor Personnel. Sponsor represents and warrants that no person or entity having any interest or role in Sponsor, or employed, retained, or contracted by Sponsor, (i) is or has been employed, retained, or contracted by the City in connection with any matter pertaining to the Project, or (ii) has or will have any interest in or activity with Sponsor which constitutes a conflict of interest pursuant to the provisions of Chapter 68 of the New York City Charter.
604. City Personnel. Sponsor represents and warrants that no official, employee, agent, or representative of the City (i) shall have any personal interest, directly or indirectly, in the Project, (ii) shall participate in any decision relating to the Project or any agreement arising out of or through this LDA or any other Project Document which affects his or her personal interest or the interest of any corporation, partnership, LLC, or other entity or association in which he or she is directly or indirectly interested, or which otherwise violates the provisions of Chapter 68 of the New York City Charter, (iii) has received any payment or other consideration for the making of this LDA or any other Project Document, or (iv) has any interest, directly or indirectly, in the Disposition Area or the proceeds thereof.
605. No Lobbying. Sponsor represents and warrants that, with respect to securing or soliciting the conveyance of the Disposition Area, Sponsor is in compliance with the requirements of Article 1-A of the Legislative Law. Sponsor makes such representation and warranty in order to induce the City to enter into this LDA, and the City relies upon such representation and warranty in the execution of this LDA.
606. No Commission. Sponsor represents and warrants that no person or firm has been employed or retained to solicit or secure the conveyance of the Disposition Area upon an agreement or understanding for a commission, percentage, brokerage fee, or contingent fee. No brokerage or any other fee or compensation shall be due or payable by the City for this transaction.
607. Claims and Actions.

- A. No Claims Against Officials, Agents, or Employees. No claim whatsoever shall be made by Sponsor, its successors or assigns against any official, agent, or employee of the City for, or on account of, any thing done or omitted to be done in connection with this LDA or any other Project Document.
- B. Cooperation. If any action is brought against the City, and the action relates in any way to this LDA, any other Project Document, or the Disposition Area and the City and Sponsor are not adverse parties in such action, then Sponsor shall diligently render to the City, without additional compensation, any and all assistance which the City may require.
- C. Reports of Actions. If, prior to the Completion Date, any legal action or proceeding shall be initiated by or against Sponsor in connection with or relating to this LDA, any other Project Document, or the Disposition Area, Sponsor shall report the initiation of such legal action or proceeding to the City in writing within ten (10) days after such initiation.
- D. All Rights Reserved. Each and every defense, right, and remedy which the City has pursuant to this LDA or any other Project Document is not exclusive and is in addition to and concurrent with all other defenses, rights, and remedies which the City has pursuant to this LDA or any other Project Document and which the City otherwise has, will have, or may have under law, equity, or otherwise.
- E. Choice of Law and Consent to Jurisdiction and Venue.
1. This LDA and the other Project Documents shall be deemed to be executed in the City and State of New York, regardless of the domicile of Sponsor, and shall be governed by and construed in accordance with the laws of the State of New York.
 2. Any and all claims asserted by or against the City arising under this LDA or any other Project Document or related thereto shall be heard and determined either in the courts of the United States located in New York City ("Federal Court") or in the courts of the State of New York ("New York State Court") located in the City and County of New York. To effect this agreement and intent, Sponsor agrees:
 - a. If the City initiates any action against Sponsor in Federal Court or in New York State Court, service of process may be made on Sponsor either in person, wherever Sponsor may be found, or by registered mail addressed to Sponsor at its address as set forth in this LDA, or to such other address as Sponsor may provide to the City in writing.
 - b. With respect to any action between the City and Sponsor in New York State Court, Sponsor expressly waives and relinquishes any rights it might otherwise have (i) to move to dismiss on grounds of *forum non conveniens*, (ii) to remove to Federal Court, and (iii) to

move for a change of venue to a New York State Court outside New York County.

- c. With respect to any action between the City and Sponsor in Federal Court, Sponsor expressly waives and relinquishes any right it might otherwise have to move to transfer the action to a United States Court outside New York City.
- d. If Sponsor commences any action against the City in a court located other than in the City and State of New York, upon request of the City, Sponsor shall either consent to a transfer of the action to a court of competent jurisdiction located in the City and State of New York or, if the court where the action is initially brought will not or cannot transfer the action, Sponsor shall consent to dismiss such action without prejudice and may thereafter reinstitute the action in a court of competent jurisdiction in New York City.

608. Notices.

- A. Each notice, approval, consent, request, waiver, or communication given or required to be sent under this LDA ("Notice") shall be in writing and either (i) sent by regular or express mail, postage prepaid, or (ii) delivered in person or by nationally recognized overnight courier, with receipt acknowledged.
- B. Each Notice shall be addressed as follows:
 - 1. When sent by the City to Sponsor, at the address first set forth above.
 - 2. When sent by Sponsor to the City, to:

Department of Housing Preservation and Development
100 Gold Street, Room 9A-1
New York, New York 10038
Attention: Deputy Commissioner for Development
- C. Each party shall notify the other in the case of a change in address in the manner for delivering Notices provided in this Section 608, which changed address shall thereafter be the address to which Notices are sent.
- D. Each Notice delivered by regular or express mail shall be deemed to have been given upon the third (3rd) business day following the date upon which such Notice is deposited in the United States mail, postage prepaid. Each Notice delivered in person or by nationally recognized overnight courier, with receipt acknowledged, shall be deemed given upon actual delivery, as evidenced by a signed receipt. Notwithstanding the foregoing, any notice of a change in address shall only be deemed to have been given when actually received by the other party.

609. No Waiver. Waiver by either party of any breach of any provision of this LDA shall not be deemed to be a waiver of any other subsequent breach and shall not be construed to be a modification of the terms of this LDA unless and until the same be agreed to in a writing executed and acknowledged by the parties hereto.
610. Provisions Required by Law Deemed Inserted. Each and every provision of law and governmental regulation required by law to be inserted in this LDA shall be deemed to be inserted herein and this LDA shall read and shall be enforced as though so included herein. If, through mistake or otherwise, any such provision is not inserted, or is not correctly inserted, then, upon the application of either party, this LDA shall be deemed to be amended to make such insertion or correction so as to comply strictly with the law.
611. Duplicate Originals. This LDA may be executed in any number of counterparts, each of which shall be an original, and all collectively shall constitute but one instrument.
612. Titles. Any titles of the several parts, Articles, Sections, and Subsections of this LDA are for convenience only and shall be disregarded in construing or interpreting any of its provisions.
613. Survival. None of the provisions of this LDA are intended to or shall be merged in the Deed conveying title to the Disposition Area and the Deed shall not be deemed to affect or impair the provisions and covenants of this LDA, all of which shall survive the delivery of the Deed.
614. No Merger. Notwithstanding the specific recital in this LDA of certain of the covenants and agreements which are provided for in other Project Documents, each and every covenant, term, provision, and condition contained in the other Project Documents shall survive this LDA and shall remain in full force and effect, and no covenant, term, provision, or condition contained in any other Project Document shall in any event or in any respect be merged with this LDA.
615. Compliance With Laws. Sponsor shall comply with all applicable laws, ordinances, orders, rules, and regulations promulgated by any local, state, or federal authority having jurisdiction over the subject matter thereof, as the same may be amended from time to time.
616. Severability. If any term or provision of this LDA shall be found to be void, voidable, or otherwise unenforceable, such term or provision shall be deemed severed from this LDA and shall have no further force or effect, and the remaining terms and provisions shall thereafter continue in full force and effect to accomplish the intent and purpose of this LDA to the fullest extent possible.
617. Waiver. To the extent permitted by law, Sponsor hereby waives any and all rights it may have, at law or equity, to challenge, modify, set aside, extinguish, enjoin enforcement of, or seek relief from any of the terms, conditions, covenants, restrictions, or agreements in this LDA.
618. Cross-Default. A default pursuant to any other Project Document shall constitute a default pursuant to this LDA.

619. Consents And Approvals. Except as otherwise specifically provided in this LDA, any consent or approval by HPD pursuant to this LDA shall be made in writing by (i) HPD's Commissioner, HPD's Deputy Commissioner for Development, or by an Associate Commissioner or Assistant Commissioner in HPD's office of Development (each, an "Authorized Official"), or (ii) an HPD employee designated in writing by any Authorized Official to grant such consent or approval. In the case of any consent or approval by an HPD employee who is not an Authorized Official, Sponsor shall be required to verify that such HPD employee has a valid written delegation of authority from an Authorized Official that authorizes such HPD employee to give such consent or approval, and shall not act upon any purported consent or approval without first performing such verification.
620. Sole Discretion. Except as otherwise specified herein, any determination or approval by HPD pursuant to this LDA shall be in the sole discretion of HPD.
621. Representation and Warranties. Sponsor makes the representations and warranties in this LDA in order to induce the City to enter into this LDA and other Project Documents, and recognizes that the City is relying upon such representations and warranties in the execution of this LDA and other Project Documents.
622. Unused Development Rights. If, at any time after the Completion Deadline, the amount of floor area permitted on the Disposition Area pursuant to the New York City Zoning Resolution exceeds the amount of floor area in the improvements existing on the Disposition Area on the Completion Deadline ("Unused Development Rights"), such Unused Development Rights shall not be used, transferred, or encumbered without the prior written consent of HPD.

IN WITNESS WHEREOF, the City has caused this LDA to be executed by the Commissioner of HPD, and its corporate seal to be affixed hereto and duly attested by the City Clerk, and Sponsor has caused this LDA to be executed as of the day and year first above written.

THE CITY OF NEW YORK

ATTEST:



Michael McSweeney
City Clerk

By: DEPARTMENT OF HOUSING
PRESERVATION AND DEVELOPMENT

By: 
Nicholas Lundgren
General Counsel
and Deputy Commissioner, Legal Affairs

Seal of The City of New York
APPROVED AS TO FORM

By: /s/ Amrita Barth
Acting Corporation Counsel
6/14/22

**1510 BROADWAY HOUSING
DEVELOPMENT FUND COMPANY, INC.**

By: 

Sherry D. Roberts
Secretary/Treasurer

1510 BROADWAY LLC

By: 1510 Broadway Managers LLC, its Managing
Member

By: MacQuesten Broadway Partners LLC, its
Managing Member

By: _____
Rella Fogliano
Manager

GENERAL COUNSEL ACKNOWLEDGMENT

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

On the 15 day of June in the year 2022 before me, the undersigned, personally appeared Nicholas Lundgren, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



NOTARY PUBLIC

 Loretta DeIorenzo
Notary Public, State of New York
Registration No. 01DE6331346
Qualified In New York County
Commission Expires October 5, 2023



CITY CLERK ACKNOWLEDGMENT

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

On the 16th day of June in the year 2022 before me,, the undersigned, personally appeared Michael McSweeney, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



NOTARY PUBLIC

Wendy Irizarry-Lopez
Commissioner of Deeds
City of New York No. 2-12331
Certificate Filed in New York County
Commission Expires: _____
1/1/2024

HDFC ACKNOWLEDGMENT

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

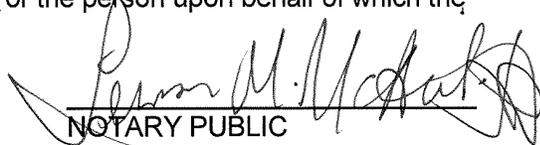
On the ____ day of June in the year 2022 before me,, the undersigned, personally appeared Sherry D. Roberts, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

NOTARY PUBLIC

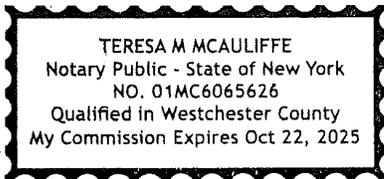
BENEFICIAL OWNER ACKNOWLEDGMENT

STATE OF NEW YORK)
) ss:
COUNTY OF WESTCHESTER)

On the 10th day of June in the year 2022 before me,, the undersigned, personally appeared Rella Fogliano, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that ~~he/she~~they executed the same in ~~his/her~~their capacity(ies), and that by ~~his/her~~their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



NOTARY PUBLIC



HDFC ACKNOWLEDGMENT

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

On the 14th day of June in the year 2022 before me,, the undersigned, personally appeared Sherry D. Roberts, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

JONATHAN S. WONG
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 02WO6400213
Qualified in New York County
Commission Expires : 11/12/2023



NOTARY PUBLIC

BENEFICIAL OWNER ACKNOWLEDGMENT

STATE OF NEW YORK)
) ss:
COUNTY OF WESTCHESTER)

On the ____ day of June in the year 2022 before me,, the undersigned, personally appeared Rella Fogliano, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

NOTARY PUBLIC

EXHIBIT A

Property Description

All those certain plots, pieces and parcels of land, with the buildings and improvements thereon erected, situate, lying and being in the City and State of New York, designated on the Tax Map of the City of New York as:

| <u>Block(s)</u> | <u>Lot(s)</u> | <u>Address(es)</u> |
|-----------------|---------------|--------------------|
| 1489 | 11 | 1510-1524 Broadway |

County: Kings

EXHIBIT B

Project Summary

(next page)

PROJECT SUMMARY

1. **PROGRAM:** EXTREMELY LOW AND LOW INCOME AFFORDABILITY PROGRAM
2. **PROJECT:** 1510 Broadway
3. **LOCATION:**
 - a. **BOROUGH:** Brooklyn
 - b. **COMMUNITY DISTRICT:** 16
 - c. **COUNCIL DISTRICT:** 41
 - d. **DISPOSITION AREA:**

| <u>BLOCK</u> | <u>LOT</u> | <u>ADDRESS</u> |
|--------------|------------|----------------|
| 1489 | 11 | 1510 Broadway |
4. **BASIS OF DISPOSITION PRICE:** Nominal. Sponsor will pay one dollar per lot and deliver a note and mortgage for the remainder of the appraised value ("Land Debt"). For a period of at least thirty (30) years following completion of construction, the Land Debt will be repayable out of resale or refinancing profits. The remaining balance, if any, may be forgiven at the end of the term.
5. **TYPE OF PROJECT:** New Construction
6. **APPROXIMATE NUMBER OF BUILDINGS:** 1
7. **APPROXIMATE NUMBER OF UNITS:** 107 dwelling units, plus 1 superintendent's unit
8. **HOUSING TYPE:** Rental
9. **ESTIMATE OF INITIAL RENTS** Rents will be affordable to families earning from 30% - 80% of the area median income ("AMI"). Formerly homeless tenants referred by DHS and other City agencies will pay up to 30% of their income as rent.
10. **INCOME TARGETS** 30% to 80% of AMI
11. **PROPOSED FACILITIES:** Approximately 9,793 square feet of commercial space
12. **PROPOSED CODES/ORDINANCES:** None
13. **ENVIRONMENTAL STATUS:** Negative Declaration
14. **PROPOSED TIME SCHEDULE:** Approximately 24 months from closing to completion of construction

EXHIBIT C

City Council Resolution

(next page)

**THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 1463**

Resolution approving the decision of the City Planning Commission on Application No. N 200082 ZRK, for an amendment of the text of the Zoning Resolution (L.U. No. 682).

By Council Members Salamanca and Moya

WHEREAS, the New York City Department of Housing Preservation and Development, filed an application pursuant to Section 201 of the New York City Charter, for an amendment of the text of the Zoning Resolution of the City of New York, modifying Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area within the project area (Block 1489, Lots 1 and 11) utilizing Options 1 and 2, which in conjunction with the related actions would facilitate the development of a new eight-story mixed-use building containing 107 affordable residential units and commercial space at 1510 Broadway in the Ocean Hill neighborhood of Brooklyn Community District 16 (Application No. N 200082 ZRK) (the "Application");

WHEREAS, the City Planning Commission filed with the Council on September 18, 2020, its decision dated September 16, 2020 (the "Decision"), on the Application;

WHEREAS, the Application is related to applications C 200083 PJK (L.U. No. 683), an acquisition of property by the New York City Department of Citywide Administrative Services (DCAS); C 200084 HAK (L.U. No. 684), an Urban Development Action Area designation, project approval, and disposition of City-owned property to a developer selected by HPD; and C 200085 ZMK (L.U. No. 685), a zoning map amendment to rezone the project area from R6/C1-3 to R7-1/C2-4;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on September 24, 2020;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues, including the Revised Negative Declaration issued November 21st, 2019, which supersedes the Negative Declaration issued October 7th, 2019, (CEQR No. 19HPD057K) which include an (E) designation to avoid the potential for significant adverse impacts related to hazardous materials and noise (E-536) (the "Revised Negative Declaration");

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the (E) Designation (E-536) and Revised Negative Declaration.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in the report, N 200082 ZRK, incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission.

Matter underlined is new, to be added;
Matter ~~struck-out~~ is to be deleted;
Matter within # # is defined in Section 12-10;
* * * indicates where unchanged text appears in the Zoning Resolution.

* * *

**APPENDIX F
Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas**

* * *

BROOKLYN

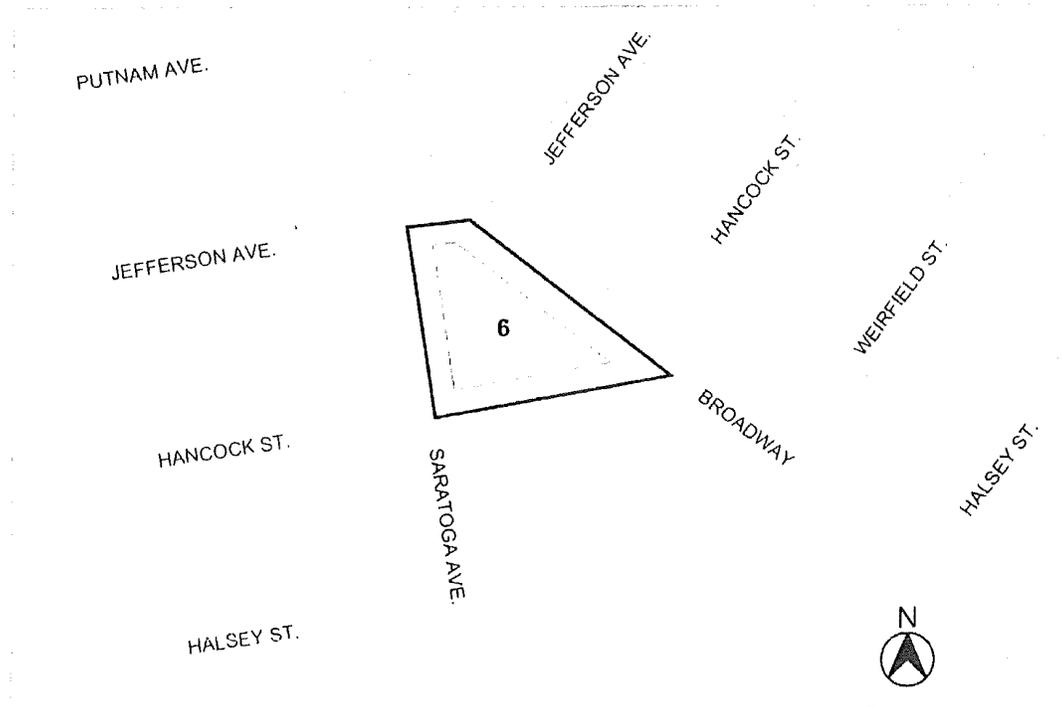
* * *

Brooklyn Community District 16

* * *

Map 5 - [date of adoption]

[PROPOSED MAP]



 Mandatory Inclusionary Housing Program Area *see Section 23-154(d)(3)*
Area 6 — [date of adoption] - MIH Program Option 1 and 2

Portion of Community District 16, Brooklyn

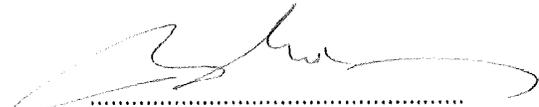
* * *

Page 4 of 4
N 200082 ZRK
Res. No. 1463 (L.U. No. 682)

Adopted.

Office of the City Clerk, }
The City of New York, } ss.:

I hereby certify that the foregoing is a true copy of a Resolution passed by The Council of The City of New York on October 15, 2020, on file in this office.


.....
City Clerk, Clerk of The Council

**THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 1464**

Resolution approving the decision of the City Planning Commission on ULURP Application No. C 200083 PQK, for the acquisition of property located at 1510 Broadway (Block 1489, p/o Lot 11), to facilitate transit infrastructure, Borough of Brooklyn, Community District 16 (L.U. No. 683; C 200083 PQK).

By Council Members Salamanca and Moya

WHEREAS, the New York City Department of Citywide Administrative Services (DCAS), filed an application pursuant to Section 197-c of the New York City Charter for the acquisition of property located at 1510 Broadway (Block 1489, p/o Lot 11), which in conjunction with the related actions would facilitate the development of a new mixed-use building with approximately 107 units of affordable housing and commercial space on City-owned vacant land at 1510 Broadway in the Ocean Hill neighborhood of Brooklyn, Community District 16 (ULURP No. C 200083 PQK), (the "Application");

WHEREAS, the City Planning Commission filed with the Council on September 18, 2020, its decision dated September 16, 2020 (the "Decision") on the Application;

WHEREAS, the Application is related to applications N 200082 ZRK (L.U. No. 682), a zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area; C 200084 HAK (L.U. No. 684), an Urban Development Action Area designation, project approval, and disposition of City-owned property to a developer selected by HPD; and C 200085 ZMK (L.U. No. 685), a zoning map amendment to rezone the project area from R6/C1-3 to R7-1/C2-4;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on September 24, 2020;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues, including the Revised Negative Declaration issued November 21st, 2019, which supersedes the Negative Declaration issued October 7th, 2019, (CEQR No. 19HPD057K) which include an (E) designation to avoid the potential for significant adverse impacts related to hazardous materials and noise (E-536) (the "Revised Negative Declaration").

RESOLVED:

Page 2 of 2
C 200083 PQQ
Res. No. 1464 (L.U. No. 683)

The Council finds that the action described herein will have no significant impact on the environment as set forth in the (E) Designation (E-536) and Revised Negative Declaration.

Pursuant to Section 197-d of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in the report, C 200083 PQQ, incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission.

Adopted.

Office of the City Clerk, }
The City of New York, } ss.:

I hereby certify that the foregoing is a true copy of a Resolution passed by The Council of The City of New York on October 15, 2020, on file in this office.



.....
City Clerk, Clerk of The Council

**THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 1465**

Resolution approving the application submitted by the New York City Department of Housing Preservation and Development ("HPD") and the decision of the City Planning Commission, ULURP No. C 200084 HAK, approving the designation of an Urban Development Action Area, an Urban Development Action Area Project, and the disposition of property located at 1510 Broadway (Block 1489, Lot 11), Borough of Brooklyn, Community District 16, to a developer selected by HPD (L.U. No. 684; C 200084 HAK).

By Council Members Salamanca and Moya

WHEREAS, the City Planning Commission filed with the Council on September 18, 2020 its decision dated September 16, 2020 (the "Decision"), on the application submitted by the New York City Department of Housing Preservation and Development ("HPD") regarding city-owned and privately-owned property located at 1510 Broadway (Block 1489, Lot 11), (the "Project Area"), approving:

- a) pursuant to Article 16 of the General Municipal Law of New York State the designation of Disposition Area as an Urban Development Action Area;
- b) pursuant to Article 16 of the General Municipal Law of New York State an Urban Development Action Area Project for the Disposition Area (the "Project"); and
- c) pursuant to Section 197-c of the New York City Charter the disposition of the Disposition Area to a developer to be selected by the New York City Department of Housing Preservation and Development;

which in conjunction with the related actions would facilitate the development of a new mixed-use building with approximately 107 units of affordable housing and commercial space at 1510 Broadway in the Ocean Hill neighborhood of Brooklyn, Community District 16, (ULURP No. C 200084 HAK) (the "Application");

WHEREAS, the Application is related to applications N 200082 ZRK (L.U. No. 682), a zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area; C 200083 POK (L.U. No. 683), an acquisition of property by the New York City Department of Citywide Administrative Services (DCAS); and C 200085 ZMK (L.U. No. 685), a zoning map amendment to rezone the project area from R6/C1-3 to R7-1/C2-4;

WHEREAS, the City Planning Commission has certified its unqualified approval of UDAAP pursuant to Article 16 of the General Municipal Law;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d of the City Charter;

WHEREAS, by letter dated September 18, 2020 and submitted to the Council on September 18, 2020, HPD submitted its requests (the "HPD Requests") respecting the Application including the submission of the project summary for the Project (the "Project Summary");

WHEREAS, upon due notice, the Council held a public hearing on the Application and Decision and the HPD Requests on September 24, 2020;

WHEREAS, the Council has considered the land use and financial implications and other policy issues relating to the Application; and

WHEREAS, the Council has considered the relevant environmental issues, including the Revised Negative Declaration issued November 21st, 2019, which supersedes the Negative Declaration issued October 7th, 2019, (CEQR No. 19HPD057K) which include an (E) designation to avoid the potential for significant adverse impacts related to hazardous materials and noise (E-536) (the "Revised Negative Declaration");

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the (E) Designation (E-536) and Revised Negative Declaration.

Pursuant to Section 197-d of the New York City Charter, based on the environmental determination and the consideration described in the report C 200084 HAK and incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission and the HPD Requests.

Pursuant to Article 16 of the General Municipal Law of the New York State, based on the environmental determination and the consideration described in the report C 200084 HAK and incorporated by reference herein, the Council approves the Decision of the City Planning Commission and the HPD Requests.

The Council finds that the present status of the Area tends to impair or arrest the sound growth and development of the City of New York and that a designation of the Project as an urban development action area project is consistent with the policy and purposes stated in Section 691 of the General Municipal Law.

The Council approves the designation of the Area as an urban development action area pursuant to Section 693 of the General Municipal Law.

The Council approves the Project as an urban development action area project pursuant to Section 694 of the General Municipal Law and subject to the terms and conditions of the Project Summary.

The Council approves the disposition of the Disposition Area under Section 197-d of the New York City Charter, to a developer to be selected by the New York City Department of Housing Preservation and Development for the development of the Project consistent with the Project Summary.

PROJECT SUMMARY

1. PROGRAM: EXTREMELY LOW AND LOW INCOME AFFORDABILITY PROGRAM
2. PROJECT: 1510 Broadway
3. LOCATION:
 - a. BOROUGH: Brooklyn
 - b. COMMUNITY DISTRICT: 16
 - c. COUNCIL DISTRICT: 41
 - d. DISPOSITION AREA:

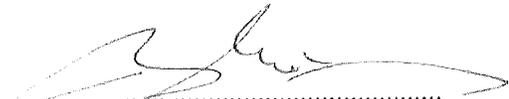
| <u>BLOCK</u> | <u>LOT</u> | <u>ADDRESS</u> |
|--------------|------------|----------------|
| 1489 | 11 | 1510 Broadway |
4. BASIS OF DISPOSITION PRICE: Nominal. Sponsor will pay one dollar per lot and deliver a note and mortgage for the remainder of the appraised value ("Land Debt"). For a period of at least thirty (30) years following completion of construction, the Land Debt or the City's capital subsidy may be repayable out of resale or refinancing profits. The remaining balance, if any, may be forgiven at the end of the term.
5. TYPE OF PROJECT: New Construction
6. APPROXIMATE NUMBER OF BUILDINGS: 1
7. APPROXIMATE NUMBER OF UNITS: 107 dwelling units, plus 1 superintendent's unit

- | | |
|--------------------------------|--|
| 8. HOUSING TYPE: | Rental |
| 9. ESTIMATE OF INITIAL RENTS | Rents will be affordable to families earning from 30% - 80% of the area median income ("AMI"). Formerly homeless tenants referred by DHS and other City agencies will pay up to 30% of their income as rent. |
| 10. INCOME TARGETS | 30% to 80% of AMI |
| 11. PROPOSED FACILITIES: | Approximately 9,793 square feet of commercial space |
| 12. PROPOSED CODES/ORDINANCES: | None |
| 13. ENVIRONMENTAL STATUS: | Negative Declaration |
| 14. PROPOSED TIME SCHEDULE: | Approximately 24 months from closing to completion of construction |

Adopted.

Office of the City Clerk, }
The City of New York, } ss.:

I hereby certify that the foregoing is a true copy of a Resolution passed by The Council of The City of New York on October 15, 2020, on file in this office.


.....
City Clerk, Clerk of The Council

**THE COUNCIL OF THE CITY OF NEW YORK
RESOLUTION NO. 1466**

Resolution approving the decision of the City Planning Commission on ULURP No. C 200085 ZMK, a Zoning Map amendment (L.U. No. 685).

By Council Members Salamanca and Moya

WHEREAS, the New York City Department of Housing Preservation and Development, filed an application pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Map, Section No. 17a, eliminating from within an existing R6 District a C1-3 District, changing from an R6 District to an R7-1 District, and establishing within the proposed R7-1 District a C2-4 District, which in conjunction with the related actions would facilitate the development of a new mixed-use building with approximately 107 units of affordable housing and commercial space at 1510 Broadway in the Ocean Hill neighborhood of Brooklyn, Community District 16. (ULURP No. C 200085 ZMK) (the "Application");

WHEREAS the City Planning Commission filed with the Council on September 18, 2020, its decision dated September 16, 2020 (the "Decision") on the Application;

WHEREAS, the Application is related to applications N 200082 ZRK (L.U. No. 682), a zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area; C 200083 PQQ (L.U. No. 683), an acquisition of property by the New York City Department of Citywide Administrative Services (DCAS); and C 200084 HAK (L.U. No. 684), an Urban Development Action Area designation, project approval, and disposition of City-owned property to a developer selected by HPD;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on September 24, 2020;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues, including the Revised Negative Declaration issued November 21st, 2019, which supersedes the Negative Declaration issued October 7th, 2019, (CEQR No. 19HPD057K) which include an (E) designation to avoid the potential for significant adverse impacts related to hazardous materials and noise (E-536) (the "Revised Negative Declaration");

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the (E) Designation (E-536) and Revised Negative Declaration.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in the report, C 200085 ZMK, incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 17a:

1. eliminating from within an existing R6 District a C1-3 District bounded by the easterly centerline prolongation of Jefferson Avenue, Broadway, Hancock Street, and Saratoga Avenue;
2. changing from an R6 District to an R7-1 District property bounded by the easterly centerline prolongation of Jefferson Avenue, Broadway, Hancock Street, and Saratoga Avenue; and
3. establishing within the proposed R7-1 District a C2-4 District bounded by the easterly centerline prolongation of Jefferson Avenue, Broadway, Hancock Street, and Saratoga Avenue;

Borough of Brooklyn, Community District 16, as shown on a diagram (for illustrative purposes only) dated December 2, 2019.

Adopted.

Office of the City Clerk, }
The City of New York, } ss.:

I hereby certify that the foregoing is a true copy of a Resolution passed by The Council of The City of New York on October 15, 2020, on file in this office.


.....
City Clerk, Clerk of The Council

EXHIBIT D

Mayoral Approval Document

(next page)

**THE MAYOR
CITY OF NEW YORK
NOVEMBER 30, 2021
Cal. No. 5**

WHEREAS, The Department of Housing Preservation and Development ("HPD") of the City of New York ("City") has proposed to the Council the sale of certain City-owned real property located in the Borough of Brooklyn, City and State of New York, known as:

| | |
|----------------------|------------------|
| <u>Block</u> 1489 | <u>Lot</u> 11 |
|----------------------|------------------|

on the Tax Map of the City and as 1510 Broadway in HPD's Extremely Low and Low Income Affordability Program ("Disposition Area"); and

WHEREAS, the Council, pursuant to Article 16 of the General Municipal Law, has held a public hearing upon due notice and has (i) approved the designation of the Disposition Area as an Urban Development Action Area, and (ii) approved the proposed project ("Project") as an Urban Development Action Area Project, and

WHEREAS, the City Planning Commission duly filed with the Council and the affected Borough President its approval (Report No. C ████████ HAK, dated September 16, 2020) of the use and disposition of the Disposition Area in conformity with the land use review procedures required by Sections 197-c and 197-d of the Charter, which have been adhered to; and

WHEREAS, the action of the City Planning Commission has been approved or deemed approved by the Council pursuant to Section 197-d of the Charter; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Part 617 of Volume 6 of the Codes, Rules and Regulations of the State of New York, Chapter 5 of Title 62 of the Rules of the City of New York, and Mayoral Executive Order No. 91 of August 24, 1977, as amended, HPD has issued a Negative Declaration which has been duly considered by the Mayor; and

WHEREAS, HPD has designated 1510 Broadway Housing Development Fund Company, Inc. ("Sponsor") as a qualified and eligible sponsor; and

WHEREAS, it is anticipated that the Project to be developed by Sponsor will contain approximately one building containing approximately 108 dwelling units and approximately 9,793 square feet of commercial space; and

WHEREAS, upon or prior to construction completion, Sponsor will convey a portion of the Disposition Area to the City for no consideration for use as a potential accessibility improvement to the adjacent subway station; and

WHEREAS, a proposed agreement ("Land Disposition Agreement") between the City and Sponsor providing for the sale of the Disposition Area to Sponsor for the nominal price of \$1.00 per tax lot ("Disposition Price") and setting forth the terms and conditions for the development of the Disposition Area has been submitted to the Mayor; and

WHEREAS, the Mayor has held a public hearing upon due notice published in The City Record, as required by Section 1802(6)(j) of the Charter, and in a newspaper of general circulation in New York City, as required by Section 695(2)(b) of the General Municipal Law; and

WHEREAS, as certified below, a duly noticed public hearing in the matter of the disposition, pursuant to Section 1802(6)(j) of the Charter, was held and closed by the Mayor on November 30, 2021 (Cal. No. 5). At such public hearing, no amendments were made and no testimony was offered. The relevant portion of the calendar is annexed hereto.

CERTIFICATION by the Mayor's Office Of Contract Services/Public Hearings Unit of the actions at and final disposition of the Real Property Public Hearing held on November 30, 2021 (Cal. No. 5).

| | | |
|--------------------------|--------------------------|-------------------------|
| <u>JACQUELINE GALORY</u> | <u>HEARING SECRETARY</u> | <u>DECEMBER 2, 2021</u> |
| NAME | TITLE | DATE |

NOW THEREFORE:

1. The Mayor hereby approves the designation of Sponsor as a qualified and eligible sponsor.
2. The Mayor hereby authorizes and approves the sale of the Disposition Area at the Disposition Price by negotiated sale, without public auction or sealed bids.
3. The Mayor hereby approves the acquisition of the approximately 12'x13' portion of the Disposition Area by the City pursuant to Section 1804 or Section 824(a) of the Charter for no consideration.
4. The Mayor hereby approves the Land Disposition Agreement in substantially the form submitted and authorizes the subordination of the Land Disposition Agreement to the lien of mortgages securing loans financing the Project.
5. The Mayor hereby authorizes any Deputy Mayor or the Commissioner of HPD to execute a Land Disposition Agreement in substantially the form submitted, when approved as to form by the Corporation Counsel, and directs the City Clerk or acting City Clerk to attest the same and to affix the seal of the City thereto.
6. The Mayor hereby authorizes the City, as more particularly described in the Land Disposition Agreement, to indemnify Sponsor and its successors or assigns, holders of mortgages securing loans financing the Project and their successors or assigns, and title companies against any claims of interest in the Disposition Area, or any portion thereof, by the holders of any mortgages of record against the Disposition Area, or any portion thereof, at the time the City acquired title.
7. The Mayor hereby authorizes any Deputy Mayor or the Commissioner of HPD to execute and deliver to Sponsor, or to an affiliate or successor of Sponsor controlled by the same principal(s) that controlled Sponsor, a deed of conveyance of title to the Disposition Area, when approved as to form by the Corporation Counsel, at the Disposition Price, without public auction or sealed bids, and upon the terms and conditions contained in the Land Disposition Agreement, and directs the City Clerk or acting City Clerk to attest said deed and to affix the seal of the City thereto.

12/2/2021
Date: _____, 2021

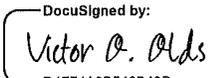
By: _____
DocuSigned by:

DocuSigned by: Victor O. Olds, Director
 Victor O. Olds, Director
 Mayor's Office Of Contract Services

EXHIBIT E-1

Intentionally Omitted

EXHIBIT E-2

PROJECT INFORMATION

| Requirement | Information needed | Notes |
|--|---|--|
| Project Identifier | HPD Project Name | |
| Program Name | HPD Program Name | |
| Prequalified List used for the program | Prequalified List for developer, contractor | |
| Building Address | PHN | |
| Building Address | Street Name | |
| Building Borough | Borough | |
| Building Block | Block | |
| Building Lot | Lot | |
| Stories | Stories per building | |
| Square Footage at Base | Square Footage at Base | |
| # Dwelling Units | # Dwelling Units | |
| Bedroom distribution by Income Limits | Bedroom distribution by Income Limits | |
| Bedroom distribution by Initial Legal Rent | Bedroom distribution by Initial Legal Rent | |
| Bedroom distribution by actual rent | Bedroom distribution by actual rent | rent roll |
| # Commercial units | Commercial Square Footage (gross) | |
| Source of Financial Assistance | Source of Financial Assistance | Examples include HOME, NSP, BPCA, Reso A, City Capital |
| Type of Financial Assistance | Type of Financial Assistance | Examples include loan, grant, discounted land sale, tax exemption. * Tax benefit = year 1 (updates point to DOF website) * Land Value = include all appraisal amounts and types and land acquisition cost * Project Based Voucher= (# units * PUC)* 12 * Loan = Value of loan (without interest) |
| Value of Financial Assistance | Dollar amount of Source | HPD appraisal to include as-is, highest and best use, and planned use appraisals |
| Value of Financial Assistance: Appraisal | HPD Appraisal for public sites | completion = construction completion. T/CO or equivalent for preservation projects |
| Anticipated Completion Date | Projected Completion Date | |

| | | |
|---|------------------------------|--|
| Developer Name | Borrower Legal Entity | |
| Developer Address | C/O | if "in care of", if applicable |
| Developer Address | PHN | |
| Developer Address | Street Name | |
| Developer Address | City | |
| Developer Address | State | |
| Developer Address | Zip | |
| Principal Officers | Principal Type | for Developer, Contractor, and/or Subcontractor entity |
| Principal Officers | First Name | |
| Principal Officers | Last Name | |
| Principal Officers | Title | CEO, CFO and COOs |
| Principal Owners | Owner Type | for Developer, Contractor, and/or Subcontractor entity |
| Principal Owners | First Name | |
| Principal Owners | Last Name | |
| Principal Owners | Title | examples: Managing Partner, General Partner, |
| Developer Prequalified information | Developer Prequalification | Is Developer on prequalified list? yes/no |
| Method to select Developer | Method to select Developer | Methods: Application (e.g., for 8A, PLP, Supportive Housing loans), RFP or RFQ |
| <i>Section 220 of NYS labor law</i> | <i>Section 220 yes/no</i> | |
| <i>Subchapter IV of chapter 31 of part A of subtitle of title 40 of US Code</i> | <i>Davis Bacon yes/no</i> | |
| Project Completion date | Construction Completion Date | T/CO or equivalent for preservation projects |

EXHIBIT F

M/WBE RIDER

PARTICIPATION BY MINORITY-OWNED AND WOMEN-OWNED BUSINESS ENTERPRISES

ARTICLE I

M/WBE PROGRAM

1. HPD has established a program for participation on certain development projects subsidized by HPD ("M/WBE Build Up") by minority- owned business enterprises ("MBEs") and women-owned business enterprises ("WBEs") (collectively "M/WBEs"), certified by a governmental or quasi-governmental entity acceptable to HPD as provided in Article I, Section 4 of this Rider ("certified as MBEs and/or WBEs"). Sponsor must comply with the requirements set forth in this Rider.

2. In accordance with M/WBE Build Up, Sponsor has agreed to a M/WBE participation goal amount of **\$4,315,989** (the "Participation Goal"). The Participation Goal may be achieved by awarding prime contracts and/or subcontracts to firms certified as MBEs and/or WBEs.

3. The Sponsor hereby agrees to make all reasonable, good faith efforts to solicit and obtain the participation of MBEs and/or WBEs to meet the required Participation Goal by the completion of construction on the Project.

4. MBE and WBE firms must be certified by a governmental or quasi-governmental entity acceptable to HPD in order for the Sponsor to credit such firms' participation toward the attainment of the Participation Goal. Sponsor must provide proof of such certification to HPD upon request.

5. Sponsor must participate in a Project kick-off meeting scheduled by HPD to review the requirements set forth in this Rider (the "Kick-off Meeting"). If the Participation Goal set forth herein is different from the M/WBE participation goal as set forth in the implementation plan submitted to and approved by HPD (the "Implementation Plan") prior to closing, Sponsor must submit an updated Implementation Plan to HPD at the Kick-off Meeting that reflects the Participation Goal set forth herein.

6. Sponsor shall periodically submit progress reports as directed by HPD and in the form and manner required by HPD ("Progress Reports"), certified under penalty of perjury, which shall include, but not be limited to: the total amount the Sponsor, its prime contractors and its subcontractors paid to M/WBE firms during the period covered by each such Progress Report and cumulatively for the Project.

7. Except as may be otherwise approved in writing by HPD, Sponsor shall periodically submit payment reports as directed by HPD and in the form and manner required by HPD ("Payment Reports"), certified under penalty of perjury, which shall include, but not be limited to:

the M/WBE firms that performed work on the Project during the period covered by such Payment Report; the total amount the Sponsor, its prime contractors and its subcontractors paid to M/WBE firms during the period covered by such Payment Report; and the total amount paid to each listed M/WBE firm cumulatively for the Project. Each identified M/WBE firm must affirm payment in order for Sponsor to receive credit toward the Participation Goal and such M/WBE firms must report any work they have subcontracted to other firms.

8. If payments made to, or work performed by, MBEs or WBEs are less than the Participation Goal, HPD shall be entitled to take appropriate action in accordance with Article II of this Rider, unless the Sponsor has obtained a modification of its Participation Goal in accordance with Article I, Section 9 of this Rider.

9. Modification of Participation Goal. Sponsor may request a modification of its Participation Goal. HPD may grant a request for modification of Sponsor's Participation Goal if it determines that Sponsor has established, with appropriate documentary and other evidence, that it made reasonable, good faith efforts to meet the Participation Goal. Sponsor must demonstrate that Sponsor, prime contractors, and/or subcontractors made timely written requests for assistance to the New York City Department of Small Business Services ("DSBS") and provide a description of how recommendations made by DSBS were acted upon as well as an explanation of why action upon such recommendations did not lead to the desired level of participation of MBEs and/or WBEs. In addition, HPD shall consider evidence of the following efforts, as applicable, along with any other relevant factors:

- (i) Sponsor, prime contractors, and/or subcontractors advertised opportunities to participate in the Project, where appropriate, in general circulation media, trade and professional association publications and small business media, and publications of minority and women's business organizations;
- (ii) Sponsor, prime contractors, and/or subcontractors provided notice of specific opportunities to participate in the Project, in a timely manner, to M/WBEs and responded thoroughly and timely to inquiries from such M/WBEs;
- (iii) Sponsor, prime contractors, and/or subcontractors made efforts to identify portions of the work that could be substituted for portions originally designated for participation by MBEs and/or WBEs in the Implementation Plan submitted to and accepted by HPD, and for which Sponsor, prime contractors, and/or subcontractors claim an inability to retain MBEs or WBEs;
- (iv) Sponsor, prime contractors, and/or subcontractors held meetings with MBEs and/or WBEs prior to the date their bids or proposals were due, for the purpose of explaining in detail the scope and requirements of the work for which their bids or proposals were solicited;

HPD shall provide written notice to Sponsor of the determination.

10. HPD shall have the right to review the Sponsor's progress toward attainment of its Participation Goal, including but not limited to, by reviewing the dollar amount of contracts the Sponsor, prime contractor, and/or subcontractor have actually awarded to MBE and/or WBE

firms and the payments the Sponsor, prime contractors, and/or subcontractors have made to such firms.

ARTICLE II ENFORCEMENT

1. Whenever HPD believes that the Sponsor is not in compliance with any provision of this Rider, HPD may send a written notice to the Sponsor describing the alleged noncompliance and offering the Sponsor an opportunity to be heard. HPD shall then conduct an investigation to determine whether such Sponsor is in compliance.

2. In the event that Sponsor has failed to demonstrate that Sponsor has made reasonable, good faith efforts to achieve the Participation Goal to HPD's satisfaction and/or has otherwise been found to have violated any provision of this Rider, HPD may determine, in its sole discretion, that any of the following actions should be taken:

- (i) entering into an agreement with the Sponsor allowing the Sponsor to cure the violation;
- (ii) assessing liquidated damages, provided that liquidated damages may be based on amounts representing costs of delays in carrying out the purposes of M/WBE Build Up, the costs of meeting participation goals through additional transactions, the administrative costs of investigation and enforcement, or other factors set forth in the Rider; and/or
- (iii) considering Sponsor's failure to achieve the Participation Goal or other violation of this Rider as a factor in any future decision by HPD to permit Sponsor (and Sponsor's principals) to participate in business dealings with HPD.

3. If Sponsor has been found to have failed to fulfill its Participation Goal set forth in Article I, Section 2 or the Participation Goal as modified by HPD pursuant to Article I, Section 9 of this Rider and Sponsor has failed to demonstrate that Sponsor has made reasonable, good faith efforts to achieve the Participation Goal to HPD's satisfaction, HPD may assess liquidated damages in the amount of ten percent (10%) of the difference between the dollar amount of work required to be awarded to MBE and/or WBE firms to meet the Participation Goal and the dollar amount the Sponsor actually awarded and paid, and/or credited, to MBE and/or WBE firms. In view of the difficulty of accurately ascertaining the loss which the City will suffer by reason of Sponsor's failure to meet the Participation Goal, the foregoing amount is hereby fixed and agreed as the liquidated damages that the City will suffer by reason of such failure, and not as a penalty.

4. Statements made in any instrument submitted to HPD pursuant to this Rider shall be submitted under penalty of perjury and any false or misleading statement or omission shall be grounds for the application of any applicable criminal and/or civil penalties for perjury.

Exhibit G
Easement Area

[see attached]

The Easement Area includes those portions of the Disposition Area and the Improvements in which are located any portions of the Easement Area and the Elevator Infrastructure that encroach on any other portion of the Disposition Area or the Improvements following construction of Elevator Infrastructure by reason of (i) any unintended settling and any associated shifting thereof subsequent to the construction thereof and/or (ii) minor differences between the outside perimeter line of the Easement Area (and the Elevator Infrastructure) and the Improvements facing the same in their as-built condition.

PARCEL 1 - EASEMENT ABOVE STREET LEVEL

ALL that certain volume of space, situate, lying, and being in the Borough of Brooklyn, Kings County, City and State of New York, lying between a horizontal limiting plane having an elevation of 47.63 feet and a horizontal limiting plane having an elevation of 97.63, which elevations are in reference to the North American Vertical Datum of 1988 (NAVD88), bounded and described as follows:

Commencing at the intersection of the northwesterly side of Hancock Street and the southwesterly side of Broadway, thence northwesterly along the southwesterly side of Broadway 58 feet 9 inches to the Point or Place of Beginning, thence;

- a) Southeasterly, forming an angle of 90 degrees 00 minutes 00 seconds with Broadway, a distance of 12 feet 6 inches to a point, thence;
- b) Northwesterly, forming an angle of 90 degrees 00 minutes 00 seconds with the previous course, a distance of 11 feet to a point, thence;
- c) Northeasterly, forming an angle of 90 degrees 00 minutes 00 seconds with the previous course, a distance of 12 feet 6 inches to a point on the Southwesterly side of Broadway, thence;
- d) Southeasterly, forming an angle of 90 degrees 00 minutes 00 seconds with the previous course, a distance of 11 feet to the Point or Place of Beginning.

PARCEL 2 - EASEMENT BELOW STREET LEVEL

ALL that certain volume of space, situate, lying, and being in the Borough of Brooklyn, Kings County, City and State of New York, lying between a horizontal limiting plane having an elevation of 47.63 feet and a horizontal limiting plane having an elevation of 40.63 which elevations are in reference to the North American Vertical Datum of 1988 (NAVD88), bounded and described as follows:

Commencing at the intersection of the northwesterly side of Hancock Street and the southwesterly side of Broadway, thence northwesterly along the southwesterly side of Broadway 58 feet 9 inches, thence southeasterly forming an angle of 90 degrees 00 minutes 00 seconds with Broadway, a distance of 10 inches to the Point or Place of Beginning, thence;

- a) Southeasterly, perpendicular with Broadway, a distance of 11 feet 8 inches to a point, thence;
- b) Northwesterly, forming an angle of 90 degrees 00 minutes 00 seconds with the previous course, a distance of 11 feet to a point, thence;
- c) Northeasterly, forming an angle of 90 degrees 00 minutes 00 seconds with the previous course, a distance of 11 feet 8 inches to a point, thence;
- d) Southeasterly, forming an angle of 90 degrees 00 minutes 00 seconds with the previous course, a distance of 11 feet to the Point or Place of Beginning.

LAND DISPOSITION AGREEMENT

BETWEEN

THE CITY OF NEW YORK

AND

1510 BROADWAY HOUSING DEVELOPMENT FUND COMPANY, INC.

AND

1510 BROADWAY LLC

| <u>Block(s)</u> | <u>Lot(s)</u> | <u>Address(es)</u> |
|-----------------|---------------|--------------------|
| 1489 | 11 | 1510-1524 Broadway |

County: Kings

RECORD AND RETURN TO:

Joshua Bloodworth, Esq.
Department of Housing Preservation
and Development
Office of Legal Affairs
100 Gold Street, Room 5-Q5
New York, New York 10038

Rider to BCA Amendment # 2 to Document a Tangible Property Tax Credit Determination

Site Name: 1510 Broadway Dry Cleaner Site

Site Number: C224280

1- The Department has determined that the Site is eligible for tangible property tax credits pursuant to ECL § 27-1407(1-a) because the Site is located in a City having a population of one million or more and:

- At least half of the site area is located in an environmental zone as defined in section twenty-one of the tax law
- The property is upside down, as defined by ECL 27-1405 (31)
- The property is underutilized, as defined by 375-3.2(l).
- The project is an affordable housing project, as defined by 375-3.2(a).

2- The Site is located in a City having a population of one million or more and the Applicant:

Has not requested a determination that the Site is eligible for tangible property tax credits. It is therefore presumed that the Site is not eligible for tangible property tax credits. In accordance with ECL § 27-1407(1-a), the Applicant may request an eligibility determination for tangible property tax credits at any time from application until the site receives a certificate of completion except for sites seeking eligibility under the underutilized category.

Requested a determination that the Site is eligible for tangible property tax credits and pursuant to ECL § 27-1407(1-a), the Department has determined that the Site is not eligible for tangible property tax credits because the Applicant has not submitted documentation sufficient to demonstrate that at least one of the following conditions exists: at least half of the site area is located in an environmental zone as defined in section twenty-one of the tax law, the property is upside down, the property is underutilized, or the project is an affordable housing project. In accordance with ECL § 27-1407(1-a), the Applicant may request an eligibility determination for tangible property tax credits at any time from application until the site receives a certificate of completion except for sites seeking eligibility under the underutilized category.

3- For sites statewide, where applicable:

In accordance with ECL § 27-1407(1-a), based on data submitted with the application the Department has determined the Site is not eligible for tangible property tax credits because the contamination in ground water and/or soil vapor is solely emanating from property other than the Site.

The remedial investigation or other data generated during the remedial program the Department has identified an on-site source of contamination, which now makes this site eligible for tangible property tax credits.

THIS RIDER TO AN AMENDMENT TO THE BCA ESTABLISHING ELIGIBILITY FOR TANGIBLE PROPERTY TAX CREDITS IS HEREBY APPROVED, Acting by and Through the Department of Environmental Conservation as Designee of the Commissioner,

By: Andrew Guglielmi 10/6/2022

Andrew O. Guglielmi, Director
Division of Environmental Remediation

Date